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## List of Abbreviations/Acronyms

ACP:	African, Caribbean and Pacific Countries
AIDS:	Acquired Immune Deficiency Syndrome
APRM:	African Peer Review Mechanism
AU:	African Union
AU ECOSOC:	African Union Economic, Social and Cultural Council
AUPEAP:	African Union Panel of Eminent African Personalities
CBO:	Community-Based Organisation
CDF:	Constituencies' Development Fund
CEDAW:	Convention on the Elimination of all Forms of Discrimination Against Women
CJPC:	Catholic Justice and Peace Commission
CoE:	Committee of Experts on Constitutional Review
COTU:	Central Organisation of Trade Unions
CSOs:	Civil Society Organisations
EPAs:	Economic Partnership Agreements
EU:	European Union
EWS:	Early Warning System
FBOs:	Faith-Based Organisations
FIDA:	Federation of Women Lawyers-Kenya Chapter
FIDH:	International Federation for Human Rights
FPE:	Free Primary Education
GALCK:	Gay and Lesbian Coalition of Kenya
GDP:	Gross Domestic Product
GJLOS:	Governance, Justice, Law and Order Sector (Reform Programme)
HIV:	Human Immunodeficiency Virus
HURINET:	Human Rights Network
HWC:	Human Wildlife Conflict
IBRC:	Interim Boundaries Review Commission
ICC:	International Criminal Court
ICESCR:	International Covenant on Economic, Social and Cultural Rights
IDPs:	Internally Displaced Persons
IEC:	Information, Education and Communication
IEPA:	Interim Economic Partnership Agreement
IHRD:	International Human Rights Day
IIEC:	Interim Independent Electoral Commission

**List of Abbreviations (cont.)**

KACC:	Kenya Anti-Corruption Commission
KBC:	Kenya Broadcasting Corporation
KEC:	Kenya Episcopal Conference
KESSF:	Kenya Small Scale Farmers Forum
KHRC:	Kenya Human Rights Commission
KHRI:	Kenya Human Rights Institute
KIE:	Kenya Institute of Education
KLA:	Kenya Land Alliance
KNDR:	Kenya National Dialogue and Reconciliation
KPTJ:	Kenyans for Peace with Truth and Justice
LGBTI:	Lesbian, Gay, Bisexual, Transsexual and Intersex
M&E:	Monitoring and Evaluation
MHRF:	Muslim Human Rights Forum
MIS:	Management of Information Systems
MOJNCCA:	Ministry of Justice, National Cohesion and Constitutional Affairs
MPs:	Members of Parliament
NACC:	National Aids Control Council
NAP:	National Action Plan on Human Rights
NARC:	National Rainbow Coalition
NCCK:	National Council of Churches of Kenya
NLP:	National Land Policy
ODM:	Orange Democratic Movement
PIL:	Public Interest Litigation
PLWA:	People Living With Aids
PLWD:	People Living With Disabilities
PNU:	Party of National Unity
PSC:	Parliamentary Select Committee (on Constitutional Review)
RBA:	Rights-Based Approach
RHRA:	Reproductive Health Rights Alliance
SPAN:	Social and Public Accountability Network
TJRC:	Truth, Justice and Reconciliation Commission
UDHR:	Universal Declaration of Human Rights
UN:	United Nations
UNDP:	United Nations Development Programme
UNOCHA:	United Nations Office for the Coordination of Humanitarian Affairs
UPR:	Universal Periodic Review

## The Organization

### The KHRC Board of Directors

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## The Organization (cont.)

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Caleb Khisa		
James Mawira		
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Elijah Ambasa Ochieng		
Audrey Mbugua		
David Chengo		
Mary Olusi		
Steve Wandeto		
Derick Odemba (Admin)		
Eric Munene		
Robai Musilivi	-	(KHRI)
Allison Chan- Intern	-	(KHRI)

### Kenya Human Rights Institute (KHRI)

Wangeci Chege	-	Senior Programme Officer
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## Preface from the Chairperson

Once again, we must perform the ritual of presenting the annual report for the Kenya Human Rights Commission (KHRC). Even so, it is a joy every time I write this preface. The reason is simple: the KHRC stands at the cutting-edge of human rights work in Kenya, and its innovative spirit and contagious entrepreneurship bleed on every page of this report.

Although I am the Chair of the Board, I marvel every time I read the accomplishments of the stellar work of our staff and partners. For this priceless gift, I salute you all. The magic that spurred the formation of the KHRC in 1991 still binds us in its spell.

The last year has been a particularly difficult one for Kenya. Even though the country stepped back from the precipice of 2008, the demons that nearly convulsed it to death lurk in the horizon. The political class continues to be feckless and gluttonous. Demagogues of every stripe stalk the political landscape. But Kenyans are a hopeful and vital people. In the midst of despair, there has been hope, and reforms—though halting—are making steady progress. The KHRC has been in the thick of it all, using its advocacy, monitoring, advice and leadership in the quest for a just society.

This annual report makes it clear that the KHRC is fully engaged in every key aspect of the reform process. We have been at the forefront of the constitution-making process, whether we were working with the Committee of Experts (CoE), helping conduct civic education or securing resources to capacitate the process. We conceived the idea of a truth commission and worked with the Truth, Justice and Reconciliation Commission (TJRC) until the exercise became untenable because it had lost credibility.

We have been involved with accountability projects from the International Criminal Court (ICC) to working with United Nations (UN) agencies and experts such as Professor Philip Alston on extrajudicial killings.

We have documented abuses the old-fashioned way and exerted pressure on the state for reform and accountability. We fight for the human rights of women and the rights of sexual minorities every day. We have been a key interlocutor on ethnic tensions and relations. In a word, we are key players on the project of nation-building.

If this preface sounds like a list accolades, then so be it. We have accomplished a lot in the past year and we are justly proud of what we have done. Of course we did not do it alone. Our staff and board are wonderful, but the old saying that you cannot kill a flea with one fingernail is an apt metaphor for how we work.

A lot of credit goes to our partners—both local and international—for supporting and working with us. Without the political, financial, moral, intellectual, and practical support of our partners we would accomplish very little. Only in community and partnership are we able to make our contributions to society.

## Preface from the Chairperson (cont.)

With that in mind, I'd like to particularly thank the community-based human rights networks (HURINETs) we work with on the ground across the country—our dream of rooting the defence of human rights in communities is slowly becoming a reality thanks to the HURINETs. I'd also like to appreciate the networks of communities of interest we work with—the Mau Mau and Nyayo House torture survivors, the victims' network, the National Network of Internally Displaced Persons (IDPs) and, more recently, Kenya's lesbian, gay, bisexual, transsexual and intersex community through the Gay and Lesbian Coalition of Kenya (GALCK).

Human rights are best defended by those who experience their violations—but the KHRC is proud to be able to stand with you all in the universal project of human rights defence.

I'd also like to acknowledge the many coalitions and networks we work with on various aspects of reform—Kenyans for Peace with Truth and Justice (KPTJ), the members of Katiba Sasa, the Kenya Transitional Justice Network, the colleagues we work with on land, the members of the Stop the Economic Partnership Agreements (EPAs) and the Pamoja Initiative on Human Rights Education.

We are building, together, an unstoppable movement for change.

On a sad note, we lost one of the pillars of the KHRC. **Maximilla Wekesa**, or **Max** as we affectionately called her, has left us. We are the poorer for it, but we know that the candle that she lit will burn brightly forever. The KHRC is a monument to unsung heroines like Max.

**Prof. Makau Mutua - Chair, KHRC.**  
**Dean, SUNY Distinguished Professor**  
**Professor of Law,**  
**Floyd H. and Hilda L. Hurst Faculty Scholar**  
**University of Buffalo Law School**  
**The State University of New York**

## Foreword from the Executive Director

The KHRC is pleased to present our annual report for 2009-10 covering our contributions to reform, justice and accountability in Kenya, in line with our theme for the operational year.

The report shows the difference we've made to the protection and promotion of human rights in Kenya, organised in terms of the strategies we've pursued over the past year. But this foreword covers, in brief, the alignment of that impact with the four agenda items of the Kenya National Dialogue and Reconciliation (KNDR)—the agreements reached by parties to Kenya's Grand Coalition Government during the mediation that followed the disputed Presidential election results of 2007 and the violence that ensued. The KHRC, through Kenyans for Peace with Truth and Justice (KPTJ), contributed substantively to the KNDR—through both advocacy to ensure the mediation process succeeded as well as through inputs to the content of the mediation process based on our long-standing drive to deepen democracy in Kenya. As the KNDR remains the political framework through which reform is being pursued, we felt it appropriate to demonstrate our work on the same.



Agenda Item One of the KNDR was about ending violence and disarming and demobilising all armed groups and militia in Kenya. Arising from this was the Commission of Inquiry into the Post-Elections Violence. The failure to establish the Special Tribunal recommended to try suspected perpetrators saw, last year, the referral of the situation to the International Criminal Court (ICC). The KHRC, on its own and through KPTJ, contributed data, analysis and contacts to various parts of the ICC—being primarily concerned with ensuring any potential investigation covered all forms of violence as well as with enabling the participation (and protection) of survivors during the process. At the end 2009, the ICC's Pre-Trial Chamber II, authorised the investigation—the first situation take-up initiated at the Prosecutor's behest.

Also arising from this were continued disarmament exercises in Kenya—done jointly by the military and the police, as well as solely by the police. The need to address crime and insecurity in Kenya—but within the boundaries of the Constitution and the law—is clear. The KHRC conducted fact-finding missions on insecurity in Mathira (insecurity related to Mungiki), Kuria and Samburu (insecurity related to 'cattle rustling'). Reports from these missions enabled the Human Rights Networks (HURINETS) we work with at the local level to constructively input into justice and peace processes at the community level, as well as with local level Provincial Administrators and state security agents. A documentary accompanying the Samburu report was aired nationally, generating further media attention for the same and pressure for state security agencies to conduct disarmament in line with the Constitution and the law.

Finally is the question of security sector reform. The KHRC submitted to the Task Force on Police Reform—primarily focused on the need for civilian and independent oversight of the Kenya Police Force. Our submission's contents—including our draft Bill, amended—were largely taken up, as evident in the report from the Task Force.

Agenda Item Two of the KNDR was intended to address the humanitarian crisis and restore fundamental freedoms. The KHRC completed its monitoring of the government-led resettlement programme, Operation Rudi Nyumbani—with our findings being reflected (after initial resistance) in media and official assessments of the same.

Key recommendations made—about disaggregating categories and genders of those internally displaced and ensuring resettlement is in line with regional and international standards—have now found reflection in the drafting of the Internally Displaced Persons (IDPs) policy,



## Foreword from the Executive Director (cont.)

to which the KHRC contributes. In line with our approach to organising around human rights, we also supported the expansion of the National IDPs Network to include leadership from the new caseload of IDPs and thus enable their own expression of and advocacy around resettlement. And we produced a documentary on the current status of IDPs—the national airing of which is intended to maintain public support and pressure for resettlement and justice..

Agenda Item Four covered long-term issues - including Constitutional reform, transitional justice, equality and non-discrimination, judicial reform and accountability. The KHRC sat on the Reference Group for the Committee of Experts (CoE) responsible for constitutional reform - trying to build consensus on what emerged as supposedly new 'contentious' issues, choice and the Kadhis' courts. We submitted

**Our support of the Nyayo House torture survivors' cases based on state responsibility, yielded results with judgements acknowledging the torture and awarding compensation beginning to be made.**

twice to the CoE - first on the four contentious issues it had identified and second on the first draft it produced. Some of our submissions - ocused on separation of powers, checks and balances and human rights protection - found reflection in the Proposed Constitution of Kenya (PCK). We also began the process of civic education-preparing the HURINETs we work with for participation in the constitutional reform process through training on the same, as we did with respect to transitional justice.

Our work on transitional justice initially revolved around the Truth, Justice and Reconciliation Commission (TJRC), whose founding Act we had both contributed to and advocated for. We shared contacts of organised survivors' groups and networks, developed and shared public education, training and other materials and contributed to discussions on work plans for the TJRC. We also produced and launched a four-part documentary

on transitional justice. However, as the TJRC's legitimacy became an impediment, we re-focused our work on specific categories of survivors of gross and systemic human rights violations. Our support of the Mau Mau torture survivors' case continued, with attempts to generate cross-party support for a political settlement in tandem with the legal effort - including, finally, an initial meeting with the then British foreign secretary. The Government of Kenya (GoK), through the Attorney-General's office and the Ministry of Foreign Affairs enjoined itself to the effort. Our support of the Nyayo House torture survivors' cases - based on state responsibility - yielded results with judgements acknowledging the torture and awarding compensation beginning to be made.

On equality and anti-discrimination, we tried (albeit unsuccessfully) to strengthen the founding Act of the National Cohesion and Integration Commission (NCIC) by submitting on the need to clearly define both direct and indirect/systemic discrimination, treat the protected grounds of ethnicity and race in a intersectional manner with other protected grounds and, most importantly, provide real remedies. Given the evident lack of conceptual understanding of equality and anti-discrimination and approaches and models to address it, we began to revive work on the pending Equal Opportunities Bill, seeing it as an opportunity to introduce comprehensive equality and anti-discrimination legislation in Kenya. In partnership with the Equality Rights Trust (ERT) and the Federation of Women Lawyers (FIDA)-Kenya, we produced an audit of all related regional and international commitments Kenya is bound by and how they find reflection in the plethora of related legislation in Kenya, convened a roundtable and training session for State and non-State stakeholders on the same, out of which was born an ad hoc coalition and a working group to pursue the legislation.

Importantly, the initiative has the support of the Kenya Law Reform Commission, currently tasked with reviewing the pending Bill. In partnership with the Kenya Institute of Education (KIE), the KHRC

## Foreword from the Executive Director (cont.)

developed 30 radio programmes that introduce equality rights and anti-discrimination to children between 10 and 14 years of age in the context of broader human rights education. The programmes have been and continue to be broadcast to Kenya's 26,000 public primary schools, in 45 per cent of which the KIE's monitoring reports confirm use of the programmes as a teaching aid. The programmes focus on assisting children aged 10-14 years to understand human rights and in particular discrimination, and to begin to say no to ethnic other forms of discrimination.

We also continued our work with the Gay and Lesbian Coalition of Kenya (GALCK) during the period—seeking improved equality rights protection through Kenya's Universal Peer Review (UPR), the PCK and the legislation and effectively responding to urgent human rights situations involving Kenyans of minority gender identities and sexual orientations—such as in Mtwapa.

The KHRC submitted to the re-opened Task Force on Judicial Reform—drawing from the data and analysis generated by both our Legal Aid Clinic as well as the public interest litigation (PIL) we are currently engaged in. Our submissions focused on the independence and effectiveness of the judiciary, as well as access.

Finally, on accountability and transparency, the KHRC, in partnership with the Social and Public Accountability Network (SPAN), which brings together eight civil society organisations monitoring Kenya's devolved funds, completed research into the governance and management of these funds—drawing from the accountability work done by the HURINETs across the country on participation in and human rights (service) delivery by these funds. The research points to the need to harmonise governance and management of these currently discrete funds—to lessen leakages and prepare for devolution under a new Constitution. The HURINETs themselves have generated some delivery results on the ground with respect to human rights delivery—improving services on the ground in addition to the particular added-value they now demonstrate with respect to children and women's rights and security on the ground.

This brief summary of the KHRC's achievements does not, of course, do justice to the full range of work done by the HURINETs, our staff, our management and our Board. It is our hope that you will read the full report. Last year, the KHRC had its biggest budget ever—of just under USD2 million. It is also our hope that reading the report will leave you with a clear sense of the human rights gains realised by that investment. We take this opportunity to thank the communities we have worked with over the year—both of interest and geographic, the HURINETs for their continued collaboration and partnership, all other coalitions and networks with whom we remain committed to building a movement for change in Kenya and, last but not least, our grantmakers who financially enabled these gains.

Asanteni sana.

Aluta continua.



L. Muthoni Wanyeki  
Executive Director

**In partnership with the Kenya Institute of Education (KIE), the KHRC developed 30 radio programmes that introduce equality rights and anti-discrimination to children between 10 and 14 years of age in the context of broader human rights education.**

## 1.0 Background and Context

The Kenya Human Rights Commission (KHRC)'s goal for its operational year 2009-10 was towards reforms, accountability and justice. In this introduction to the 2009-2010 Annual Report, we focus on the three areas: reforms, justice and accountability to highlight the context of the reporting period, show what the KHRC achieved and point to the challenges that lie ahead for the next operational year 2010-2011. The KHRC continued to work through:

- Research: monitoring, documenting and reporting on human rights;
- Advocacy: working on reforms relevant to our research areas;
- Civic Action: capacity building of the community-based networks we work with on the ground to enable their independent organisation on human rights concerns.

### 1.1 Optimism about constitutional reform

Critical in the reform agenda and to enhance accountability and eradicate impunity (achieve justice), is the achievement of a new constitution. The constitutional review process was thus given prominence relative to legal, policy and institutional reforms because it will generate momentum for such reforms.

The KHRC has pushed for a new constitution for many years. Given its track record, the KHRC was given a slot in the Constitution of Kenya Review Act, 2008, as a member of the Reference Group, a body of 30 civil society organisations (CSOs).<sup>1</sup> The mandate of the Reference Group is to work with, but also hold the Committee of Experts (CoE) to account, in the search for a new constitution by ensuring various interests are incorporated in and/or balanced out in the same.

**While the PCK is not perfect, both groups have been criticised for misinforming the public. The latter has been dissuaded from digging in, particularly recalling the divisive referendum of 2005 which culminated in the 2007-8 post-elections violence.**

During the period under review, the KHRC invested substantial time to work in the Reference Group, as well as with other CSOs, to ensure that the search for a new constitution was realised. Kenya finally seems poised to achieve its new constitution, which has remained elusive for over two decades. As described recently, by the African Union's Panel of Eminent African Personalities (AU PEAP): "a new constitution is within Kenya's grasp. The outcome is now in the hands of the people of Kenya. The Panel, therefore, urges all Kenyans to seize this opportunity and make their voices heard in the coming referendum."<sup>2</sup>

The Proposed Constitution of Kenya (PCK) is better than the current constitution. Gains include recognition of women's citizenship, economic, social and cultural rights and devolution. But the new constitution's passage through the referendum is not clear, as significant segments of Kenya's Christian leadership oppose the PCK, unless Articles on the right to life are amended and Articles on entrenching the Kadhis' courts are expunged. Numerous meetings to change their position have been held—between them and the CSOs and between them and State representatives, the latter mediated by the two Principals. None of these meetings have borne fruit.<sup>3</sup>

<sup>1</sup> See Constitution of Kenya Review Act, 2008, Schedule Four. The CSOs include: the Cradle and FIDA-Kenya. Professional institutions include: the COTU, the LSK and the KNUT. Faith-based groups are: the KEC and the NCKK.

<sup>2</sup> See 'Statement by African Union Panel Eminent African Personalities,' [www.dialoguekenya.org](http://www.dialoguekenya.org)

<sup>3</sup> See Saturday Standard, April 17, 2010.

## Background and Context (cont.)

Another critical force organising to oppose the PCK is a group of 30 or so Members of Parliament (MPs). Their opposition centres on misinterpretations of provisions relating to land—as well as on fears of fundamentally altering the constitutional order that pertains at present.

While the PCK is not perfect, both groups have been criticised for misinforming the public. The latter has been dissuaded from digging in, particularly recalling the divisive referendum of 2005 which culminated in the 2007-8 post-elections violence. Their demand to have the PCK returned to parliament through an amendment of the Review Act is unreasonable.<sup>4</sup>

Thus there is fertile ground for campaigns supporting or rejecting the new constitution. In the media, the two ‘camps’ have been described as “strange bedfellows.”<sup>5</sup> Unlike 2005, for example, the President, the Prime Minister and the Vice-President are in the yes ‘camp.’ That contributes to optimism about the new constitution being achieved but a bruising campaign period is expected unless, for example, the Christian leaders tone down.

But the public mood points to a ‘yes’ vote. An opinion poll by Synovate covering the first quarter of 2010 indicated that the majority of Kenyans support the new constitution. 61 per cent of respondents identifying with the Orange Democratic Movement (ODM) stated they were prepared to vote ‘yes’ together with 44 per cent of those identifying with PNU.<sup>6</sup> Further, a recent report on the Kenya National Dialogue and Reconciliation (KNDR) noted that about 55 per cent of its respondents stated it was likely the coalition government will achieve a new constitution. More than 80 per cent said they will vote in the referendum and the next General Election. The desire for a new constitution is so high that, even if the current draft were to be rejected, only 11 per cent of Kenyans would want the process abandoned altogether.<sup>7</sup>

Electoral, police and judicial reforms are underway. On electoral reforms, an Interim Independent Electoral Commission (IIEC) is in place but the Independent Boundaries Review Commission (IBRC) has not yet set up its secretariat even though its term expires in January 2011, when it is expected to deliver a report to parliament in accordance with its constitutive law. The Taskforces on Police and Judicial Reforms have delivered their reports to the Executive. The Taskforce on Police Reforms presented its final report in November 2009 and an Implementation Committee was set up in December 2009, which has just released the draft bill establishing an oversight authority for the Kenya Police Force. The Taskforce on Judicial Reforms presented its report in August 2009, but its recommendations are yet to be implemented. The KHRC submitted memoranda to the two taskforces, the uptake of which was particularly clear in respect of the report of the Taskforce on Police Reforms.

### 1.1 Wheels of justice grinding slowly

Achieving justice has been slow and, at the national level, nothing has happened. As discussed above, judicial reforms are yet to be implemented despite the urgent need to restore public confidence in the judiciary.

The enactment of the Judicial Service Commission Bill is still pending. A policy to streamline the functioning of legal and judicial institutions has yet to be developed. After the executive received the report from Taskforce on Judicial Reforms, the relevant cabinet sub-committee urged the Taskforce to consider recommendations by the CoE but the constitutional review process is yet to be concluded<sup>8</sup>. Achieving judicial reforms is thus uncertain.

4 See Editorial, Sunday Nation, April 11, 2010.

5 See Kikechi, Biketi, ‘Battle for Yes or No’, Sunday Standard, April 11, 2010: “strange bedfellows are being shoved into similar camps, with President Kibaki and his erstwhile rival Prime Minister Raila Odinga leading the Yes camp, while former President Moi, Cabinet minister William Ruto and a crop of young politicians including Eugene, Hassan Joho, Amason Kingi and Peter Munya and Christian religious leaders are sitting on the other.”

6 See Mars Group, ‘Majority don’t want a PM in future Poll,’ [www.marsgroupkenya.org](http://www.marsgroupkenya.org).

7 See South Consulting, ‘Kenya National Dialogue and Reconciliation Monitoring Project,’ January 2010, [www.dialoguekenya.org](http://www.dialoguekenya.org).

8 Ibid

## Background and Context (cont.)



James Mawira and Davies Malombe visit Vumilia IDPs camp in Kikopey, Naivasha

Unsurprisingly, therefore, many Kenyans, especially victims of the post-elections violence (PEV), are looking to the International Criminal Court (ICC) to achieve justice. The ICC's Prosecutor was recently authorised by the ICC's Pre-Trial Chamber II, to commence investigations. To get that authorisation:

"The Prosecution clarifies that senior political and business leaders associated with the main political parties, the PNU which was in the government at the time of the violence and the ODM which was the main opposition party at the time, organised, enticed and/or financed attacks against the civilian population on account of their perceived ethnic and/or political affiliation pursuant

to or on furtherance of a State and/or organisational policy."<sup>9</sup>

The three judges ruled, in a majority decision of 2 to 1, that:  
 "According to article 15(2) and (3) of the Statute, the Prosecutor, after having analysed the seriousness of the information received from different sources, may conclude that there is "a reasonable basis to proceed with an investigation...On examination of the supporting material, the Chamber observes a number of recurrent forms of physical violence. First, there are numerous accounts of injuries caused through gunshots or beatings, allegedly inflicted by the police or other security agents. The Chamber further notes various instances of cutting and hacking, including amputations. Finally, in Rift Valley, Central province and Nairobi, there are allegations of forced circumcision and genital amputation inflicted upon members of the Luo community...In total, the violence affected approximately 136 constituencies in six of Kenya's eight provinces...Thus, on the basis of the available information examined, the Chamber concurs with the Prosecutor that the alleged crimes against humanity occurred on the territory of the Republic of Kenya."<sup>10</sup>

The KHRC and other CSOs working on justice options were elated. At the international level, Kofi Annan stated: "this is an important day for justice in Kenya. Justice for the victims suddenly looks brighter. I urge all concerned to fully cooperate with the ICC."<sup>11</sup>

Until the ruling, implementation of the report of the Commission of Inquiry into the Post-Elections

<sup>9</sup> See 'Prosecution's Response to Decision Requesting Clarification and Additional Information', March 3, 2010, [145.7.218.140/iccdocs/doc/doc831129.pdf](http://www.iccdocs/doc/doc831129.pdf).

<sup>10</sup> See Pre-Trial Chamber II, 'Decision Pursuant to Article 15 of the Rome Statute on the Authorisation of an Investigation into the Situation in the Republic of Kenya.' Presided by Judge Ekaterina Trendafilova, assisted by Judge Hans-Peter Kaul (who gave a dissenting view) and Judge Cuno Tarfusser. March 31, 2010, [www.icc-cpi.int/iccdocs/doc/doc854287.pdf](http://www.icc-cpi.int/iccdocs/doc/doc854287.pdf). The text above is quoted from different paragraphs of the 83-page statement

<sup>11</sup> See Statement by the Chairman of the African Union Panel Eminent African Personalities,' March 31, 2010, [www.dia-](http://www.dia-)

## Background and Context (cont.)

Violence (CIPEV), particularly on the prosecution of suspects, had stalled, with parliament twice failing to pass Bills to set up a Special Tribunal for Kenya. This failure had been followed by cabinet attempts to push justice to the Truth, Justice and Reconciliation Commission (TJRC)—attempts rescinding due to pressure from civil society.

A recent report indicates that many Kenyans support the prosecution of perpetrators of the post-election violence, so as to prevent a recurrence of violence in, or after, the 2012 elections. 63 per cent assert that the Hague was the first option with 19 per cent preferring a local tribunal.<sup>12</sup>

While 62 per cent in the areas affected by post-election violence thought that violence will not recur, 48 per cent also said that, if it were to recur, their communities would organise in self-defence. These statistics point to the need for the wheels of justice to grind faster than they are currently doing. Although there has been fear that the indictments of members of particular ethnic groups would create an 'uprising' amongst their supporters, this is not the case. Less than five per cent said they would resort to violent acts against members of other communities if those prosecuted came from their communities. Over 55 per cent supported indictments of leaders (whether from their community or another community) to achieve justice.

That said, there is need to stem threats to those willing to provide evidence to the ICC. Continued intimidation of victims, potential witnesses and Human Rights Defenders (HRDs) raises concern. The absence of effective victim and witness protection mechanisms is another challenge.<sup>13</sup>

With regard to transitional justice through the Truth, Justice and Reconciliation Commission (TJRC), composition, credibility, legitimacy, legal and financial problems have stalled the TJRC. A key problem is the credibility and legitimacy of the TJRC's Chair, Ambassador Bethuel Kiplagat. Many CSOs, media houses and former chairs of Truth Commissions in Africa (led by Archbishop Emeritus Desmond Tutu) have asked him to step down because he has been named in public reports concerning the assassination of the late Dr Robert Ouko, illegal acquisition of land in Uasin Gishu, illegal acquisition of government houses in Nairobi and the Wagalla massacre. As we report, other Commissioners of the TJRC have passed a 'resolution' to have the Chair appear before a Tribunal, in accordance with the TJRC's constitutive Act.

The KHRC will not cooperate with the TJRC as long as issues with the Chair remain unresolved and will instead work with individual survivors under the categories covered.

To this end, the KHRC has mobilised survivors to document the human rights violations they experienced. Working with the Federation of Women Lawyers (FIDA)-Kenya and the Kenya Land Alliance (KLA), the KHRC has done country-wide visits to build the capacity of survivors to submit to the TJRC. The KHRC, alone and in partnership with other CSOs, has also prepared publications to guide survivors and CSOs on engaging with transitional justice.

Thus, while the wheels of international criminal justice are grinding, albeit slowly, national criminal and transitional justice processes have stalled.

### 1.2 Accountability seems difficult

From the foregoing, achieving accountability will be difficult. The campaign for political accountability, which seeks to address impunity in Kenya, needs to be revamped.

In the period under review, many of those implicated in scandals have not faced the law. Symbolically,

<sup>12</sup> South Consulting, Op Cit.

<sup>13</sup> Ibid

## Background and Context (cont.)



TJRC- Training Northern Kenya Communities

some Permanent Secretaries have been asked to 'step aside,' but Ministers named are still in power, despite new corruption scandals involving funds for Free Primary Education (FPE), internally displaced persons (IDPs) and fertilizers. Attempts by the Prime Minister to have two Ministers (of Education and Agriculture) resign were thwarted by the President. But the office of the Prime Minister was not left unscathed itself, since several officials stepped down following revelations of impropriety. The fight against corruption has fallen prey to tensions within the Grand Coalition Government (GCG), pitting the PNU against the

ODM. Kenyans believe that this lack of cohesion affects the effectiveness of the GCG, with 69 per cent of respondents stating that the government does not work well together.<sup>14</sup>

This embeds patronage, with the circular by the Prime Minister on how Ministers and Boards of Parastatals are to appoint heads of public institutions not being followed.<sup>15</sup> In addition, the Kenya Anti-Corruption Commission (KACC) has been toothless and has also been affected by a lack of accountability. Its Director was irregularly re-appointed by the President and was, ultimately, forced to resign due to public pressure. To date, Parliament has been unable to agree on who should take over.

While Kenyans are satisfied by the general sense of calm in Kenya, they are utterly dissatisfied with government because of the slow pace of reforms, corruption and a culture of impunity. Others are dissatisfied because government has not addressed youth unemployment and also regional inequalities.<sup>16</sup> All these are brought about by the problem of infighting within government, which defeat the course of accountability of government to its people.

Last year's Operational Plan 2009-10 focused on three areas, as outlined in the Goal: reform, justice and accountability. Most interventions were undertaken by the KHRC, or jointly with our geographical and thematic networks as well as with other CSOs. These interventions sought accountability from public officers, especially those that violate(d) human rights, demanded constitutional and other reforms and pursued justice, especially for survivors of gross and systemic human rights violations—including, most recently, those that suffered from the PEV.

Strategies employed included: research; monitoring and documentation of human rights violations; capacity building of Human Rights Networks (HURINETS); publicity and media, especially with local FM radio stations; working with the State and advocating with regard to legislative and policy reforms; and Public Interest Litigation (PIL) to provide redress.

Internal strategies included: fundraising to ensure the KHRC's sustainability; and capacity-building for

14 South Consulting, Op Cit.

15 Ibid

16 Ibid

## 2.0 Strategies of the Operational Plan 2009 - 10

the KHRC's staff to enable implementation of the Operational Plan.<sup>17</sup>

Projects and activities therein were planned by the Programmes Department with support from the Administration Department.<sup>18</sup> The following section highlights what was planned under each strategy.

### 2.1) Research

The KHRC planned to undertake research into: a) the viability of consolidating decentralised funds into a devolution plan anchored in a new Constitution; b) insecurity in specific areas, especially Rift Valley; c) tea plantation working conditions in Kenya; and finally d) base-line surveys of Wajir and Isiolo districts. With the findings, the KHRC planned to engage relevant actors to bring pressure to bear for human rights-centred governance.

### 2.2) Monitoring and documentation

The KHRC planned to undertake regular and on-going monitoring of human rights violations in two ways: first, through the Bi-Annual Human Rights Report (BHRR), our flagship publication on the state of human rights in Kenya; and second, through the Legal Aid Clinic, which provides an avenue for survivors who cannot afford advocates to seek legal redress. We also planned to monitor and document: historical injustices (including torture); community justice; internal displacement; human-wildlife conflict (HWC); and human rights violations in sisal plantations in the Coast and Rift Valley provinces. We also planned to produce training manuals on the TJRC and rights-based approaches (RBA).

### 2.3) Capacity-building

The KHRC planned to use its manuals and training-of-trainers (ToR) workshops to enhance knowledge about on-going reform, justice and accountability processes. We planned to train the 21 geographical HURINETs on: the TJRC; monitoring electoral demands using the Peoples' Manifestos; social auditing; monitoring and documenting human rights violations; and restructuring the HURINETs to have them expand their membership, get new leaders and improve their results. At the secretariat, we planned for the recruitment and deployment of interns as well as staff training.

### 2.4) Publicity and media

The KHRC planned to use local and national media (particularly local FM radio stations) to disseminate research findings and advocate on specific human rights concerns, including those related to the Economic Partnership Agreements (EPAs), the Mau Mau torture case and urgent actions. We also planned to revamp our website.

### 2.5) Working with the State:

The KHRC planned to work with the State to formulate, amend or repeal relevant laws and policies.

Examples include: the Constitution; the National Policy on Human Rights (NAP); the National

<sup>17</sup> More strategies were designed but, for brevity, some of them have been condensed above and reported below.

<sup>18</sup> The KHRC is divided into two Departments: Programmes and Administration. The Programmes Department is further sub-divided into the Research and Advocacy Team (RAT) and the Civic Action Team (CAT). Both Departments implement the Operational Plan.



## Strategies of the Operational Plan 2009 - 10 (cont.)

### Land

Policy (NLP); the TJRC Act; and, working with Kenyans for Peace with Truth and Justice (KPTJ), on Agenda Items 1-4 of the KNDR.

Technical meetings with the Executive and parliament were planned to ensure favourable legal and policy outcomes.

### 2.6) Public Interest Litigation

The KHRC planned to seek justice under this strategy for: the Nyayo House Torture Victims; the Mau Mau War Veterans Association (MMWVA); IDPs; small scale farmers; and the women and men of northern Kenya.

From a general perspective, these six strategies were planned and employed in the 2009-10 operational year.

In summary, while it seems each of the human rights issues seem boxed into a strategy, KHRC employed a multifaceted approach to deal with the some of the projects; some strategies fed from, or built into, the other; and finally, projects deployed various strategies in their different phases.

Section 3.0 provides the general picture of outcomes realized in the period.

### 3.0 Taking Stock: Implemented Strategies and Results

The KHRC planned within its Strategic Objectives (SOs) 1-5, as developed in the Strategic Plan 2008-12. These SOs include:

- 1) Civic action for human rights;
- 2) Accountability and human rights-centred governance;
- 3) Leadership in learning and innovation in human rights and democratic development in Kenya;
- 4) Mainstreaming equality, non discrimination and respect for diversity; and finally,
- 5) Organisational sustainability.

Under each of these SOs, many activities were undertaken. Within the KHRC, officers reported to their respective team leaders in both Programmes and Administration Departments through the Monitoring and Evaluation (M&E) system agreed upon, especially Results-Based Monitoring (RBM) that has tabular expressions of inputs, activities, objectives, outputs and potential outcomes. These quarterly reports were analysed by the Deputy Executive Director to compile this report that focuses more on outcomes than activities undertaken. Thus, this section highlights strategies employed and key outcomes realised. The report responds in this way to recommendations from core and project grantmakers given during the 2009 End of Year Core Grantmakers' Roundtable.<sup>19</sup>

#### 3.1) Research

Research was mooted, undertaken or used for advocacy, including research on citizenship, tea, and decentralised funds. A baseline survey in Isiolo and Wajir districts was also done.

Findings from the research on citizenship, published as *Foreigners at Home: the dilemma of citizenship in northern Kenya in the 2008-9 Operational Year*, were used to push the agenda forward. At the legislative level, the research was adopted by Members of Parliament (MPs) from the region and they have since raised the issues within the National Assembly through the Pastoralists' Caucus, an ad hoc group of about 40 MPs representing constituencies in northern Kenya. The KHRC also interacted with the Executive to ensure the findings were incorporated in the Strategic Plan of the Ministry for Arid and Semi-Arid Lands (ASALs), launched in 2009. The findings also informed the Annex to Vision 2030, drafted in May 2009, to address concerns of northern Kenyan and ASALs.

The KHRC also used the research as the foundation for PIL on citizenship, equality and non-discrimination. The case seeks to address: a) the gendered and unequal conception of citizenship that discriminates against women by dispossessing them of the right to acquire citizenship in their own right and to bequeath citizenship to their spouses and children; and b) discrimination in 'access to citizenship' and 'citizenship-based rights' in northern Kenya, where Kenyan Somalis encounter procedurally unfair processes in the acquisition of citizenship documents such as identity cards and passports.

To further the research, a baseline survey titled *Citizen Empowerment and Government Responsiveness: the case of Isiolo and Wajir districts of Kenya* was done. The aim was to establish levels of citizen empowerment and government responsiveness in those districts. A key finding is:

"There was consensus that development agencies have made an impact in the area. The community however felt that the emphasis on emergency food support has generated a reliance on food relief and encouraged a growing dependency mentality. The KHRC has adopted an empowering and context-specific social change paradigm that should generate markedly a significant change."<sup>20</sup>

<sup>19</sup> In the End of Year Core Grantmakers' Roundtable, on April 15, 2009, there was consensus that future reports would exclude tabular expressions of results and concentrate on key outcomes/results. This inaugural design of the End of Year Report attempts to capture such outcomes/results from analysis of tabular expressions of results presented by staff to the office of the DED.

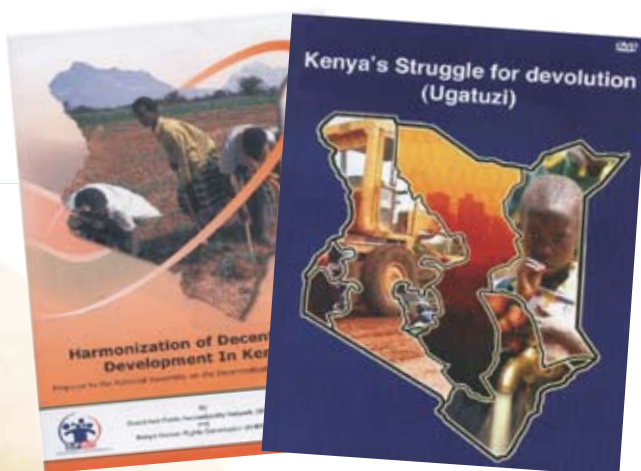
<sup>20</sup> KHRC (2010) *Citizen Empowerment and Government Responsiveness: the case of Isiolo and Wajir districts of Kenya*, Nairobi: KHRC. The survey was done by Upward Bounty Limited.

## Taking Stock: Implemented Strategies and Results (cont.)

The survey recommends that the KHRC should prioritise community capacity-building for assertive citizenry while injecting an appreciation of the value of community diversity and mutually-beneficial ethnic co-existence. It also recommends that we advocate for measures that address livelihoods, combat poverty and inequality in northern Kenya including through: the establishment of a marketing strategy for livestock; and an improvement of the roads infrastructure. For purposes of RBM, the survey establishes a point of reference for future measuring of, and reporting on, the outcomes and impact of interventions by various actors on both the demand side (rights claiming) and supply side (service delivery). Thus, the survey informs the KHRC's advocacy for affirmative action to uplift northern Kenya in the coming year.

The KHRC also did a desktop analysis of Kenyan laws and how they foster inequality and discrimination on various protected grounds such as gender, health status and sexual orientation. The analysis, working with the Equal Rights Trust (ERT, based in London), was launched in January 2010. The launch and related training session on key equality and anti-discrimination concepts, led to the formation of a working group of CSOs who have, since then, held sessions with the media, MPs from the Departmental Committee on Equality and Discrimination and other stakeholders on inequality and discrimination. The working group will be going for a study tour in London in the coming year to meet and learn from London-based CSOs working on the same. Together with FIDA-Kenya, the KHRC will produce policy briefs to influence the Legislature and the Executive towards comprehensive equality and anti-discrimination legislation. The KHRC's planned Manual on Rights-Based Approaches on equality and non-discrimination is yet to be concluded for training of the HURINETs we work with.

The research on tea, undertaken with the Workers' Rights Network (a thematic network that the KHRC partners with) in 2008 and updated in April 2009, found include discrimination against female plantation works and sexual harassment, allegations of nepotism and overtime without compensation. A further fact-finding mission was executed in December 2009. The findings and recommendations, which are still being worked on, will be shared as a policy brief in the coming year. This will continue to inform the KHRC's advocacy through two labour-related cases still in court.



The KHRC-Social and Public Accountability Network (SPAN) research into decentralised public funds produced the report on Harmonisation of Decentralised Development in Kenya: towards alignment, citizen engagement and accountability, validated in November 2009 and to be published in the coming year. The research assumes that: the multiplicity of public funds at district, constituency, ward and other lower levels hinders public participation, service delivery and encourages graft. Key findings are that: a) Kenyans are not fully involved in all stages of the project cycle, such as monitoring how funds are used;

b) resources are spread thin and there is poor coordination amongst the funds; and c) the majority of funds are not efficiently used as there is poor monitoring. Key recommendations are to: restructure decentralisation by formulating a policy and legislative framework; consolidate all funds into one; and remove politicians from implementation of the funds. The report has been shared with relevant state authorities and CSOs that work on monitoring public funds.

## Taking Stock: Implemented Strategies and Results (cont.)

In addition to the above, the KHRC undertook research on insecurity in Central and Rift Valley provinces focusing on: a) a RBA to insecurity; b) documenting the evolution of community justice systems in the wake of migration and modern weapons; and c) gauging the waning culture on communities where 'cattle rustling' is rampant. From the same, the KHRC produced a documentary titled *The Business of Violence*.

The aim was to show the perpetrators and survivors of cattle rustling. The documentary, aired several times in Citizen TV in March 2010, showed how state security agencies conspire to commit or enable resulting human rights violations. It is our hope that the documentary will contribute to dialogue on insecurity in northern Kenya and enable survivors to access justice. A report of the fact-finding mission in Samburu will be produced as a policy brief in the coming year.

Finally, the Kenya Human Rights Institute (KHRI) conducted research on *The Fight against Corruption: A human rights perspective*. This policy brief interrogated the 'war against graft' in Kenya and noted key challenges, such as the right to a fair trial and corruption as a violator of socio-economic rights. It suggested that: a) human rights organisations take anti-corruption up in earnest; b) there is need for a framework for collaboration between anti-corruption and human rights organisations; c) costing corruption would make its impact more obvious to citizens; and d) a RBA could provide the basis for citizens' participation in budgetary processes. In the coming year, the study shall be published and disseminated to stakeholders.

### 3.2) Monitoring and documentation

Reported here are key outcomes from monitoring human rights violations generally as well as in relation to specific groups such as clients assisted by our legal aid clinic and IDPs. We further report on manuals, publications and documentaries that planned and executed.

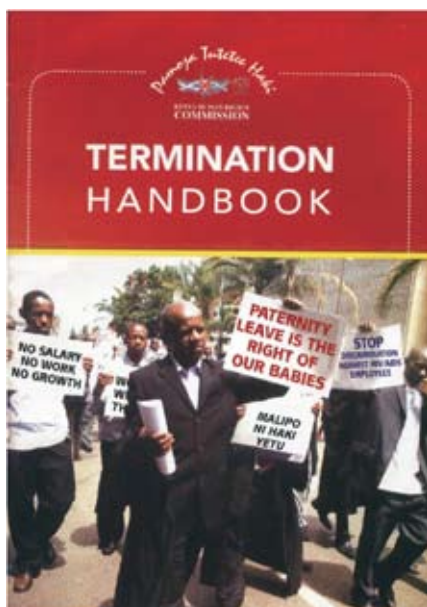
The KHRC produced the BHRR (Jan-June 2008) on the state of human rights in Kenya at the end of 2008. The report showed that human rights violations continue to occur, especially in post-conflict Kenya. This publication continued to be used by researchers both national and international. However, persistent concerns about the BHRR are its timeliness and its utility without being publicly launching.

To address these concerns, the KHRC consulted an on-line tracker, Strategic Public Relations, to track human rights violations and hasten the production of future BHRRs to provide cutting-edge monitoring and documentation, ensure accountability for violations and prevent further violations. Unfortunately, the on-line tracker did not give us reliable information. Hence the BHRR for January-June 2009 was delayed. We have since rectified the problem and both pending copies of the BHRR will be produced in the first quarter of the coming year.

With regard to business, trade and human rights, the KHRC produced the *Investment and Human Rights Manual* to assist State actors in negotiating bi- and multi-lateral investment treaties in line with human rights. The manual is also a guide for non-State actors to ensure that the protection and promotion of socio-economic rights has more advocates.

The KHRC continued to hold weekly and monthly legal-aid clinics, the information from which informed monitoring of human rights violations that exist presently, within Nairobi and its suburbs particularly. The majority of cases dealt with were labour-related, having to do with illegal termination, lack of payment of dues, right to compensation for work-related injuries and employees' welfare. To illustrate, in October 2009, there were 70 cases, 28 of which were labour-related.

## Taking Stock: Implemented Strategies and Results (cont.)



In November 2009, there were 21 labour-related cases out of 56 cases. In the last quarter of the year, between January and March 2010, labour-related cases averaged between 45 and 55 per cent of all cases reported.

Arising from these numbers and to respond to the problem, the KHRC produced a manual titled Termination Handbook, which highlights the rights of workers in employment, so they are aware of the new labour laws especially when dismissed, their entitlements and dues, and when and where to report such human rights violations. The Handbook is being distributed through the legal aid clinic as well as in fora that the KHRC organizes, through the Workers' Rights Network and shop-stewards in trade unions and also through other CSOs providing legal aid. We hope this will stem the tide.

Other cases had to do with land disputes such as succession, refugees' complaints and finally, human rights violations committed by state security agencies. Many of the clients were male, indicating that women still lack access to legal redress. Of the 262 cases received during the first six months of the

Operational Year 2009-10, only 75 were from women.

Some cases are referred to an advocate at the end of the month for legal advice. In March 2010, for instance, the advocate handled 15 cases, as describe in the table below:

**Table 1: Nature of cases handled by the advocate**

Nature of Cases	Men	Women	Total
Labour disputes	4	1	5
Sexual harassment at work	0	1	1
Land disputes	2	1	3
Rights of owners of structures on government land	1	0	1
Succession	1	0	1
Right of family to dispose remains of their kin	0	1	1
Right to fair trial	1	0	1
Criminal cases	0	1	1
Landlord and tenant disputes	0	1	1
<b>TOTAL</b>	<b>9</b>	<b>6</b>	<b>15</b>

## Taking Stock: Implemented Strategies and Results (cont.)

Having helped survivors access justice, primarily through mediation (with the successful resolution of six employer-employee disputes), in 2009-10, to improve our services, the legal aid clinic was restructured to ensure mandatory follow-up of cases and the provision of counselling where necessary. The legal aid clinic also provided members of the public with guidance on relevant public offices to lodge complaints and referred them to partner organisations specialising in the provision of legal aid for specific groups such as children and women. These organisations include Kituo Cha Sheria, Christian Legal Education Aid and Research, FIDA-Kenya and the Independent Medical-Legal Unit. The KHRC has now planned to take up strategic complaints as PIL and to inform labour rights advocacy.

Our monitoring of the IDPs' resettlement programme, Operation Rudi Nyumbani, stems from the past Operational Year 2008-9. In December 2009, we launched the final report *Out in the Cold: the fate of IDPs in Kenya 2008-9*. The report detailed the numerous human rights violated contrary to Kenya's regional and international obligations. It has informed the work of networks concerned about IDPs such as the Legal Protection Working Group under the auspices of the United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA), which KHRC is a member of.

The KHRC, with this group, has developed a draft policy on IDPs given that *Out in the Cold* recognised the lack of a policy framework as a reason behind the government's ineffective addressing of IDPs. The government, through the Ministry of Special Programmes, has taken the CSOs draft policy on board. The report is also being used as background for an IDPs case, through which, together with FIDA-Kenya, we intend to sue the State for compensation of IDPs. The case will be instituted in the coming Operational Year 2010-11.

Finally, human rights violations have been documented through *Mizizi ya Haki* (Roots for Rights). Its 2008 edition saw 2,000 copies produced and distributed to the 21 HURINETs and other stakeholders. The distribution list has been growing. Key outcomes include increased demand for the newsletter among community-level duty-bearers. They see the newsletter as a gauge of how communities view their work or get ideas from it on what to do to improve the human rights situation.

In future, the Mizizi editorial team will ensure continued supply of the newsletter to community-level duty-bearers and provide them an interactive space to react to complaints and suggestions made about their work. We shall also seek to launch *Mizizi* publicly in the coming year to create a bigger impact.

### 3.3 Capacity-building

The KHRC invested in training the 21 HURINETs on reform. We reached about 400 network members in five regions (Coast, Eastern, Northern, Rift Valley and Western). At the secretariat, there were changes in staff and intern performance.

The KHRC has built capacity of the HURINETs in:

- Community-based actions;
- Engaging the State (through the local duty bearers);
- Gender mainstreaming;
- Legal registration of CBOs;
- Institutional capacity building (establishing resource centres);
- Planning and implementing projects;
- Proposal-writing;
- Finding potential grantmakers.

## Taking Stock: Implemented Strategies and Results (cont.)



Capacity Building for Civic leaders- Wajir

The HURINETs were also trained on: the Constitution; the TJRC; and monitoring, documenting and reporting human rights violations. This enhanced their participation in the same, reflected in their 2007 People's Manifestos and, this year, in the scorecards they developed to gauge performance on the People's Manifestos.

These were vital tools to hold State actors, especially MPs, to account.

To illustrate, the People's Manifestos were used by the networks in Eastern and Western to submit views to the CoE in July 2009. Further, the

networks were facilitated to participate in the regional public hearings of the Independent Boundaries Review Commission (IBRC). In Rift Valley, the five coordinators of the five regional HURINETs submit memoranda on November 6, when the IBRC was in Nakuru. On the TJRC, they will document their issues through written memoranda, following training carried out throughout the country in the year under review. Already, many HURINETs have prepared documents to be shared with the TJRC. They will also respond effectively to human rights violations and report accurately on the same to the KHRC.

The restructuring of the networks, by developing constitutions, improving leadership structures and so on, has enhanced their legitimacy. They have been consulted by local duty-bearers on emerging human rights issues. For instance, in Eastern, members of the Mount Kenya Human Rights Network were invited by the area Chief to settle disputes related to women's human rights violations after having successfully managed a case. In Northern, the Isiolo Human Rights Network worked with the media on highlighting the People's Manifestoes' demands. Due to this, the area MP invited them to meetings on selecting priorities for the use of decentralised funds. Further, registration, recorded in Western where the Kakamega Human Rights Network is now registered as a self-help group, has contributed to meeting funding conditions and some networks have approached grantmakers for support.

In Rift Valley, HURINETs got grant support. The Baringo HURINET received funding from the United States Agency for International Development (USAID) to conduct a youth forum on Agenda 4. The Laikipia HURINET worked with Handicap International to mainstream persons living with disabilities into their work. It revised its People's Manifesto accordingly to advance speedy implementation of the Persons with Disabilities Act (2003).

The networks have come to be influential. Capacity-building has focused not just on developing their understanding of substantive human rights issues and processes but also their institutional capacity to thrive as community-based organisations (CBOs) in partnerships with like-minded CBOs, relevant coalitions and networks.

## Taking Stock: Implemented Strategies and Results (cont.)

The net effect is human rights interventions driven by communities. At the Coast, the Mombasa HURINET directly engages the Provincial Administration and the Kenya Police Force on drug abuse. In Kinango, the network is publishing a fact-sheet on child abuse in schools. In Taita Taveta, the HURINET has spearheaded efforts to resolve human-wildlife conflict (HWC). And in Kwale, the community has reviewed the draft Constitution. All HURINETs have been prepared to participate actively, from an informed point of view, in the local and national processes that seek reform, justice and accountability.

The results of the training were that:

- The KHRC now spends less time on process and more on planning while the HURINETs concentrate on implementation;
- The KHRC and the HURINETs have prioritised human rights issues affecting the HURINETs, hence the work on tea, sisal and sugar cane;
- The HURINETs are managing violations of children's and women's rights on their own.

With respect to the thematic networks, the KHRC continued to support the Gay and Lesbian Coalition of Kenya (GALCK) through:

- The internship programme, under which the GALCK seconds interns to the KHRC for six month periods to expose them to working on human rights;
- Hiring a programme assistant to manage the GALCK/KHRC programme of work.

An important outcome of the training with the geographical HURINETs was that the coastal HURINETs were able to respond fast and effectively to the Mtwapa LGBTI case.

Within the KHRC's secretariat, interns have received on-job training. One intern has been recruited by another NGO as a programme officer and two have been recruited as consultants on transitional justice. We shall continually mentor interns, who are proving to be a resource for CSOs in the sector once they leave the KHRC.

Many staff have attended formal and/or informal training relevant to their work and we are seeing results. The 2009 Job Evaluation contained recommendations on skills required by each position to actualise the KHRC's Strategic Plan 2008-12. Skills' gaps were identified and staff supported to take up in addressing them. Other training areas were informed by emerging issues both inside and outside of the KHRC.

In February 2010, all staff were trained on gender mainstreaming theory and approaches, a key outcome of which was taking stock of how our work responds to gender-specific human rights needs. A staff member trained in policy advocacy and M&E trained other members of staff on the same to push advocacy to the next level and improve our work. Another staff member training in counselling has helped to counsel the legal aid clinic clients. One case involved counselling a mentally-disturbed client, who was referred to hospital and later recovered. The client has often visited the KHRC to thank that staff member.

Better activity concepts have been designed and implemented and more staff are involved in proposal writing and reporting. Six staff members are currently pursuing masters' degrees. Members of staff not conversant with computer skills have been trained, are now in control of their own work and have saved time previously spent consulting others. And the KHRC's Resource Center has been equipped with soft and hard publications to flag emerging needs and trends. Many officers and outsiders have found the Resource Centre useful.



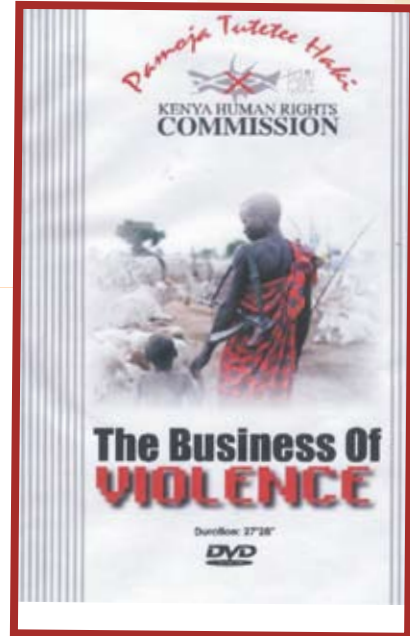
**Taking Stock: Implemented Strategies and Results (cont.)**

Worth noting is improved programme and administration synergy. Through team-building, staff have appreciated the need for work-life balance, self-motivation and better communication and time-management. Time previously wasted resolving work-related.

**3.4 Publicity and media**

The KHRC's advocacy has been covered by most media stations. We have engaged the media to ensure better protection and promotion of human rights. And we have developed a new website.

At the local level, the 21 HURINETs have worked with media houses on the short-term demands in the People's Manifestos, which has led to aster response by relevant duty bearers. For example, various fora on the People's Manifestos in Rift Valley were covered by 13 media houses that included national dailies (Nation and Standard) and national television stations such as Citizen and the Kenya Broadcasting Corporation (KBC). In Western, the Migori HURINET is relied upon by the local media to inform them about human rights violations at hat level. In Rift Valley, a coordinator of one of the networks was invited by the KBC, to participate in a national discussion on the region.



At the national level, the KHRC has developed a good working relationship with the media, going beyond press releases and press conferences to engaging media practitioners through fora for journalists and presenters. We have also engaged consulting companies such as Strategic PR and Meltwater News for monitoring and documenting both human rights violations and coverage of our work.

The KHRC has worked with both national and local media houses. Results include raising public awareness and interest about the EPAs through radio discussions on Citizen Radio and the Mau Mau torture case through the Nation Media Group. Staff members have been frequently used as panellists on popular television talk-shows such as 'Agenda Kenya', 'Louis Otieno Live' and 'This is Louis' as well as during normal news coverage. This has enhanced our profile—and our take on human rights in Kenya.

We have also screened documentaries produced, such as The Business of Violence, emanating from the Samburu fact-finding mission; Ugatuzi: the struggle for devolution in Kenya, emanating from the research on decentralised funds; and Abandoned and Forgotten, from monitoring the resettlement of IDPs.

Toward Reforms, Justice and Accountability

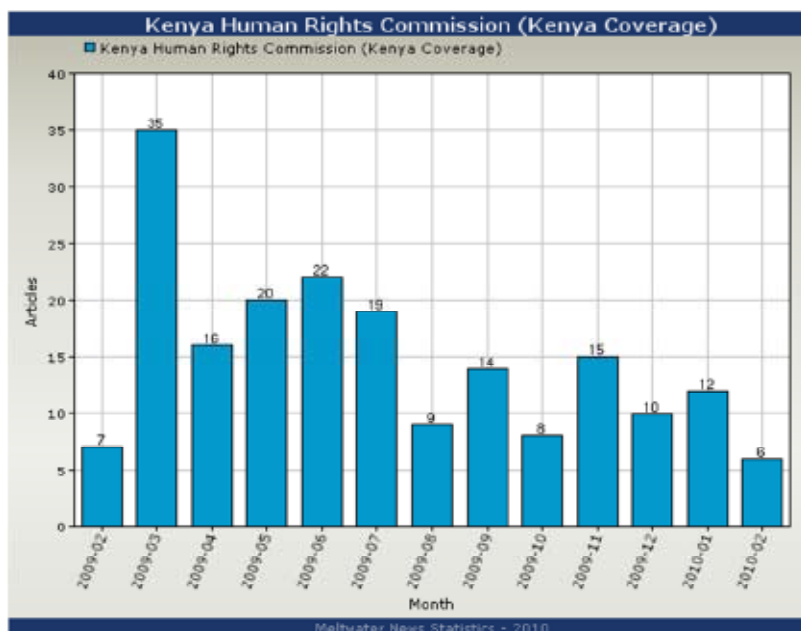
**Taking Stock: Implemented Strategies and Results (cont.)**

Documentaries produced such as those on transitional justice (a four part series titled Unturned Stones) were publicly launched in February 2009. These documentaries highlighted transitional justice in an innovative way and created awareness about torture and other human rights violations since independence.

We shall show the same on television in the coming year. We know our documentaries are making an impact in that we receive feedback and media houses pick-up the issues from the documentaries to carry out further research on their own for news features or discussion on talk shows. An example is the Business of Violence. Citizen TV, that aired the documentary, carried out a spin-off in a three-day news feature story.

The KHRC's prominence in local and international media is shown in the results from Meltwaters News that tracks the KHRC's hits in the media, illustrating the KHRC's leadership within the human rights sector. The number of hits at national level is always attributable to the work we have done, such as on citizenship, the EPAs and the launch of our reports. From the figures below, it is clear that the KHRC has been covered by different media stations. On average, between February 2009 and March 2010, there were about 20 hits every month for the KHRC. The figure below summarises national media coverage of the KHRC in the past one year.

**Figure 1: the KHRC's coverage by national media**



Meltwaters News has also tracked coverage at the regional and international level. At regional level, the KHRC has average of 22 hits per month, with June 2009 having 32 hits and the South African press having the highest hits at 49. At the international level, the KHRC has been covered in Europe and the USA. The highest hits were recorded in June 2009, with 160 articles in the American press. On average, coverage stood at 30 articles per month between February 2009 and March 2010. Meltwaters News will add qualitative analysis of our coverage in the coming year.<sup>21</sup>

At the secretariat, we are working on improving on our communication, media and publicity strategy, following the recruitment of a programme officer for publicity and media in February 2010.

<sup>21</sup> See Meltwaters News, KHRC Media Coverage Report, March 2010.

## Taking Stock: Implemented Strategies and Results (cont.)

### 3.5 Working with the State

The KHRC worked with the State on: State reporting under the Universal Periodic Review (UPR); constitutional review; the formulation of the National Policy on Human Rights (NAP); transitional justice initially through the TJRC; and the Strategic Plan for the Ministry of Northern Kenya. The HURINETs also worked with the State.



The KHRC has a working relationship with the State, particularly the Legislature through its Departmental

In Western region, the Siaya HURINET worked with the Kenya Police Force to ensure the arrest of a man who defiled his two-year old daughter and assaulted his wife. The man is currently serving a life sentence in Kodiaga maximum security prison. The Kuria HURINET worked with the Kuria district peace committee, training it on an Early Warning System (EWS). The Kuria peace committee since worked with the Provincial Administration to stem conflicts. The Migori HURINET was consulted by the local MP to discuss development. With regard to legal and policy advocacy, the KHRC engaged the State on the formulation of the NAP, through technical meetings and revisions of drafts. The final NAP draft was validated in March 2010. The KHRC also contributed to the formulation of the draft Bill on mining and the Human Wildlife Conflict (HWC) policy and also the mining law.

However, work with the Executive has been more difficult. While some State agencies, departments and Ministries see the value of our work, others do not.

Our engagement with the Kenya Institute for Education (KIE) on human rights education has been fruitful, as has our work with the National Aids Control Council (NACC) on its Strategic Plan. But the Coast Provincial Commissioner, for example, said some human rights organisations are the problem—referring to the Muslim Human Rights Network (MUHURI), which we used to legally host. MUHURI has been effectively monitoring the decentralised funds. The Minister of Internal Security sees human rights organisations as exacerbating insecurity. Regardless, the KHRC engaged institutional reform commissions and taskforces, including the Taskforce on Police Reforms, whose recommendations mirrored our submission to it of June 2009.

### 3.6 Public Interest Litigation (PIL)

The KHRC sought judicial rulings to protect and promote human rights—as well as public education on and increased pressure for the same through PIL. The KHRC supported cases seeking legal redress for: the Mau Mau torture survivors; the Nyayo House torture survivors; small farmers; and citizens of northern Kenya.

The cases involving the Mau Mau and Nyayo House torture survivors and small farmers have been filed—with positive results in the form of national and international publicity about the Mau Mau torture survivors, including through a four-part series on Nation TV, sign-ons to the public petition and, most significantly, the involvement in the case of the Attorney-General's office and the Ministry of Foreign Affairs. Other positive results include gaining compensation for the Nyayo House torture survivors—112 cases were filed, including 65 new cases in the period under review.

## Taking Stock: Implemented Strategies and Results (cont.)

Following judgements in favour of seven survivors, the Attorney General wrote to the Minister of Internal Security instructing a payment of KES11,632,458 to the seven survivors.<sup>22</sup>

The KHRC also, in response to complaints received at the legal aid clinic, engaged employers and employees in mediation and negotiation and resolving 6 disputes. The KHRC also worked, where possible on labour-related disputes, with relevant trade unions but most clients have been non-unionisable employees.

A case in point involves a trade unionist who was illegally terminated from serving the union.<sup>23</sup> The citizenship case was prepared for filing through creating a pool of advocates to work with us and developing affidavits for the petitioners. PIL is useful for our work although it is time-consuming given the manner in which the judiciary sometimes works.



Mau Mau press briefing

### 3.7 Urgent action

Any human rights organisation needs to be able to act fast on human rights violations. The KHRC developed a Fact-Finding Manual to guide urgent actions and responded to human rights emergencies in: Mathira (involving Mungiki); Kuria;

Samburu (involving insecurity related to 'cattle rustling and disarmament'); and in Laikipia (involving human wildlife conflict). Reports from related fact-finding missions were used to inform local-level responses with relevant duty bearers but the challenge is to improve them to a level at which they can be publicly launched and acted on. This was, however, done in Samburu, through the documentary accompanying the report.

Other urgent actions included: the case of the trade unionist above; the case of an inter-sex person from the Coast, whom we assisted in getting medical and psychological support in October 2009; challenging arbitrary arrests of trans-gendered persons or those facing arbitrary criminal charges on the basis of their sexual orientation; and assisting the HURINETs with urgent actions at the local level.

The KHRC also provided institutional support to the system now in place to protect Human Rights Defenders (HRDs) at risk. We have received requests for, assessed, provided protection to and re-assessed HRDs facing risks including death threats.

<sup>22</sup> In December 2008, with respect to the case of Rumba Kinuthia and Six Others, the court ruled that all seven had suffered from torture against Section 74 of the Constitution and awarded each KES1.5 million. The six others are: Andrew Mwathi Ndathi, Njuguna Mutahi, Margaret Wangui, Alex Okoth Ondewe, Naftali Karanja Wandui and Joseph Gichuki Karanja.

<sup>23</sup> Samuel Otieno, the Kericho Branch Secretary of the Kenya Plantation and Agricultural Workers' Union (KPAWU) and an active member of the Kenya Workers Rights Network (KWRN). The unionist was terminated from his position on April 8, 2009 by the General Secretary, Francis Atwoli. In his termination letter, Atwoli noted that Otieno was terminated under Rule 19 of the KPAWU Constitution. However, under that Constitution, Branch Officials can only be terminated under Rule 15. In this case, we are seeking reinstatement of Otieno to his position.

## Taking Stock: Implemented Strategies and Results (cont.)

From March-September 2009, we assessed 135 HRDs (of whom 29 were women), and eight journalists (of whom one was a woman). Of those assessed 64 did not qualify for protection (including 21 women). The HRDs who did come from Central, Nairobi, Rift Valley and Western, while the journalists came from Ethiopia, Rwanda and Somalia. They were all given assistance ranging from advice to protection.

The longest period supported was six months. The majority of HRDs assisted work at the level of implementers (95 per cent) with a minority being managers (five per cent). Some HRDs assessed were independent: that is, not attached to a human rights organisation.



Fact finding mission on cattle rustling and disarmament in Samburu

Key results here include (apart from having assured the safety of all HRDs under protection): a) the method of risk assessment used which is based on objective criteria; b) the rules and regulations for those under protection to avoid security lapses; c) the provision of psychological support to help clients cope with life under protection; d) coordination of the protection system to minimise exposure and avoid further security risks. Challenges exist, however, including: misunderstanding amongst human rights organisations preventing consistent coordination; would-be clients taking advantage of the HRDs protection programme for financial gain; and addressing the needs of female HRDs (some of whom require family protection, particularly when they are single parents).<sup>24</sup>

### 3.8 Networking

Networking for human rights protection and promotion is critical given the demands and needs that exist.

The KHRC has, since 2004, partnered with the 21 HURINETs across Kenya's eight provinces. This partnership has ensured our work is founded on and responsive to local-level human rights aspirations, demands and needs. We celebrated, with the HURINETs, International Human Rights Day (IHRD) and International Women's Day (IWD) for public education on the themes, adapted by the HURINETs to local human rights concerns. Over 300 people attended IHRD in Coast region. Over 500 people, 70 per cent of whom were women attended IWD in the Rift region. Over 200 people participated in each of the five events marking IWD in Western region, bringing the figure to over 1,000. Box 1 below summarises our experiences with the 2009 IHRD celebrations, using films for human rights education.

The KHRC networked on the UPR, being elected as the convener for the economic and social rights cluster, with reporting scheduled for May 6, 2010 during which the KHRC presented the CSOs' position.

<sup>24</sup> A detailed report on HRDs' protection is available from the KHRC.

## Taking Stock: Implemented Strategies and Results (cont.)

**Box 1: Films for human rights education during IHRD**

Every year, December 10 is celebrated across the world as International Human Rights Day (IHRD). IHRD focused on equality and non-discrimination. The realisation of all human rights is hampered by inequality and discrimination on various protected grounds including age, colour, ethnicity, gender, political affiliation, race, religion, sexual orientation. Between November 25 and December 10, 2009, the KHRC used films for human rights education on the IHRD theme.

The KHRC acquired relevant films from the Why Democracy Project, which donated ten films and various documentaries, including facilitators' guides. The Iron Ladies of Liberia was thus used to discuss on reconstruction challenges post-conflict. The KHRC also purchased the award-winning film My Neighbour, My Killer, which explores the Gaçaça court in one community. The film was screened to audiences of about 200 at different venues, including that attending the Annual Human Rights Lecture. The film challenged communities to deliberate on conflict and retaliatory violence, as well as how to reconcile. The discussions following the screenings thus also helped the KHRC advance advocacy on transitional justice and security sector reforms, as well as equality and non-discrimination.

**Lessons Learnt**

- 1) Screening of films, particularly in Kiswahili, has impact in mobilising communities for human rights protection and promotion after enabling communities to discuss contentious or difficult subjects in an accessible and safe way.
- 2) Partnering with educational institutions and Faith-Based Organisations (FBOs) on such screenings is cost-effective and enables greater outreach, while profiling both the human rights messages and the role of the HURINETs.
- 3) Gains made may not be immediately visible—but screenings provoke changes in the lives of individuals, families or groups of people, challenging apathy and providing inspiration.

Within KPTJ work focused on holding the State accountable for delivery of the mediation agreements and developing options for justice for the survivors of the PEV. KPTJ has met the mediator, Kofi Annan, several times to update him on concerns with implementation of the Agenda Items, providing a check to the GCG's reports on the same.

Other networks included: the Constitution and Reform Education Consortium (CRECO) and the National Civil Society Congress (NCSC), which led the Katiba Sasa campaign. This campaign provided the public with analysis through easy-to-read materials, lobbied the Parliamentary Select Committee (PSC) when working on the contentious issues in January 2010 and, subsequently lobbied MPs to pass the PCK.

The KHRC also worked with the KTJN, which marshalled experts and NGOs dealing with transitional to inform and prepare the public as well as support the TJRC through training, issuing opinion pieces and working with the TJRC. These interventions were important in that they shaped the discourse on transitional justice but also informed Kenyans on available mechanisms for the same, beyond the TJRC.

## Taking Stock: Implemented Strategies and Results (cont.)

Pamoja Kwa Haki (Together for Rights) promoted Human Rights Education (HRE) in Kenya's primary and secondary schools by building teachers' capacity and collaborating with the KIE to increase HRE content in the curriculum and improve the quality of HRE teaching. Pamoja brings together of five organisations: the Association of Sisterhood Kenya (AOSK); the Catholic Diocese of Lodwar (CDL-CJPC); Catholic Diocese of Nakuru; Trocaire Ireland, Kenya Office; and the KHRC.

The KHRC also partnered with SPAN on the research on decentralised funds. SPAN is a partnership organization bringing together nine CSOs working with communities on the monitoring of public funds.

The KHRC has worked with and hosted interns from the Gay and Lesbian Coalition of Kenya (GALCK), which saw the mainstreaming of sexual orientation within the KHRC. GALCK build its institutional capacity by participating in our annual Operational Planning. And urgent action in Mtwapa in January 2010 could not have occurred without this partnership.

Finally, the KHRI worked closely with the Muslim Human Rights Forum (MHRF) in organising a conference on counter-terrorism and human rights. A publication from the conference was produced and distributed to participants as well as relevant duty bearers.

In conclusion, working with networks proved effective in advancing reforms, justice and accountability.

### 3.9 Sustainability

the objective is to ensure that the KHRC remains relevant to Kenyans by: designing programmes that meet their needs; fundraising for the same; motivating staff to deliver the vision and mission of KHRC; and ensuring that the projects we initiate at the local levels are eventually owned by the communities.

We raised almost 100 per cent of the budget for the Operational Plan 2009-10, despite shifts by several of our grantmakers from multi-year to annual funding and from increased project rather than core support. Diversifying sources, especially with project funds assisted in reaching our fundraising target.



The late Maximilla Wekesa (3rd from left, last row) with children at a book exhibition

## Taking Stock: Implemented Strategies and Results (cont.)

On purchasing a building for the KHRC, the Board and Management made progress by setting up a Board establishment committee, hiring a consultant to operationalise the sustainability strategy and commissioning an advocate broaden the KHRC/I's legal status according to the same. The KHRC is obtaining an additional registration as a 'company limited by guarantee' to serve as our investment vehicle. The KHRI is being registered an 'educational trust' to enable it to fundraise independently of the KHRC.

On staff retention and motivation, the KHRC implemented all pending recommendations from the previous year's job evaluation, with results in terms of staff performance. And all staff that applied for on-job training received support to complete the same.

With respect to M&E, the staff were trained on RBM, ALPS and MSC in May 2009, which we are now using to report. The individual and team performance system was operationalised through setting Key Result Areas (KRAs) and performance reviews for both individuals and committees. Implementation of the Operational Plan 2009-10, in budgetary terms, was at 95 per cent as a result. Where under-performance was recorded, individual staff were communicated with.

The KHRC development and/or revision of office procedures and policies have improved our professionalism. One important milestone in this respect was the commissioning of a database to record human rights violations and a database to operationalise our Management of Information System (MIS). These two databases will be concluded in the coming year.

Toward Reforms, Justice and Accountability



Nduta Kweheria hands goodies to children attending AIDS Fun day hosted by KHRC



## 4.0 Challenges and Recommendations

Challenges facing the KHRC relate to the internal working environment or external set-backs outside our control. Internally, challenges include staff turnover. The KHRC lost three staff members and hired two replacements—the office of the Deputy Executive Director remains vacant despite recruitment efforts. While the loss of staff members to other (international and better-paying) organisations reflects well on the KHRC, the loss of staff creates time pressures for Management and staff while awaiting replacements.

Another challenge is posed by the time lost to managing collaborative processes through external meetings, especially within networks. Acting fast on human rights violations, documenting accurately and also releasing reports to the public are further challenges. We are working on this by training or retraining both staff and the HURINETs on documenting human rights violations and have formed a committee on urgent action.

### External challenges included:

- a) the shift from multi-year to annual funding;
- b) protracted contracting with some grantmakers;
- c) slow financial disbursements from some of our grantmakers;
- d) continued high costs of land and buildings. Increased crime and insecurity, the rise of food and fuel prices, the lack of State commitment to accountability and Christian leaders threatening constitutional reform were also challenges.

### Recommendations to overcome these challenges include:

- a) simplified proposal formats and tighter timelines for grantmaker contracting;
- b) a return to multi-year funding where possible given the lessening impact of the financial crisis;
- c) consciously reducing time spent on managing collaborative processes.

## 5.0 Conclusion

**2009-10 was a successful year for the KHRC.**

While trying to achieve reform, justice and accountability within a year was ambitious, we made progress on reforms through our contributions to constitutional reform, the NAP, the draft IDPs policy and the task forces on police and judicial reforms.

With respect to justice, we contributed to the documentation of human rights violations by survivors and training them on transitional justice. Our related publications created public awareness about the same, building pressure for redress

Accountability—both State and individual criminal—remained the most difficult to achieve.

Aluta continua.

Toward Reforms, Justice and Accountability



KHRC Team at the LSK Annual Justice Cup

Kenya Human Rights  
Commission

**FINANCIAL  
STATEMENTS**

**2009 - 2010**

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## Commission Information

### BOARD OF DIRECTORS

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

: Makau Wa Mutua	-	Chair
: Betty K. Murungi	-	Vice Chair
: Muthoni Wanyeki	-	Executive Director
: Mwambi Mwasaru	-	Member
: John Githongo	-	Member
: Mumina Konso	-	Member
: Karuti Kanyinga	-	Member
: Davinda Lamba	-	Member
: Tade Akin Aina	-	Member

### REGISTERED OFFICE

: Kenya Human Rights Commission  
: P O Box 41079, 00100  
: NAIROBI

### PRINCIPAL PLACE OF BUSINESS

: Valley Arcade  
: Gitanga Road  
: P.O. Box 41079, 00100  
: NAIROBI

### AUDITORS

: PKF Kenya  
: Certified Public Accountants  
: P.O. Box 14077, 00800  
: NAIROBI

### PRINCIPAL BANKERS

: National Industrial Credit Bank  
: NIC House  
: P .O. Box 44599, 00100  
: Masaba Road  
: NAIROBI  
: Commercial Bank of Africa  
: International Life House  
: P .O. Box 45136, 00100

### SOLICITORS

: Waruhiu Kowade & Ng'an'ga Advocates  
: st Floor Sameer Africa Complex  
: Mombasa / Enterprise Road Junction  
: P .O. Box 47122,00100  
: NAIROBI

## Report of the Directors

The directors submit their report and audited financial statements for the year ended 31 March 2010, which show the state of commissions affairs.

### 1. PRINCIPAL ACTIVITY

The principal activity of the commission is the protection of and advocacy for fundamental human rights in Kenya.

### 2. ORGANISATION STRUCTURE AND NATURE OF ACTIVITIES

The Kenya Human Rights Commission (KHRC) is a national Non-Governmental Organization (NGO) founded in 1992 and registered in Kenya in 1994 under the Non-Governmental Organisation Co-ordination Act. The goal of the KHRC is to entrench human rights and democratic values in Kenya.

Kenya Human Rights Commissions strategic objectives are as follows:

- Civic Action for Human Rights
- Accountability and human rights-centred governance
- Leadership in learning and innovation in human rights and democratic development in Kenya
- Mainstreaming equality, non discrimination and respect for diversity
- Organizational sustainability of KHRC

### 3. RESULTS

The results for the year are shown on page 41.

### 4. DIRECTORS

The directors who held office during the year and up to the date of this report are shown on page 37.

### 5. AUDITORS

The commission auditors, PKF Kenya, have expressed their willingness to continue in office.

By order of the Board



For:  
Professor Makau Wa Mutua  
Chair of the Board of Directors

25th June 2010

## Statement of Directors' Responsibilities

The NGO Co-ordination Act requires the directors to prepare financial statements for each financial year, which give a true and fair view of the state of affairs of the organisation as at the end of the financial year and of its operating results for that year.

It also requires the directors to ensure the organization keeps proper accounting records which disclose with reasonable accuracy, the financial position of the organization. The directors are also responsible for safeguarding the assets of the organization.

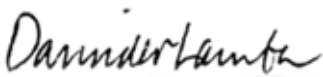
The directors accept the responsibility for the financial statements, which have been prepared using appropriate accounting policies supported by reasonable and prudent judgements and estimates, consistent with previous years, and in conformity with International Financial Reporting Standards and the requirements of the NGO Co-ordination Act.

The directors are of the opinion that the financial statements give a true and fair view of the state of the financial affairs of the organisation as at 31 March 2010 and of its operating results for the year then ended.

The directors further confirm the accuracy and completeness of the accounting records maintained by the organisation, which have been relied upon in the preparation of financial statements, as well as on the adequacy of the systems of internal financial controls.

Nothing has come to the attention of the directors to indicate that the organisation will not remain a going concern for at least the next twelve months from the date of this statement.

Approved by the board of directors on 25th June 2010 and signed on its behalf by:



DIRECTOR



DIRECTOR

## Report of the Independent Auditors

To the Members of Kenya Human Rights Commission

### Report on the financial statements

We have audited the accompanying financial statements of Kenya Human Rights Commission, set out on pages 41 to 59 and which comprise the statement of financial position as at 31 March 2010 and the statement of comprehensive income, statement of changes in fund balance and statement of cash flows for the year then ended, and a summary of significant accounting policies and other explanatory notes.

### Directors responsibility for the financial statements

The directors are responsible for the preparation and fair presentation of these financial statements accordance with International Financial Reporting Standards and the requirements of the Non Governmental Organisation Co-ordination Act. This responsibility includes designing, implementing and maintaining internal controls relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; and making accounting estimates that are reasonable in the circumstances.

### Auditor's responsibility

Our responsibility is to express an independent opinion on these financial statements based on our audit. We conducted our audit in accordance with International Standards on Auditing. Those standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance whether the financial statements are free from material misstatement.

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

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

### Opinion

In our opinion, the accompanying financial statements give a true and fair view of the state of financial affairs of the organisation as at 31 March 2010 and of its financial performance and cash flows for the year then ended in accordance with International Financial Reporting Standards.

*PKF Kenya*

Certified Public Accountants

PIN NO. P051130467R

NAIROBI

29th June 2010



## Statement of Comprehensive Income

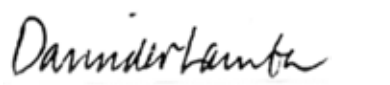
	Note	2010 Shs	2009 Shs
<b>INCOME</b>			
Revenue Grant income	1	163,475,286	114,320,295
Amortisation of capital grant	9(b)	1,098,007	2,709,715
Interest income		2,196,302	1,529,117
Sales of publications		174,901	106,009
KRHC Premises		375,643	-
Other income	2	3,292,209	1,784,624
		<b>170,612,348</b>	<b>120,449,760</b>
<b>EXPENDITURE</b>			
Civic Action for Human Rights		40,578,372	26,100,734
Accountability and Human Rights-Centred Governance		52,314,947	28,419,186
Leadership in Learning and Innovation in Human Rights and Democratic Development in Kenya		11,268,224	5,478,996
Mainstreaming Equality, Non Discrimination and Respect for Diversity		4,780,483	2,859,803
Organizational Sustainability of KHRC		6,915,488	7,850,243
Staff costs	4	37,729,552	33,765,398
Administration costs		9,502,145	9,716,037
Depreciation		1,098,007	2,709,715
		164,187,218	116,900,112
Surplus for the year		6,425,130	3,549,648
		<b>6,425,130</b>	<b>3,549,648</b>
<b>TOTAL COMPREHENSIVE INCOME</b>			
Comprising:			
Restricted Fund		763,605	129,898
Transfer to General Fund		5,661,525	3,419,750
		<b>6,425,130</b>	<b>3,549,648</b>

Toward Reforms, Justice and Accountability

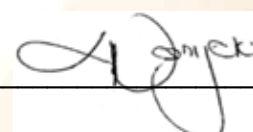
## Statement of Financial Position

		As at 31 March	
	Note	2010 Shs	2009 Shs
<b>NON CURRENT ASSETS</b>			
Property and equipment	6	2,061,418	2,805,625
<b>CURRENT ASSETS</b>			
Debtors	7	808,990	6,600,171
Cash and cash equivalents	8	70,013,174	66,072,082
Grant receivables	9(a)	5,205,825	2,450,444
		<b>76,027,989</b>	<b>75,122,697</b>
<b>TOTAL ASSETS</b>		<b>78,089,407</b>	<b>77,928,322</b>
<b>FUND BALANCES</b>			
General fund balance		19,435,510	14,149,628
KHRC premises fund		10,375,643	10,000,000
Restricted Fund		763,605	129,898
Capital grants		2,061,418	2,805,625
		<b>32,636,176</b>	<b>27,085,151</b>
<b>CURRENT LIABILITIES</b>			
Deferred income	9(a)	27,393,191	29,364,804
Payables	10	18,060,040	21,478,367
		<b>45,453,231</b>	<b>50,843,171</b>
<b>TOTAL FUND BALANCES AND LIABILITIES</b>		<b>78,089,407</b>	<b>77,928,322</b>

The financial statements on pages 41 to 59 were approved for issue by the Board of Directors on 25th June 2010 and signed on its behalf by:



For:  
Prof. Makau Wa Mutua  
Chair of the Board of Directors



Ms. Muthoni Wanyeki  
Executive Director

## Statement of Change in Fund Balance

	General fund Shs	KHRC Premises fund Shs	Capital grants Shs	Restricted Fund Shs	Total Shs
<b>Year ended 31 March 2009</b>					
Balance at 1 April 2008	10,729,878	10,000,000	2,937,826	388,768	24,056,472
Total comprehensive income	3,419,750	-	-	-	3,419,750
Additions	-	-	2,577,514	-	2,577,514
Amortisation	-	-	(2,709,715)	-	(2,709,715)
Funds utilized	-	-	-	(258,870)	(258,870)
<b>Balance at 31 March 2009</b>	<b>14,149,628</b>	<b>10,000,000</b>	<b>2,805,625</b>	<b>129,898</b>	<b>27,085,151</b>
<b>Year ended 31 March 2010</b>					
Balance at 1 April 2009	14,149,628	10,000,000	2,805,625	129,898	27,085,151
Total comprehensive income	6,425,130	-	-	-	6,425,130
Transfer to restricted income	(763,605)	-	-	763,605	-
Transfer to KHRC premises fund	(375,643)	375,643	-	-	-
Additions	-	-	353,800	-	353,800
Amortisation	-	-	(1,098,007)	-	(1,098,007)
Funds utilized	-	-	-	(129,898)	(129,898)
<b>Balance at 31 March 2010</b>	<b>19,435,510</b>	<b>10,375,643</b>	<b>2,061,418</b>	<b>763,605</b>	<b>32,636,176</b>

## Cash Flow Statement

	Notes	2010 Shs	2009 Shs
<b>Operating activities</b>			
Cash generated from operations	11	3,413,373	4,598,045
Interest received		2,196,302	1,529,117
Net cash generated from operating activities		5,609,675	6,127,162
Decrease/ (Increase) in debtors		5,791,181	(1,055,830)
Increase in grants receivable		(2,755,381)	(2,450,444)
(Decrease) /increase in deferred income		(1,971,613)	21,798,944
(Decrease)/increase in creditors		(3,418,327)	6,335,023
Net cash flows generated from operating activities		<b>3,255,535</b>	<b>30,754,855</b>
<b>Cash flow from investing activities</b>			
Purchases of property and equipment	6	(353,800)	(2,577,514)
Sale of equipment		1,185,400	-
Net cash flows from investing activities		831,600	(2,577,514)
Increase in cash and cash equivalents		4,087,135	28,177,341
<b>Movement in cash and cash equivalents</b>			
At start of year		66,072,082	37,894,741
Movement during the year		4,087,135	28,177,341
Foreign exchange loss		(146,043)	-
<b>At end of year</b>	<b>8</b>	<b>70,013,174</b>	<b>66,072,082</b>

## Significant Accounting Policies

The principal accounting policies adopted in the preparation of these financial statements are set out below. These policies have been consistently applied to all years presented, unless otherwise stated.

### a) Basis of preparation

The financial statements are prepared on historical cost basis in accordance with International Financial Reporting Standards.

The following standards and amendments to existing standards have been published and are mandatory for the company's accounting periods beginning on or after 1 January 2009:

IAS 1 (Revised) - 'Presentation of Financial Statements' (effective from 1 January 2009). There are a number of minor amendments to IFRS 7 - 'Financial Instruments: Disclosures' and IAS 8 - 'Accounting Policies, Changes in Accounting Estimates and Errors', IAS 10 - 'Events after the statement of financial position Date' and IAS 18- 'Revenue'.

These have not been addressed above as the amendments are unlikely to have an impact on the commission's financial statements and have therefore not been analysed in detail. This change shall not have a significant impact on the results of the commission.

The following standards and amendments to existing standards have been published and are applicable and mandatory for the entity's accounting periods beginning on or after 1 January 2010:

IAS 1 on 'Presentation of financial statements' (effective on or after 1 January 2010). IAS 7 on 'Statement of cash flows' (effective on or after 1 January 2010). IFRS 7 on 'Financial Instruments: Disclosures (effective on or after 1 January 2010). IFRS 9 Financial Instruments (effective on or after 1 January 2010).

### b) Income

Income comprises grants from various donors and interest received from investments in treasury bills, bank deposits and other income. Revenue grants are recognised when the organizations' right to receive the funds is established. Capital grants are amortised to income over the useful life of the related fixed assets. Income from investments in treasury bills, fixed deposits, sale of publications is recognised when it is earned.

### c) Significant judgements made in applying the commission's accounting policies.

Significant judgments are made in determining the commission's rate of depreciation.

### d) Expenditure

Expenditure comprises expenses incurred directly for programme activities. These are recognised on accrual basis.

### e) Restricted Fund

Restricted funds comprise unutilized revenue grants for the year under review.

## Significant Accounting Policies (cont.)

### f) Deferred income

Grant receipts for which expenses are to be incurred in the future financial periods are deferred and recognised as income when the related expenses have been incurred.

### g) Translation of foreign currencies

Transactions in foreign currencies during the year are converted into Kenya Shillings, at rates ruling at the transaction dates. Assets and liabilities at the balance sheet date which are expressed in foreign currencies are translated into Kenya Shillings at rates ruling at that date. The resulting differences from conversion and translation are dealt with in the income and expenditure account in the year in which they arise.

### h) Property and equipment

Property and equipment is initially recorded at cost and thereafter stated at historical cost less depreciation. Historical cost comprises expenditure initially incurred to bring the asset to its location and condition ready for its intended use.

Depreciation is calculated on straight line basis, at annual rates estimated to write off the cost of the assets over their useful lives.

The annual depreciation rates in use are:

	Rate %
Furniture and fittings	12.5
Prefabs	20
Equipments	20
Motor vehicles	25
Computers	33.3

Fully depreciated assets that are still in use are assigned Kshs 100 per asset for the period that the asset will continue being in use.

The assets residual values and useful lives are reviewed, and adjusted if appropriate, at each statement of financial position date.

An asset's carrying amount is written down immediately to its recoverable amount if the asset's carrying amount is greater than its estimated recoverable amount.

Gains and losses on disposal of property and equipment are determined by comparing the proceeds with the carrying amount and are taken into account in determining operating profit / loss. On disposal of revalued assets, amounts in the revaluation reserve relating to that asset are transferred to retained earnings.

### i) Impairment of non-financial assets

Assets that have an indefinite useful life are not subject to amortization and are tested for impairment annually. Assets that are subject to amortization are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount may not be recoverable.

## Significant Accounting Policies (cont.)

An impairment loss is recognized for the amount by which the asset's carrying amount exceeds its recoverable amount.

The recoverable amount is the higher of an asset's fair value less costs to sell and value in use. For the purposes of assessing impairment, assets are grouped at the lowest levels for which there are separately identifiable cash flows (cash-generating units).

Non-financial assets that suffered an impairment are reviewed for possible reversal of the impairment at each statement of financial position date.

### j) Financial instruments

#### Financial assets

The commission's financial assets which include other receivables, cash and cash equivalents and grant receivables fall into the following category:

**Loans and receivables:** financial assets with fixed or determinable payments that are not quoted in an active market. Such assets are classified as current assets where maturities are within 12 months of the statement of financial position date. All assets with maturities greater than 12 months after the statement of financial position date are classified as non-current assets. Such asset initially recognised at fair value plus transaction cost and subsequently carried at amortised cost using the effective interest rate method. Changes in the amount are recognised in the statement of comprehensive income.

Purchases and sales of financial assets are recognised on the trade date i.e. the date on which the commission commits to purchase or sell the asset value plus transaction costs for all financial assets not carried at fair value through profit or loss. Financial assets are derecognised when the rights to receive cash flows from the investments have expired or have been transferred and the commission has transferred substantially all risks and rewards of ownership.

A financial asset is impaired if its carrying amount is greater than its estimated recoverable amount. Impairment of financial assets is recognised in the statement of comprehensive income under administrative expenses when there is objective evidence that the association will not be able to collect all amounts due per the original terms of the contract. Significant financial difficulties of the issuer, probability that the issuer will enter bankruptcy or financial reorganisation, default in payments and a prolonged decline in fair value of the asset are considered indicators that the asset is impaired.

Subsequent recoveries of amounts previously written off are credited to the statement of comprehensive income or statement of changes in fund balance in the year in which they occur.

#### Financial liabilities.

The commission's financial liabilities which include other payables fall into the following category:

**Financial liabilities measured at amortised cost:** These are initially measured at fair value and subsequently measured at amortised cost, using the effective interest rate method.

All financial liabilities are classified as current liabilities unless the commission has an unconditional right to defer settlement of the liability for at least 12 months after the statement of financial position date.

## Significant Accounting Policies (cont.)

Financial liabilities are derecognised when, and only when, the commission's obligations are discharged, cancelled or expired.

### k) Cash and cash equivalents.

For the purposes of the cash flow statement, cash and cash equivalents comprise cash in hand, deposits held at call with banks, and financial assets with maturities of less than 3 months.

### l) Capital grants

This represents funds received for purchase of equipment. The grant balance is amortised annually at a rate equivalent to that of depreciating the assets purchased with the grants.

### m) KHRC premises fund

This represents funds set aside from reserves for purposes of acquiring premises for Kenya Human Rights Commission.

### n) Withholding tax

Withholding tax recoverable is not recognised in the financial statement as the directors are of the view that there are no realistic prospects of recovery. Interest income is recognised net of withholding taxes.

### o) Employee entitlements.

The estimated monetary liability for employees' accrued annual leave entitlement at the balance sheet date is recognised as an expense accrual.

### p) Retirement benefit obligations

The organisation operates a defined contribution staff retirement benefit scheme for its employees on confirmed employment contracts. The scheme is administered by an insurance company. The organisations' contributions to the defined contribution retirement benefit scheme are charged to the income and expenditure account in the year in which they relate.

The organization and its employees contribute to the National Social Security Fund (NSSF) a statutory defined contribution scheme registered under NSSF Act. The organizations' contributions to the defined contribution scheme are charged to the income and expenditure account in the year to which they relate.

### q) Accounting for leases – the commission as lessor.

Leases of assets under which a significant portion of the risks and rewards of ownership are effectively retained by the lessor are classified as operating leases. Payments made under operating leases are charged to the income and expenditure over the period of the lease.

### r) Comparatives.

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



## Notes to the Financial Statements

1. REVENUE GRANT INCOME	2010 Shs	2009 Shs
NORWEGIAN EMBASSY	33,985,928	18,071,493
DANIDA	30,063,477	28,398,859
FORD FOUNDATION	23,724,690	10,615,361
TROCAIRE	14,271,109	16,494,252
SIDA	12,739,371	6,600,000
URAI	8,287,501	1,146,499
CIDA	7,155,513	-
FINNISH	7,140,000	7,844,900
UNIFEM	5,464,888	8,340,653
CHRISTIAN AID	4,042,272	2,500,840
UNVFVT	3,844,169	-
RNE	3,698,618	-
SWISS	2,982,128	1,012,991
OSIEA	2,903,110	3,750,492
ERT (DFID)	1,776,732	-
SOMO 3	505,888	59,000
OTHERS	483,912	165,488
RHRA	372,670	741,449
OXFAM GB	257,212	525,260
SOMO 2	129,898	129,898
NOVIB	-	10,259,264
Ford IIE	-	241,110
Total Grant Income (Note 9)	163,829,086	116,897,809
Less: Amounts utilised for capital acquisition (Note 9(b))	(353,800)	(2,577,514)
	163,475,286	114,320,295

Amounts used in capital acquisition are deferred and recognized as income over the useful life of the related fixed assets.

## 2. OTHER INCOME

Project hosting fees	757,500	921,570
Foreign exchange (loss)/gain	(146,043)	420,457
Bank interest	476,927	201,021
Reversed leave accruals	-	143,562
Consultancy income	-	61,500
Miscellaneous income	2,203,825	36,514
	3,292,209	1,784,624

## Notes to the Financial Statements (cont.)

**3. SURPLUS**

The following items have been charged in arriving at surplus for the year:

	2010 Shs	2009 Shs
Staff costs (Note 4)	37,729,552	33,765,898
Directors' remuneration	5,147,008	4,677,916
Depreciation on property & equipment (Note 6)	1,098,007	2,709,715

**4. STAFF COSTS**

Salaries	32,033,738	29,012,131
Medical insurance	1,889,787	2,209,105
Provident fund contributions	2,924,051	1,927,061
Group personal insurance	461,046	476,701
Leave accrual	377,530	-
Welfare	-	90,000
NSSF contributions	43,400	50,400
	<b>37,729,552</b>	<b>33,765,398</b>

**5. RESERVES**

General fund	20,574,758	14,149,628
KHRC Premises fund	10,375,643	10,000,000
Capital grants	2,061,418	2,805,625
Restricted fund	-	129,898

<b>Total reserves</b>	<b>33,011,819</b>	<b>27,085,151</b>
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**General fund**

At start of year	14,149,628	10,729,878
Surplus for the year	6,425,130	3,419,750
At end of year	<b>20,574,758</b>	<b>14,149,628</b>

This fund represents accumulated surpluses from other income other than restricted funds. The reserves are to build up capital base so as to increase the stability of the commission overtime.

## Notes to the Financial Statements (cont.)

5. RESERVES (Cont.)	2010 Shs	2009 Shs
KHRC Premises fund		
At start	10,000,000	10,000,000
Additions during the year	375,643	-
At end of year	10,375,643	10,000,000

This represents funds set aside for purposes of acquiring premises for Kenya Human Rights Commission.

**Capital grants**

At start of year	2,805,625	2,937,826
Additions during the year	353,800	2,577,514
Amortisation	(1,098,007)	(2,709,715)
At end of year	2,061,418	2,805,625

This represents funds received for purchase of equipment. The grant balance is amortised annually at a rate equivalent to that of depreciating the assets purchased with the grants.

**Restricted fund**

At start of year	129,898	388,768
Additions during the year	-	-
Funds utilised	(129,898)	(258,870)
At end of year	-	129,898

Restricted funds comprise unutilized revenue grants for the year under review.

## Notes to the Financial Statements (cont.)

## 6. PROPERTY AND EQUIPMENT

## Year ended 31 March 2010

	Prefabs Shs	Furniture & fittings Shs	Office equipment Shs	Motor vehicles Shs	Computers Shs	Total Shs
<b>Cost</b>						
At 1 April 2009	2424,716	2,401,129	8,151,970	10,115,825	9,403,543	32,497,183
Additions	-	123,800	54,000	-	176,000	353,800
Disposals	-	-	(730,800)	(2,276,900)	-	(3,007,700)
<b>At 31 March 2010</b>	<b>2,424,716</b>	<b>2,524,929</b>	<b>7,475,170</b>	<b>7,838,925</b>	<b>9,579,543</b>	<b>29,843,283</b>
<b>Depreciation</b>						
At 1 April 2009	2,424,716	1,809,738	7,429,040	8,893,325	9,134,739	29,691,558
Charge for the year	-	213,628	240,408	407,500	236,471	1,098,007
Reversal on Disposal	-	-	(730,800)	(2,276,900)	-	(3,007,700)
<b>At 31 March 2010</b>	<b>2,424,716</b>	<b>2,023,366</b>	<b>6,938,648</b>	<b>7,023,925</b>	<b>9,371,210</b>	<b>27,781,865</b>
<b>Net book value</b>	<b>-</b>	<b>501,563</b>	<b>536,522</b>	<b>815,000</b>	<b>208,333</b>	<b>2,061,418</b>
<b>Year ended 31 March 2009</b>						
<b>Cost</b>						
At 1 April 2008	2,424,716	2,401,129	7,477,456	8,485,825	9,130,543	29,919,669
Additions	-	-	674,514	1,630,000	273,000	2,577,514
<b>At 31 March 2009</b>	<b>2,424,716</b>	<b>2,401,129</b>	<b>8,151,970</b>	<b>10,115,825</b>	<b>9,403,543</b>	<b>32,497,183</b>
<b>Depreciation</b>						
At 1 April 2008	1,939,772	1,595,914	6,763,371	8,293,925	8,388,861	26,981,843
Charge for the year	484,944	213,824	665,669	599,400	745,878	2,709,715
<b>At 31 March 2009</b>	<b>2,424,716</b>	<b>1,809,738</b>	<b>7,429,040</b>	<b>8,893,325</b>	<b>9,134,739</b>	<b>29,691,558</b>
<b>Net book value</b>	<b>-</b>	<b>591,391</b>	<b>722,930</b>	<b>1,222,500</b>	<b>268,804</b>	<b>2,805,625</b>

## Notes to the Financial Statements (cont.)

**7. DEBTORS**

	2010 Shs	2009 Shs
Staff advances	537,666	1,952,377
Other debtors	271,324	4,239,970
Prepaid expenses	-	19,184
Interest receivable	-	388,640
	<b>808,990</b>	<b>6,600,171</b>

In the opinion of the directors, the carrying amounts of debtors approximate to their fair value. The debtors do not contain impaired assets.

The organisations' credit risk arises primarily from staff advances. The directors are of the opinion that the organisations' exposure is limited because the advances are recovered via the payroll.

**8. CASH AND CASH EQUIVALENTS**

	2010 Shs	2009 Sh
For purposes of the cash flow, cash and cash equivalents comprise :-		
Bank and cash balances	70,013,174	37,256,227
Fixed deposit	-	28,815,855
	<b>70,013,174</b>	<b>66,072,082</b>

## Notes to the Financial Statements (cont.)

## 9 (a) RESTRICTED FUND

Grant income and receipts are analysed as follows:

## Revenue grants

## Year ended 31 March 2010

Donor	Balance as at April 09	Receipts	Transfer from deferred	Reversed Accruals	Grant Receivables	Transfer to deferred income	Grant income	Capital Grants	Expended	Balance as at 31 March 10
	Shs a	Shs b	Shs c	Shs d	Shs e	Shs f	Shs g=(a+b+c+d+e+f)	Shs h	Shs i	Shs j=(g-h-i)
CHRISTIAN AID	-	4,042,272	-	-	-	-	4,042,272	-	4,042,272	-
CIDA	-	7,155,513	-	-	-	-	7,155,513	-	6,647,914	507,599
DANIDA	-	34,984,723	3,141,383	363,787	-	8,426,416	30,063,477	123,800	29,939,677	-
ERT (DFID)	-	718,790	-	-	1,057,942	-	1,776,732	176,000	1,600,732	-
FINNISH	-	7,140,000	-	-	-	-	7,140,000	-	7,140,000	-
FORD FOUNDATION	-	18,122,006	18,826,246	10,609	-	13,234,171	23,724,690	-	23,724,690	-
NORWEGIAN	-	33,985,928	-	-	-	-	33,985,928	-	33,985,928	-
OSIEA	-	4,702,051	161,611	-	-	1,960,552	2,903,110	-	2,903,110	-
OXFAM GB	-	-	257,212	-	2,739,371	-	257,212	-	257,212	-
SIDA	-	10,000,000	-	-	-	-	12,739,371	-	12,739,371	-
SWISS	-	904,705	2,442,241	9,019	-	364,818	2,982,128	-	2,982,128	-
TROCAIRE/DCI	-	14,262,090	-	-	1,408,512	-	14,271,109	-	14,271,109	-
UNIFEM	-	4,056,376	-	-	-	-	5,464,888	-	5,464,888	-
UNVFVT	-	3,844,169	-	-	-	-	3,844,169	-	3,705,881	138,288
URAIA	-	4,717,000	3,570,501	-	-	-	8,287,501	-	8,287,501	-
RNE	-	6,922,124	-	-	-	3,223,506	3,698,618	54,000	3,644,618	-
SOMO 2	129,898	-	-	-	-	-	129,898	-	129,898	-
SOMO 3	-	505,888	-	-	-	-	505,888	-	388,170	117,718
RHRA	-	-	553,398	3,000	-	183,728	372,670	-	372,670	-
OTHERS	-	71,700	412,212	-	-	-	483,912	-	483,912	-
<b>Grand Total</b>	<b>129,898</b>	<b>156,135,335</b>	<b>29,364,804</b>	<b>386,415</b>	<b>5,205,825</b>	<b>27,393,191</b>	<b>163,829,086</b>	<b>353,800</b>	<b>162,711,681</b>	<b>763,605</b>

## Notes to the Financial Statements (cont.)

## 9 (a) RESTRICTED FUND (CONTINUED)

Year ended 31 March 2009

Donor	Balance as at April 08	Prior year Adjusted Shs	Restated balance	Receipts	Transfer from deferred income	Reversed Accruals	Grant Receivables	Transfer to deferred income	Grant income	Capital Grants	Expended	Balance as at 31 March 09
	Shs	Shs	Shs	Shs	Shs	Shs	Shs	Shs	Shs	Shs	Shs	Shs
	a	b	c	d	e	f	g=(a+b+c+d+e+f)	h	i	j=(g+h+i)		
DANIDA	-	29,310,671	1,948,771	280,800	-	3,141,383	28,398,859	790,514	27,608,345	-	-	-
FINNISH	-	7,840,000	-	4,900	-	-	7,844,900	-	7,844,900	-	-	-
Ford Foundation	-	28,776,562	665,045	-	-	18,826,246	10,615,361	360,000	10,255,361	-	-	-
Ford IIE	241,110	-	-	-	-	-	241,110	-	241,110	-	-	-
Norwegian Embassy	-	18,071,493	-	-	-	-	18,071,493	-	17,471,493	-	-	-
NOVIB	-	10,140,000	-	119,264	-	-	10,259,264	600,000	10,259,264	-	-	-
OXFAM GB	-	509,000	273,472	-	-	257,212	525,260	-	525,260	-	-	-
SIDA	-	6,600,000	-	-	-	-	6,600,000	-	6,600,000	-	-	-
TROCAIRE/DCI	-	16,000,135	494,117	-	-	-	16,494,252	-	15,667,252	-	-	-
SOMO 2	129,898	-	-	-	-	-	129,898	827,000	-	-	-	129,898
SOMO 3	17,760	16,986	-	-	-	-	59,000	-	59,000	-	-	-
CHRISTIAN AID	-	-	2,500,840	-	-	24,254	2,500,840	-	2,500,840	-	-	-
RHRA	-	-	1,294,847	-	-	-	741,449	-	741,449	-	-	-
OSIEA	-	3,912,103	-	-	-	553,398	3,750,492	-	3,750,492	-	-	-
SWISS	-	3,455,232	-	-	-	161,611	1,012,991	-	1,012,991	-	-	-
UNIFEM	-	5,914,463	-	-	-	2,442,241	8,340,653	-	8,340,653	-	-	-
URAI A	-	4,717,000	-	-	-	3,570,501	1,146,499	-	1,146,499	-	-	-
OTHERS	-	577,700	-	-	-	412,212	165,488	-	165,488	-	-	-
Grand Total	-	388,768	7,177,092	404,964	2,450,444	29,364,804	116,897,809	2,577,514	114,190,397	-	-	129,898

Prior adjustment relates to unutilised grants which has been treated as deferred income in prior years

	2010	2009
	Shs	Shs
Deferred income	27,393,191	29,364,804
Grant receivable	5,205,825	2,450,444

Toward Reforms, Justice and Accountability

## Notes to the Financial Statements (cont.)

**9. (b) CAPITAL GRANTS**

	2010 Shs	2009 Shs
Cost		
At start of year	32,497,183	29,919,669
Additions	353,800	2,577,514
At end of year	32,850,983	32,497,183
Amortisation		
At start of year	29,691,558	26,981,843
Amortisation	1,098,007	2,709,715
At end of year	30,789,565	29,691,558
	2,061,418	2,805,625

**10. PAYABLES**

Accrued expenses	9,812,285	11,319,260
KHRC projects	5,149,974	6,760,574
Report and IEC materials	2,049,966	2,066,404
Other Creditors	647,815	1,007,329
PKF Kenya	400,000	324,800
	18,060,040	21,478,367

In the opinion of the directors, the carrying amounts of creditors approximate to their fair value. The maturity analysis of creditors is as follows:

	0 to 1 month	Total Shs
Audit fees	400,000	400,000
Other accrued expenses	9,812,285	9,812,285
Other Creditors	647,815	647,815
Report and IEC materials	2,049,966	2,049,966
KHRC projects	5,149,974	5,149,974
	18,060,040	18,060,040

**11. CASH GENERATED FROM OPERATIONS**

Surplus for the year	6,425,130	3,549,648
Adjutment for:		
Capital grant receipts	353,800	2,577,514
Depreciation	1,098,007	2,709,715
Amortisation of grant income	(1,098,007)	(2,709,715)
Foreign exchange loss	146,043	-
Gain on disposal of property and equipment	(1,185,400)	-
Adjustment of restricted income for prior year	(129,898)	-
Interest income	(2,196,302)	(1,529,117)
Operating surplus before working capital change	3,413,373	4,598,045



## Notes to the Financial Statements (cont.)

**12. RELATED PARTY TRANSACTIONS**

	2010 Shs	2009 Shs
(i) Key management compensation		
Short-term employee benefits	5,147,008	4,677,916

## ii) Staff Advances

As at 31 March 2010, balances outstanding in the advance to staff account amounted to Kshs 536,667 (2009: Kshs 1,952,277). These represents interest free short-term advances recoverable within two years.

**13. COMMITMENTS**

## Capital commitments

Capital expenditure contracted for at the balance sheet date is as follows:

	2010 Shs	2009 Shs
Property and equipment	9,405,500	994,000

## Operating lease commitments

The future lease payments due in respect of non-cancellable lease of rental premises are as follows:

	2010 Shs	2009 Shs
Falling due within one year	2,226,585	2,120,558
Falling due between one and five years	1,166,307	3,392,892
	3,392,892	5,513,450

## Notes to the Financial Statements (cont.)

**14. RISK MANAGEMENT OBJECTIVES AND POLICIES**

Financial risk management

The organisations activities expose it to a variety of financial risks: market risk (including foreign exchange risk). The organisations' overall risk management programme focuses on the unpredictability of financial markets and seeks to minimise potential adverse effects on the organisations financial performance.

The organisation manages risks by preparing budgets which are approved by the board of directors.

**(a) Market Risk**

- Foreign exchange risk

The table below summarises the effect on surplus had the Kenya Shilling weakened by 10% against each currency, with all other variables held constant. If the Kenya shilling strengthened against each currency, the effect would have been the opposite.

	Year 2010		
	US\$	Euro	Total
Effect of surplus/(deficit)			
increase	142,589	25,365	167,954

	Year 2009		
	US\$	Euro	Total
Effect of surplus/(deficit)			
Increase	8,545	29, 143	37, 688

**15. RISK MANAGEMENT OBJECTIVES AND POLICIES**

Interest rate risk

The commission is exposed to fair value interest rate risk as the interest earned on its fixed deposits is fixed at the time of deposit. At 31 March 2010, if the interest has been 1% point higher with all other variables held constant, surplus for the year would have been Shs. 1,407 (2009: Shs 1,407 higher).

## Notes to the Financial Statements (cont.)

### 16. CAPITAL MANAGEMENT

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The organization managed its funds balance by setting of budgets and ensuring that actual expenditures are within those budgets. The organization monitors actual expenditures by holding board meetings on a regular basis.

### 17. TAXATION

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The organization has not accrued for tax as the amount is not material. An application for tax exemption has also been made with the commissioner of Income Tax Department. The directors are of the opinion that an exemption will be granted.

### 18. EMPLOYEES

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The number of employees at the end of the year was 20 (2009:20)

### 19. REGISTRATION

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The organization is registered in Kenya under the Non Government Organizations Co- ordination Act, 1990.

### 20. PRESENTATION CURRENCY

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The financial statement are presented in Kenya Shillings. (Shs)