



KENYA HUMAN RIGHTS
COMMISSION

ANNUAL REPORT & Financial Statements

For the year ended 31st March 2009



CITIZENS' PARTICIPATION TOWARDS EQUALITY, JUSTICE AND NATIONAL RECONSTRUCTION

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List of Abbreviations

ACHPR	African Commission on Human and People's Rights
AHSI	African Human Security Initiative
AIDS	Acquired Immune Deficiency Syndrome
AIE	Authority to Incur Expenditure
AOSK	Association of Sisterhood Kenya
APF	Africa Peace Forum
APRM	Africa Peer Review Mechanism
CDF	Constituencies' Development Fund
CHRCE	Centre for Human Rights and Civic Education
CIPEV	Commission of Inquiry into Post Election Violence
CJPC	Catholic Justice and Peace Commission
CSO	Civil Society Organisation
CSR	Corporate Social Responsibility
ECOSOC	Economic and Social Council
EPA	Economic Partnership Agreements
EPZ	Export Processing Zones
FIDA	Federation of Women Lawyers
FIDH	International Federation of Human Rights
HIV	Human Immunodeficiency Virus
HRC	Human Rights Education
HRD	Human Rights Defenders
HRE	Human Rights Education
HURINET	Human Rights Network
HWC	Human Wildlife Conflict
ICC	International Criminal Court
IDPs	Internally Displaced Persons
IEC	Information, Education and Communication
IHRD	International Human Rights Day
IREC	Independent Review Commission
ISS	Institute of Security Studies
IWD	International Women's Day
KBC	Kenya Broadcasting Corporation
KCWMC	Kenya Coalition for Wildlife Management and Conservation
KHRC	Kenya Human Rights Commission
KHRI	Kenya Human Rights Institute
KIE	Kenya Institute of Education
KNCHR	Kenya National Commission on Human Rights
KNDR	Kenya National Dialogue Reconciliation
KPTJ	Kenyans for Peace Truth and Justice
LAN	Local Area Network
LGBTI	Lesbians, Gay, Bisexual, Transgender and Intersex
LSE	London School of Economics
LSK	Law Society of Kenya
MP	Member of Parliament
NAP	National Action Plan

List of Abbreviations (Cont.)

NARA	National Accord and Reconciliation Act
NGO	Non-Governmental Organization
NSA	Non-State Actors
PLWH	People Living with HIV
RECESSPA	Regional Centre for Security, Stability and Peace in Africa
RHRA	Reproductive Health and Rights Alliance
SID	Society for International Development
SMS	Short Messaging System
TJRC	Truth Justice and Reconciliation Commission
ToT	Training of Trainers
UDHR	Universal Declaration Human Rights
UN	United Nations
WIB	Work Injury Benefits
WRW	Workers' Rights Watch

The Organization

The KHRC Board of Directors

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Betty K. Murungi - Vice Chair
Karuti Kanyinga
Mumina Konso
John Githongo
Mwambi Mwasaru
L. Muthoni Wanyeki - Executive Director

Programmes Coordinator /Deputy Executive Director

Dan Juma

Research and Advocacy

Tom Kagwe - Senior Programme Officer
Davies Malombe - Programme Officer (Advocacy)
Louiza Kabiru - Programme Officer (Advocacy)
John Ambani - Programme Associate (Research and Advocacy)
Late Japheth Kyalo - Programme Officer (Monitoring and Documentation)
Cynthia Mugo - Programme Officer (Media and Communication)
Maximilla Wekesa - Assistant Programme Officer (Resource Centre)
Edward Mgangha - Office Assistant (Archiving)

Community Outreach Programme

Nduta Kweheria - Senior Programme Officer
Lillian Kantai - Programme Officer (Rift Valley)
Virginia Munyua - Programme Officer (Western)
Josephine Gikuyu - Programme Officer (Coast)
Emma Njoki Wamai - Programme Associate (Coast)
Tabitha Nyambura - Programme Officer (Eastern)
Vincent Musebe - Assistant Programme Officer (Northern)

Finance Section

Beatrice Kuria - Finance Manager
Mukami Marete - Finance Officer
Peter Kibiru - Assistant Accountant

The Organization (Cont.)

Administration Section

Millicent Namusonge - Human Resource and Administration Officer
Nancy Mwaura - Administrative Assistant
Repher Anindo - Office Assistant
Daniel Nyakundi - Office Assistant
Daniel Miako - Officer Assistant
Jamilla Wahome - Office Assistant

Interns

Ezra Nyawachi
Anthony Otiende - KHRI
Bosire Conrad Mugoya
Ivy Wahome
Catherine Kianji
Isabella Mzozo
Orina Mokaya
Carolyne Nyaga
Edith Karimi
Agnes Mwangi
Petronella Mukaindo
Stephen Chege

Kenya Human Rights Institute (KHRI)

Wangechi Chege - Senior Programme Officer

1.0. Introduction

1.1. The Kenya Human Rights Commission

The Kenya Human Rights Commission (KHRC) is a national Non-Governmental Organization (NGO) established in 1992. The KHRC has observer status with the African Commission on Human and People's Rights (ACHPR) and the United Nations (UN)'s Economic and Social Council (ECOSOC). The KHRC has received a number of accolades that include the 1998 MS International Award by Danish Development Organization based in Kenya, the 2003 Corporate Conscience Award by the Social Accountability International and the 2005 Utezezi Award by the Kenya National Commission on Human Rights (KNCHR).

The KHRC draws its strength from alliances and partnerships and is a member of a broad range of international and national human rights networks. Some of the networks include, the International Federation of Human Rights (FIDH), Kenyans for Peace Truth and Justice (KPTJ), National Civil Society Congress, Kenya Transitional Justice Network, Non State Actors Coalition on Land Policy Reforms, Kenya Humanitarian Forum, Internally Displaced Persons (IDPs) Protection Working Group and the PAMOJA Initiative for Human Rights Education (HRE) and advocacy in the education sector.

1.2. Vision, Mission and Objectives

The KHRC exists to build a Kenya governed by democratic values and where there is respect for all human rights for all individuals and groups. A two-pronged strategy informs this work: a) citizen empowerment - through facilitating and supporting individuals, communities and groups to claim and defend their rights and b) demanding government responsiveness - holding state and non-state actors accountable for the respect and protection of human rights for all Kenyans.

To achieve this, the KHRC is functionally divided into two departments: Administration and Programmes. Within the latter are two teams; a) Civic Action, which directly partners with 21 community based human rights networks (HURINETs), across the country; and b); Research and Advocacy, which monitors and holds government to account on human rights violations through credible activist research and advocacy at national level.

The two departments are tasked with the realization of the KHRC's five strategic objectives, derived from Vision 2012, the KHRC's Strategic Plan for the eight year period 2004 – 2012. These are:-

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. Organizational sustainability of the KHRC.

Foreword from the Executive Director



The Kenya Human Rights Commission (KHRC) is pleased to present this public accounting of its work through the 2008-9 operational year. As the operational year ran from April 2008 to March 2009, the the KHRC aligned the activities under its five strategic objectives with the imperatives posed to the country by the commitments under the Kenya National Dialogue and Reconciliation (KNDR).

The KNDR comprised the mediation agreements brokered between the Party of National Unity (PNU) and the Orange Democratic Movement (ODM) by the African Union (AU)'s representatives Kofi Annan, former United Nations (UN) Secretary General, Graca Machel, member of the Panel of Eminent Persons overseeing the African Peer Review Mechanism (APRM) and Benjamin Mkapa, former Tanzanian President. The four agenda items of the mediation process addressed not just the power-sharing agreement covered by Agenda Item Three, but also concerns that have been fundamental for the Kenyan human rights community for at least the last two decades.

Agenda Item One addressed not only the cessation of the violence that followed the announcement of the supposed Presidential results of the 2007 General Elections, but also disarmament and demobilisation—critical given the emergence of armed groups and militia in the country and rising crime and insecurity. It also established the Commission of Inquiry into the Post-Elections Violence (CIPEV)—critical to ensure both legal and political accountability for the violence of 2008. Agenda Item Two addressed not only the immediate humanitarian crisis, but restoration of fundamental freedoms and rights—critical given the perceived closure of democratic space following the failure of the referendum on the Constitution in 2005 and, more starkly, the violence at the start of 2008. Agenda Item Three addressed not only the power-sharing agreement that gave rise to the Grand Coalition Government but also established the Independent Review Commission (IREC) to investigate the 2007 General Elections—critical given the imperative for changes to the electoral system itself as well as the governance/management of the same revealed by the conduct and consequences of the 2007 General Elections. And, finally, Agenda Item Four covered long-term issues including Constitutional and institutional reforms (particularly of the criminal justice system), transitional justice, land reform, discrimination and inequality as well as youth un(der)employment—all of which had been long-standing demands from Kenya's human rights community.

Foreword from the Executive Director (Cont.)

During the 2008-9 operational year, the KHRC thus both engaged with and monitored all mechanisms and processes arising from the KNDR—with a view to ensuring that they would be able in fact to finally address root causes of human rights violations in the country. The KHRC has two main programme teams—the research and advocacy team and the civic action team—supported by an administrative, financial and human resource team. The three teams work through five strategic objectives, focused on: a) ensuring community-based action on issues of both national and local human rights concern; b) ensuring national action on issues of relevant law, policy and practice; c) ensuring leadership in the Kenyan human rights community through constant reflection on and learning from practice as well as pioneering in emerging issues of human rights concern; d) ensuring equality and non-discrimination, particularly with respect to women’s human rights in all of the KHRC’s work; and e) the sustainability of the KHRC’s work through its governance, financing, human resources capacity and development and organisational development. The alignment of the KHRC’s work under these strategic objectives with the KNDR by all three of its teams was meant to leverage the opportunity created by the KNDR for movement towards its vision of a Kenya in which all human rights are enjoyed by all.

So what did we, in fact, achieve during the 2008-9 operational year?

With respect to Strategic Objective One, the civic action team and the 21 community-based human rights networks the team works throughout Kenya included a new focus on equality and non-discrimination (on ethnic grounds in particular) in their work pursuant to the Peoples’ Manifestoes developed in 2007-8 as the basis for engagement with local-level duty bearers, councillors and parliamentarians. They continued to monitor community participation in the rolling out of programmes, projects and initiatives under the decentralised funds—as well as whether or not that rollout was in line with the human rights concerns captured in the Peoples’ Manifestoes. An evaluation of some of the networks work conducted by one of our core grantmakers, Trocaire towards the end of 2008, found not just that they had contributed to improving access to justice (particularly for women) at the community level, but that they had, in fact, raised the level of demand for accountability with respect to the decentralised funds—especially the Constituency Development Fund (CDF).

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They also actively contributed to mechanisms and processes arising from the KNDR. They both monitored and submitted to the CIPEV and IREC. They monitored Operation Rudi Nyumbani, the resettlement process for internally displaced persons initiated by the government, and contributed on the basis of the same, as well as previous work with older IDP caseloads, to the beginning of work on a national policy on internal displacement. They received training on transitional justice and began preparations for the institution of a Truth, Justice and Reconciliation Commission.

With respect to Strategic Objective Two, the research and advocacy team provided constructively critical technical input

Foreword from the Executive Director (Cont.)

into many of the mechanisms and processes arising from the KNDR. It commented on and advocated around bills intended to assure criminal justice for the post-elections violence, policies to do with internal displacement, bills relating to transitional justice and equality and non-discrimination. It proactively submitted to both the CIPEV and IREC. It played a catalysing and leadership role in the civil society coalitions and networks dealing with assuring truth and justice for the elections and the violence, security sector reform, IDPs, the Constitution, transitional justice, land—Kenyans for Peace with Truth and Justice (KPTJ), hosted by the African Centre for Open Governance (AfriCOG), the National Network of IDPs, the Constitution and Reform Education Consortium (CRECO), the (then) Multistakeholder Task-Force on Transitional Justice and the Kenya Land Alliance (KLA). And it did all of this on the basis of empirical and analytical reports generated through the year (including through monitoring and documenting with the networks) such as its reports on the elections and the violence, its report on the resettlement process and its report on citizenship in northern Kenya.

It also continued to support transitional justice initiatives already underway through legal protection. It continued to work on cases successfully filed by the Nyayo House torture survivors and the preparations for the Mau Mau War Veterans' Association's case on torture to be filed against the British government.

Finally, the research and advocacy team continued to run the legal aid clinic, serving clients through legal advice, arbitration, mediation or referral as required—the majority of whom had labour-related disputes. And it also carried out worker education on the new labour laws and continued its suit—and public advocacy around the same—against the Economic Partnership Agreements (EPAs) on behalf of smallholder farmers.

With respect to Strategic Objective Three, the Kenya Human Rights Institute (KHRI), which continues to be hosted by the KHRC, continued its focus on human rights, insecurity (including that posed by armed groups and militias) and organised crime, providing useful analysis for the KHRC's work on security sector reform, as well its responses to insecurity at the local and regional levels.

On Strategic Objective Four, the KHRC concluded, as mentioned above, its research into citizenship in northern Kenya and its preparations for public interest litigation on the same as well as women's citizenship. As its inputs on equality and non-discrimination were ultimately not taken on board in the passing of the Ethnic and Race Relations Act, it also began preparations for a major initiative on comprehensive equality and non-discrimination legislation. It worked more closely with the Kenyan women's movement—contributing to the organisation of Kenya's first Gender Festival, hosted first by the KHRC and then, more appropriately, by the Federation of Women Lawyers (FIDA)-Kenya. And it also worked closely with the Kenyan gay community, continuing to host interns from the umbrella Gay and Lesbian Coalition of Kenya (GALCK), in an

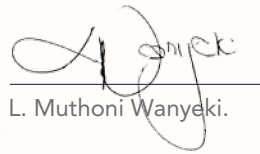
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Foreword from the Executive Director (Cont.)

effort to both mainstream gender identity and sexual orientation into its on-going work as well as to help build the institutional capacity and human rights knowledge of the gay community.

Finally, with respect to Strategic Objective Four, the KHRC finalised its update financial and personnel policies and began implementation of its financial sustainability plan through the institution of an establishment committee of the Board of Directors as well as implementation of the findings and recommendations of its job evaluation to address long-standing issues of inequity in remuneration at the programme officer level. It also undertook training on models for more qualitative monitoring and evaluation of its work so as to begin to better capture the impact of its work.

It was a busy year—and we hope you'll agree on finishing this report—a productive one for the KHRC in terms of our contributions to the enjoyment of all human rights by all Kenyans. We welcome your feedback. And we thank our Board, our management, our staff, the networks and our grantmakers for all the contributions to the year in review.



L. Muthoni Wanyeki.

2.0 Context of the Reporting Period; April 2008 – March 2009

The political crisis following the December 2007 elections resulted in the creation of a National Dialogue & Reconciliation Team headed by the former UN Secretary General Kofi Annan and the enactment of the 2008 National Accord and Reconciliation Act (NARA). A Grand Coalition government was formed in March 2008 to deliver on the NARA, which focused on immediate steps to restore order and longer term (one year) steps to ensure that a similar crisis does not recur. These were listed under four main areas, now commonly referred to as Agendas I-IV:

- i. Cessation of violence;
- ii. Humanitarian assistance and the restoration of basic human rights;
- iii. Resolution of the political crisis; and,
- iv. Resolution of long term underlying issues.

Although initially intended only to serve long enough to lay the ground work for transition from the 2007 violence, Kenya's Grand Coalition government appears to be operating on a 'business as usual basis' with elections expected in 2012, after the usual five year term in office. The 'grand coalition' has been pre occupied with wrangling over power sharing, with little effort invested in delivery of its mandate to reunify Kenya and chart a new political direction for entrenchment of democracy and justice.

But in what context did the post 2007 election violence occur? There remains consensus that the underlying cause of the violence in Kenya is largely inequality in the allocation of benefits from available national resources, compounded by corruption and impunity, which have led to gross inequality. This problem dates as far back as the colonial period when laws on Kenya's main resources were first enacted, and in particular when land was first formally adjudicated.¹

Today, communities² that the KHRC partners with derive their livelihoods from employment in cash crop farming – sisal (Coast, Rift Valley, Eastern), sugarcane (Western), coffee, tea and dairy (Central, Rift Valley and Western), pyrethrum and flowers (Rift Valley, Central); others from fishing (Nyanza), livestock farming in arid and semi arid areas countrywide and the tourism industry (Coast, Rift Valley, Central and Northern). However, there has been a history of discontent in each of these livelihood options among the majority of citizens.

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2.1 Labour, Market & Trade

To date, labour disputes make up 40 – 50% of legal advice sought from the KHRC and other CSOs with legal aid programmes. There are labour disputes among workers in the hotel industry, in wildlife conservancies, security firms, on plantation farms (sisal, horticulture, tea, coffee) and in the Export Processing Zones (EPZs). The nature of complaints range from injustices such as unsafe working environments, sexual

¹ The first formal / documented adjudications of land in Kenya date as far back as 1903-4 when the first Native Land Ordinances (with the Maasai community then living around present day Nairobi City) were formulated with limited or uninformed participation of the Kenyan people.

² To the KHRC, communities are people's groupings that claim human rights, such as workers, Mau Mau, IDPs and of course, the 21 human rights networks that are spread across the country.

2.0 Context of the Reporting Period; April 2008 – March 2009 (Cont.)

harassment, inadequate provisions for workers welfare needs (education, health, pension, insurance etc), to the fact that unskilled and semi skilled laborers who dominate Kenya's workforce are not paid enough to meet basic needs³ or to sustain themselves a few days after job loss or retirement. While there are new labour laws that seek to address some of the above, the new legislation is still being contested by employers in court; enforcement of the non contentious aspects is still weak; and finally, there are allegations of complicity by labour officers who do not comply with the new laws.

There is also conflict about which ethnic group is or is not indigenous to a certain district and thus should or should not own land there.

Frequent media reports on pollution and encroachment of water catchments, arrests of fisher-folk from Nyanza and Western Kenya by Ugandan authorities, the lack of adequate cooling and transportation infrastructure to uplift the average citizen's engagement in the fishing industry are indications of government's slow and/or inadequate response to citizens' concerns. The 2008/9 drought and famine has left livestock farmers destitute. Human-Wildlife conflicts are common in communities living next to game reserves, while there are allegations of unethical and unfair trade made by small scale coffee, tea, pyrethrum, rice, dairy and tobacco farmers among other manifestations of dissatisfaction.

With the exception of small scale fishing, subsistence farming and pastoralism, most of these industries are owned or controlled mainly by multinational corporations, in which a few highly placed or politically connected locals are shareholders. Many of such companies own sizeable tracts of land and other natural resources in Kenya or have leases for 99 to 999 years.

2.2 Land and Subsistence Farming

With land under plantation, agriculture and wildlife being inaccessible to most Kenyans other than through employment, ownership of the land left over for Kenyans to share is contentious. The majority of those employed are not paid enough to meet their practical needs for food, water, security, health care or in the long term address strategic needs such as education, adequate housing, social security and pensions in a manner that uplifts them from poverty. Inevitably, there is often a compulsion for workers to supplement monthly income by owning a little land for subsistence farming. This means that the employed compete for land ownership with those in full time subsistence crop or livestock farming.

The result is numerous cases of individuals and groups using any means necessary to cut down competition for land. This has bred discrimination, which is manifested through hiding behind and misinterpreting religion or culture / traditions to exclude women, People Living with HIV (PLWH), persons suffering from mental illness and other marginalized groups from inheriting ancestral land. There is also conflict about which ethnic group is or is not indigenous to a certain district and thus should or should not own land there. There are disputes on electoral and district boundaries, particularly in areas where there is land that can still be de-gazetted for agricultural use.

³The minimum wage in Kenya is Ksh 3,050 per month for agricultural and allied workers, and there are still many who earn less than this

2.0 Context of the Reporting Period; April 2008 – March 2009 (Cont.)

2.3 Informal Militias

Although a National Land Policy has been formulated, it has remained in limbo, awaiting Cabinet approval and budgetary allocation for its implementation. The prevailing situation is that land is still being administered under several pieces of disjointed and sometimes conflicting legislation. This multiplicity of land legislation has created legal and administrative loopholes that have facilitated land problems such as historical injustices, where communities lost their land as early as before independence in 1963, land grabbing, as well as corruption (nepotism, cronyism and tribalism) in the acquisition of land.

Substantial portions of land initially registered as government or trust land (including water catchments in forests) have over the years been de-gazetted and to a large extent corruptly allocated with politicians influencing the process to reward themselves, their informal militias and also supporters. In this way, an impression has gradually been created that irrational support for unscrupulous politicians pays off in the form of land, jobs and other benefits, which are more likely to transform a poor person's life than earnings from working in a labour market that is unfair to the majority unskilled workers. There has also emerged a culture 'alternative taxation', where poor, unemployed or underpaid youth illegally 'tax' or forcibly enforce an informal 'welfare' system (*maslahi*); or generally extort those they see as economically better off than them. This takes different forms and names in different places; from the Kisii killing of elderly persons seen as obstacles to transfer of land ownership, under the guise of witchcraft, to pasture conflicts in the Rift Valley where militarized livestock theft is conveniently branded 'cattle rustling'. Apparently all these are perpetuated for a fee or as a form of employment by informal youth militias known by different names in different places – *mungiki*, *sungusungu*, *siafu* etc.

While the Bomas Draft Constitution was quite progressive on land reform, majority of those that own, co-own or benefit from large tracts of land are either in Parliament and /or other positions of influence. It therefore remains in the best interests of such MPs and other wealthy influential persons to politicize constitutional reform on land so that it is forever stalled through constant degeneration into an ethnic rather than social justice and economic issue.

The April 2008 to March 2009 period saw the KHRC champion a concerted drive in pushing the coalition government to ensure the implementation of Agenda I-IV. The KHRC has used a multi-pronged approach that vigilantly monitors the reform process, with constant whistle blowing for sustained focus on addressing equality and livelihood issues by confronting impunity. This is well captured by the KHRC goal for the year that sought to enhance citizens' participation towards equality, justice and national reconstruction.

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3.0 Programmes Report



The KHRC has over the years been involved in government monitoring, with the 2006 Haki Index the being most recent survey on perception of people on 'devolved' funds. The KHRC has also been at the forefront of the campaign against impunity which has focused on transitional justice mechanisms including a Truth Justice and Reconciliation Commission (TJRC), the addressing the historical injustices such as the Wagalla Massacre and torture of political dividents in Nyayo House. The KHRC has also advocated for economic justice through its work on labour rights

and trade and recognizes the role of education reform in sustainably confronting poverty. The KHRC's partnership with the Mau Mau War veterans has also opened up the need for constitutional reforms to address the recurrent conflicts over Kenya's land allocation and use. Constitutional reforms to bring about equality and electoral reforms have also been part of the KHRC's advocacy strategy.

In all of these areas, numerous recommendations have been made, but with little action from government to effect real reform. The 2007 post election violence was in many ways the effect of this lack of government responsiveness to citizen demands. The loss of over 1,300 lives, displacement of an additional half a million persons, the massive destruction of property and the nose dive in economic growth from 7 to 1 percent were all expected to jolt government into responding to all of these concerns. However, as mentioned earlier, the grand coalition government formed after the violence has remained slow to act. While politicians see no urgency in addressing the very real concerns of citizens, the KHRC is cognizant of frustration with the status quo and the very high expectations for change on all of the above areas if Kenya is to a truly democratic state.

The KHRC has continued to partner the 21 HURINETs and thematic advocacy groups to organize communities around specific human rights concerns in an effort to strengthen and develop them into powerful peoples organizations that demand accountable and human rights-centred governance. This report documents the KHRC's work in the period April 2008 – March 2009 that focused on renewed advocacy for transformative policy, legal, institutional and constitutional reforms coupled with mechanisms to deal with IDPs from the 2007 and previous violence and to end impunity by trying the perpetrators of the 2007 violence and recognize the victims and survivors of other historical injustices.

3.1 Capacity Building

Following the post 2007 election violence, the KHRC held community reflection sessions where HURINETs discussed what, in their opinion, caused the violence in each

3.0 Programmes Report (Cont.)

of the different constituencies. It emerged that while politicians polarized communities through inflammatory language, there remains a need for Kenyans to engage each other on the issue of equality/non-discrimination, and in particular questions of citizenship such as: Who is a Kenyan? Where should a Kenyan live? Where can s/he own land and under what circumstances?

The KHRC found that capacity building on this would be critical in addressing citizen demands on historical injustices and regional inequalities that can only be addressed through transitional justice mechanisms such as TJRC and constitutional reform. To prepare HURINETs to engage with these national processes, the KHRC undertook capacity building of the 21 HURINETs on i) Rights-Based Approach (RBA), Equality and Non-Discrimination and ii) Gender and Transitional Justice.

The KHRC staff and 24 leaders of the thematic and regional HURINETs were trained as ToTs. A draft community trainers' manual on Conflict Analysis, Equality / Non Discrimination, and RBA was developed and shared with all HURINETs countrywide. This draft manual has been in use all through the year to replicate this national forum through regional training of trainers (ToT) sessions as well over 130 awareness creation sessions at community level. Through this trainings, the draft manual has been practically pre-tested, with areas for revision being noted. The manual will be finalized and published in the next reporting period.

HURINETs have also converted the content of this manual into radio programmes. This has had a profound positive impact in getting the KHRC staff, HURINET leaders and community representatives in all five regions to understand how communities can contribute towards advancing Agendas I-IV. There is now recognition and community vigilance on real and perceived inequalities being the reason why Kenyans resented each other to the point of taking up arms against each other. Through the awareness sessions, calls and phone text messaging to radio programmes, communities have recognized and openly discussed the numerous opportunities to stem inequality at community level: - in the way public funds are allocated to one area and not the other, or tangible benefits such as land, market stalls, jua kali sheds, jobs, public funds loans are allocated to one group of people to the exclusion of others, or even in the situation or prioritization of Constituencies' Development Fund (CDF) bursaries, schools or boreholes in one area and not the other.



One of the 21 trainings on rights based approach

3.0 Programmes Report (Cont.)

These discussions also brought out the need to strengthen HURINET's internal governance structures to be more democratic; reflective of gender, ethnic, religious, political diversity and equality.

These discussions on the 'little' incidences of inequalities have led to the development of local solutions on how to avoid further build up of resentment through monitoring and whistle blowing when 'petty' corruption takes place before it escalates into patterns of marginalization. These discussions also brought out the need to strengthen HURINET's internal governance structures to be more democratic; reflective of gender, ethnic, religious, political diversity and equality. Communities have also begun to see the similarities in plight between the poor of one region or ethnic group and those of another region. This has led to increased appreciation at community level that it is possible to be incited into war over perceived inequalities, where the poor in two ethnic groups hate

and kill each other only to realize too late that they are more similar than different in their plight.

Following this sensitization, HURINETs were actively involved in giving evidence and monitoring the Commission of Inquiry into Post election Violence (CIPEV) and Independent Review Commission (IREC). HURINETs made presentations at the IREC hearings in all five regions where the KHRC works – Western-Nyanza, Eastern-Central-Nairobi, North and South Rift, Coast and Northern region. While initially there were fears that these two commissions would either be interfered with or have their recommendations shelved, the decision to engage with the process at community level greatly enhanced the KHRC's capacity to do the same at national level. The CIPEV recommendations on security sector reforms resonate with what communities see as a useful way forward. The challenge now lies in sustaining advocacy at both local and national level for these recommendations to be implemented.

For example HURINETs in Rift Valley have responded to the post-election violence by working to diffuse ethnic tensions by speaking in community forums on the right to security and the need to uphold human dignity for all. HURINETs in central Rift Valley have held peace races which were channels to educate the community on the need for harmonious cohabitation. They also participated on local languages (Kalenjin) and Swahili radio station talk shows to create awareness on the CIPEV and IREC reports which had been misinterpreted in a manner likely to threaten the peace in the area.

With the TJRC, Constitutional reform, 2012 elections and other reform initiatives which politicians are likely to use to divide citizens on ethnic lines, there is an urgent need to ingrain equality and other human rights values and standards that can avert future violence. In the next reporting period, the KHRC will partner with communities, CSO and other local and international partners to find ways to continue replicating at large scale, the above gains in a manner that results in true reform and redress for historical injustices.

3.0 Programmes Report (Cont.)

3.2 People's Manifesto & Scorecard Initiative: Public Funds

The KHRC has been involved in government monitoring since 2006, when the Haki Index was developed. In 2007, the KHRC in partnership with community based human rights networks (HURINETs), undertook the *People's Manifesto' and Scorecard Initiative*, a project which mobilized communities in 54 of Kenya's 210 constituencies to document their development priorities/ needs /demands on simple Kiswahili language documents called 'People's Manifestos' for each of the 54 constituencies. These manifestos were used to engage and commit aspirants of the 2007 general elections to use their position as law makers to deliver within the five year term 2008 – 2012, on all the three categories of demands. The needs/ demands were prioritized into 3 categories: - short-term demands; Jan 08 – June 2009, mid-term demands; July 09 to Dec 2010 and long-term demands; Jan 2011 – June 2012.



This is a view of Kadika Water Project. Over KShs 180,000 has been spent and the project remains a vegetable stall (in Kadika Ward Migori constituency)

On analyzing the demands, the KHRC found that these can be classified into three categories; those that can be implemented through i) proper use of the 13 public funds now decentralized to Ward, Constituency or District level, ii) historical injustices to be channeled through a meaningful transitional justice process and iii) through constitutional reform. The fact that these issues are the same that were raised by subsequent reports as the causes of the post election violence is indicative of a lack of responsiveness that leaves majority of citizens apathetic at best and very frustrated at worst.

The People's Manifesto and Scorecard Initiative was conceived as a five year project to be implemented from 2007 – 2012. However, following the 2007 post election violence, there was need to reflect on its relevance in the light of the violence. The KHRC and various HURINETs deliberated and reached the conclusion that monitoring of government responsiveness on demands in the peoples' manifesto was relevant after the violence. One of the reasons for this is that HURINETs are concerned of the influence MPs, councillors and other public servants with Authority to Incur Expenditure (AIE) have on decentralized funds. Communities have expressed to the KHRC the fear that misappropriated decentralized funds could have financed the youth gangs and militias that meted out the post 2007 election violence. Activities at various levels were undertaken to advance claims for the demands in the 54 constituency manifestos.

3.0 Programmes Report (Cont.)

Activities & Results:

- **Review of Constituency Manifestos** - This process facilitated by HURINETs in their communities sought to ensure that root causes of the post election violence were adequately captured. This provided an opportunity for the communities to talk to each other about how to rebuild and reconcile. All 54 constituency manifestos were reviewed. From these reviews, it has emerged that, while many of the demands communities made can be addressed through prudent and participatory use of decentralized funds, misappropriation of these funds has paved way for corruption, perpetuation of inequalities, leading to ethnic and clan animosities.
- **Community Awareness Session on Decentralized Funds** – HURINETs in all 6 regions conducted awareness sessions some of which specifically targeted the public funds' committee members. From these sessions it emerged that more than half the membership of public funds committees do not clearly understand their role or lack the capacity to deliver on them. This is alarming because various members on the committees were intended to bring divergent views however it appears that this is not the case in many public fund committee are directed by the views of one or very few people with the other members merely rubber stamping the decisions, or working for individual enrichment.



Leaders from Mathare Ward discussing the peoples' manifesto and auditing their leaders performance

The Peoples' Manifesto and Scorecard Initiative proposed a participatory system of ensuring legitimate persons are selected into public funds committees. Unfortunately, some MPs are unresponsive, opting to reward their associates and campaigners through management positions and tenders on CDF and other public funds committees. HURINETs have been vigilantly monitoring the disbursement of funds in public to ensure that persons associated with violence, graft or non performance are named and shamed through local radio programmes making it difficult for them to be active in the management of public funds, despite being appointed into these committees by MPs.

This process brought about the realization that the 13 different public funds now decentralized to serve the same community at ward, constituency and district level, has led to the multiplicity of fund administration systems. This leads to overlaps of electoral and administrative boundaries that continue to make monitoring of these funds very complex and repetitive, rarely yielding accurate findings.

3.0 Programmes Report (Cont.)

As a result of this there is need for a paradigm shift from monitoring and auditing numerous funds to advocating for harmonization of the various funds into one or fewer sectoral funds under one decentralization framework. In 2009/10, the KHRC will undertake scientific research aimed at establishing the viability of this proposal of harmonization and/or consolidation of the various funds into one national framework.

3.3 Livelihoods – Demands on Economic Social and Cultural Rights

A common feature in all the 54 manifestos is the demand for mechanisms aimed at poverty reduction, including concerns about youth unemployment. All peoples' manifestos had demands for improved access, quality and relevance of education in reducing poverty at both individual and national level by securing a decent livelihood for young people.

3.3.1 Human Rights Education (HRE) and Peace Building in Schools and Child Rights

One of the most alarming aspects of the post 2007 election violence was the involvement of children and youth aged 15-35 years in property destruction, maiming and killing of their peers from different ethnic groups. This puts to question, the role of education in laying a foundation of respect for human life, rights and democratic values. Formal education in school, non-formal education through religious institutions and informal education through internalization of cultural values, can do more to impart values such as equality/ non-discrimination to keep desperate teenagers and youth from destroying crop and livestock, raping and killing fellow human beings.

One of the most alarming aspects of the post 2007 election violence was the involvement of children and youth aged 15-35 years in property destruction, maiming and killing of their peers from different ethnic groups.

The KHRC undertook various activities targeted at getting children and youth involved in national reconciliation and healing. These include meeting with the Education PS, Prof. Karega Mutahi, meetings on curriculum development with the Kenya Institute of Education (KIE), teachers' post-election violence de-briefing workshops, and a national essay writing competition on the theme *'Effects of 2007 Post Election Violence on Kenya's children'*. These activities were undertaken in partnership with the Pamoja kwa Haki initiative, network that brings together four organizations – the KHRC, the Association of Sisterhood Kenya (AOSK), the Catholic Diocese of Nakuru and the Catholic Diocese of Lodwar, CJPC.

As a result of these activities, over 100 teachers drawn from schools in areas where the post election violence was at its worst have been equipped with skills to de-brief their students and fellow teachers of the trauma and facilitated to undertake human rights education sessions in their schools that deliberated issues of human rights and

3.0 Programmes Report (Cont.)

democratic values such as equality/ non-discrimination. In this way, over 5,000 learners and teachers were directly involved in deliberations on equality/non-discrimination, focusing on the ethnic and regional inequalities that cause violence at each election. For some schools, such debates were critical in easing suspicion creating an environment conducive to learning in schools.



Brenda Kwamboka Onsembe (second from right) receives a prize for her award winning essay under the secondary school category.

The national essay writing competition saw 670 teachers, pupils and students submit essays on the above stated theme. The preparation for the essays and narration of personal experiences in each essay indicated that the competition provided a forum for schools involved to de-brief, discuss and get past the post election violence. Nine winners; three in each category, primary, secondary and teachers, were recognized for their innovative yet practical suggestions on how children and youth can be involved in re-building Kenya and awarded their prizes at a ceremony held in December 2008. The KHRC will publish some of these essays in a book titled *“lest Kenya forget the effects of violence on its children”*.

3.0 Programmes Report (Cont.)

Primary School Category			
1.	Douglas Njuguna Ngatia	Michinda Primary School	P.O. Box 33, Elburgon, Molo Ksh 20,000
2.	Mary Linda	Ayany Primary School	P.O. Box 557668, Nairobi Ksh 15,000
3.	Meli Jacob	Kaprobu Primary School	P.O. Box 2689-30100, Eldoret Ksh 10,000
Secondary School Category			
1.	Harrison Otieno	Kapsabet Boys High School	P.O. Box 10, Kapsabet Ksh 20,000
2.	Brenda K. Onsembe	Ng'iya Girls Secondary School	P.O. Box 3, Ng'iya Ksh 15,000
3.	Shillah N. Mukhamia	Lugulu Girls High School	Private Bag, Webuye Ksh 10,000
Teachers' Category			
1.	Silas Biwott	Kaprobu Primary School	P.O. Box 2689-30100, Eldoret Ksh 20,000
2.	Mary Mwami	Ayany Primary School	P.O. Box 55768-00200, Nairobi Ksh 15,000
3.	Oscar Mwangi	Rev. Muhoho School for The Deaf	P.O. Box 278, Mukurweini, Nyeri Ksh 10,000

Winners of the Schools Essay Competition

HURINETs have also been vigilant in campaigning for and protecting child rights. In Eastern region, the KHRC facilitated three networks; Mt Kenya, Central East and Centre for Human Rights and Civic Education (CHRCE) to celebrate the day of the African Child, in June 2008. In Coast region, the Taita Taveta HURINET trained forty of its members and partners on child rights. Those trained have since lobbied the provincial administration in Coast region with the Kinango, Taveta and Matuga DC's pledging to support HURINETs' campaign against child labour and sexual abuse both of which are rampant in the region. In Western region, 32 community representatives have been trained on gender, marriage laws, succession & inheritance and child rights to assist women and by extension their children in claiming property and security rights particularly in the cane farming sub sector, where disinheritance of widows is common. Following the training, the community has been vigilant in opposing cultural practices that deny widows' property rights.

The KHRC also partnered with the Kenya Institute of Education (KIE) and PAMOJA Initiative to develop content for 30 radio programmes on Human Rights and Peace Building in schools and communities. The programmes were aired (and continue

3.0 Programmes Report (Cont.)

to be aired throughout next year) on the Kenya Broadcasting Corporation (KBC's) Educational Media Service and discussed on weekly basis by teachers and their pupils in primary schools countrywide. The programmes are aired on Mondays between 12.20 p.m. – 12.45 p.m.

The KHRC will in the 2009/10 finalize the airing of the HRE & Peace Building radio programmes jointly with KIE and Pamoja Initiative and develop a teachers' handbook to guide teachers in discussing equality / non-discrimination within the classroom. The KHRC will also take a keen interest in KIE's summative evaluation of the 2002/3 curriculum which is expected to use scientific research to bring out credible results on the strengths and gaps of the curriculum in ensuring that Kenya's children and youth are involved in national reform and transition through education.

PROVINCES	REACH	MEDIUM WAVE (MW) BAND KHz	VHF-FM BAND (MHz)
NAIROBI/ CENTRAL	Nairobi/Kiambu/Muranga/ Nyandarua	747	95.6/100.7
	Nyeri/Kirinyaga	747	100.7
RIFT VALLEY	Kajiado/Narok/Nakuru/Naivasha	747	95.6
	Kericho/Nandi/Koibatek	954	91.5
	Baringo/Nyahururu	1386	91.5
	Uasin Gishu/Trans Nzoia/ Keiyo / Markwet/ west Pokot	1134	91.5
	Samburu/Lodwar	1386	103.5
	Laikipia	900	103.5 / 100.7
EASTERN	Isiolo/Meru/Mwingi	900	103.5
	Embu/ Machakos/Kitui/Makueni	747	100.7
	Marsabit/Moyale	1233	103.6
COAST	Mombasa/Kwale/Kilifi/Malindi/ Taita/Taveta	981	104.4
	Lamu/Tana River	639	-
NORTH EASTERN	Garissa	639	-
	Wajir/ Mandera	1305	-
WESTERN	Kakamega/Bungoma/Busia/Yala	-	91.5
NYANZA	Kisumu/Siaya/Homabay/Kisii/ Migori	954	91.5

*Radio Broadcast Frequencies, Broadcast Reception Frequencies and Coverage Areas
Human Rights Education programmes on peace building: Mondays 1220 – 1240hrs*

3.0 Programmes Report (Cont.)

3.3.2 Advocacy for Fair Trade in the Cane, Sisal and Tea Industries

In all discussions to develop the constituency manifestos, communities were concerned about youth unemployment, but at the same time noted that available employment opportunities, particularly for the uneducated and thus semi skilled labour were unattractive to the youth, because most are exploitative. Even for small scale farmers who are self employed in the sugarcane, tobacco and dairy industries, there were complaints about low prices that barely return the farmer's inputs.

It is alarming when a youthful workforce in any country feels that the wages or profits earned from honest work is inadequate to meet their basic needs, for food, adequate housing, and health care or for their children's education. With such sentiments, it is only a matter of time before potential workers and entrepreneurs turn to crime, which is likely to pay better. While there are limited studies on this, it appears that in Kenya's case, this is already becoming a reality; a number of youth are increasingly accepting alternative employment as armed militia, who role is stifle political opposition through whatever means which includes triggering displacements or livestock theft. The KHRC in partnership with HURINETs has invested greatly in addressing livelihood demands brought out by the People's Manifesto and Scorecard Initiative.

3.3.2.1 Fair Trade Advocacy in the Sugar Industry

In the reporting period, the KHRC organized sugarcane farmers' sensitization forums on the Sugar Act 2001 and monitored the 2008 elections of the Kenya Sugar Board and Outgrowers' Institutions. The forum aimed at increasing farmers' understanding of their roles, obligations and rights in the sugar industry besides growing sugar cane.

This resulted in high turn out at the directors' elections. It is important to note that these elections have been rated amongst the very few that can be considered free. Zachariah Okoth, a beneficiary on HURINETs community awareness sessions was elected Director Sony Region, a milestone for the human rights sector in the region.

To further advance it's work, in this sector the KHRC intends to further build the capacity of HURINETs in the sugar belt to create civic awareness and offer leadership in the building of a people's movement that shifts elections and other sugar concerns from



Sugarcane going unharvested for over 5 years and ending up drying in the farms. This is as a result of poor roads for transportation of the crops leading to great losses to farmers (photo taken in South Kanyamkago Ward in Oyani Division at Mrs. Grace Owino's farm)

3.0 Programmes Report (Cont.)

being political events that farmers approach from a position of apathy, to mobilizing farmers to view the sugar industry problems as legitimate fair trade advocacy issues and recognize opportunities to make linkages and learn from other national and international fair trade campaigns.

3.3.2.2 Ethical Trade in the Sisal Industry

While the KHRC has for a long time, campaigned for new labour laws, it is concerned about the way the law was finally drafted. The Law Society of Kenya (LSK) has contested in court some of the sections in the new labour laws. This case had sought to quash nine sections of the Work Injury Benefits (WIB) Act, 2007. The judge, Hon. Justice Ojwang ruled in favour of the LSK. His judgment read in part, *“(the WIB) failed to meet the professional standards of draftsmanship and scrutiny and ended up in the statute book as an enactment that is inconsistent with certain provisions of the Constitution.”* The KHRC supports this judgment and will lobby the Attorney General to review the sections of the WIB which were declared unconstitutional. Towards this end, thirty eight members of the Workers’ Rights Watch (WRW) have been trained on the new labour laws.

It is also an achievement to note that through the Peoples’ Manifesto and Scorecard process, communities have learnt that they can list demands and hold any aspirant to an elective position accountable.

Cases of workers’ rights violations are rampant in Taita Taveta. On Labour Day 2008, Taita Taveta Human rights Network and the KHRC conducted labour rights sensitization at the Taita Sisal Farm, which has often been the subject of complaints. The forum sought to create awareness on the new labour laws and the KHRC’s position on the same, raise awareness on the situation of sisal plantation workers in the region and to pressurize the local leaders and authorities to ensure respect for workers rights. The sensitization culminated in a delegation to going to one of the Taita Sisal Estate. This exercise was well publicized through Citizen Television exposing grave workers rights violations in the plantation. Following this media coverage, the Minister for Labour

formed a task force to investigate workers issues in the sisal industry. The commission has since compiled a report that is yet to be presented to the Minister. The KHRC and Taita Taveta Human Rights Network have since held meetings with workers’ representatives from the sisal plantations to review the findings and adopt a united front in making recommendations to both the taskforce and the Minister for Labour.

In Taita Taveta, communities are also concerned about the ever increasing acreage of sisal farming, which is gradually elbowing out communities from land they have lived on for several decades. In the next reporting period, the KHRC will undertake a study to establish the validity of the land ownership concerns together with other complaints in sisal plantations in Taita, Kibwezi and Mogotio. The study will seek to document the complaints and understand causes of the issue while suggesting possible ways of addressing the situation.

3.0 Programmes Report (Cont.)

3.3.2.3 A comparative study of the Tea Sector in Kenya: a case study of Large Scale Tea Estates

In 2006/7 the KHRC undertook an informal investigation into labour issues in Large Scale tea estates in Kericho, namely James Finlays and Unilever Tea Kenya. The results of this investigation have been published in the above titled report. The investigation found a range of violations take place in these large scale tea estates.

Workers are employed as casual laborers for periods exceeding the statutory 6 months; some for even as long as ten years. This is made possible through compulsion by the employer for workers who have served as casuals for 6 months to resume work under a new contract and sometimes even under a new name. This way management circumvents labour laws requiring them to employ as permanent or contractual employees, workers who have served for more than 6 months. There are also instances of child labour whereby given high targets set by management, laborers are forced to stop their children from going to school to assist with meeting the targets.

There are also cases of discrimination on basis of health status and fitness. Pregnant female workers raised concerns about being excluded from employment but were not sure whether it was due to fear for their safety or for fear that their performance or output would be lower. Whatever the case, the issue is that casual laborers have no safety nets; they eat on days when they go to work. This means that pregnant workers find themselves forced to go to work whether it is safe or not and to bring in their children to assist, when they cannot meet targets; otherwise, there is no pay, thus no money for the whole family.

There are also instances of child labour whereby given high targets set by management, laborers are forced to stop their children from going to school to assist with meeting the targets.

The report was presented to an international meeting on Corporate Social responsibility (CSR) in the global tea supply chain on 2nd June 2008 in the Netherlands. The meeting was a platform for transparent exchange of information in the tea sector with emphasis on the private sector's efforts to implement CSR. The meeting was coordinated by the Centre for Research on multinational corporation (SOMO) and the Tropical Commodities Coalition (TCC), a coalition of CSOs from the North and the South, which has a mandate to ensure justice in the supply chain of agricultural products including campaigns for better prices for commodities and improved terms and conditions of work. The report was presented to a number of stakeholders including representatives from Sara Lee; a Dutch based retailer of tea; the Dutch Trade Union federation (FNV), certifiers such as Rainforest Alliance partnership (ETP) and Dutch based CSOs such as Oxfam Novib and Hivos

The final international comparative research report was published in the Netherlands. The report was also serialized on the Business Daily.

3.0 Programmes Report (Cont.)

3.3.2.3 Economic Partnership Agreements (EPAs)

Newspaper adverts and radio debates were run to create awareness on the profound negative impact and human rights implications of EPAs and deleterious trade and investment practices. In addition, the STOP EPA day was marked on 26th September 2008.

3.4 Transitional Justice

The transitional justice project for the KHRC was initiated as the Campaign Against Impunity programme in September 2001. From that time to 2007, its major focus was advocating for the formation of TJRC; resettlement to the internally displaced persons (IDPs); justice to victims of historical injustices especially IDPs; survivors of torture during the colonial and post-independence regimes; victims of political assassinations, gender-violence and historical land injustices. The current areas of focus and strategies is organizing and supporting victims to get justice; conducting public interest litigations; capacity building and outreach; building functional networks at community, national and international levels; informing the legal, policy and institutional reforms; strengthening lobbying and public engagements; monitoring, documentation and publications.

3.4.1 TJRC and Victims Networks: Advocacy and Capacity-building

In 2007, under the People's Manifesto and Scorecard Initiative, communities in 54 of Kenya's 210 constituencies reiterated the need for a Truth Justice and Reconciliation Commission (TJRC), among other measures to redress historical injustices. Following the 2007/8 post election violence it became impossible to postpone this further. The TJRC Act that the KHRC had campaigned finally came into effect in 2008. Unfortunately, the Bill was manipulated by Parliament to result in a TJRC Act that was weak on areas of compensation and in the way it dealt with amnesty.



Photo session after a briefing of the KHRC monitors on the repatriation of IDPs in Kenya

For those who lost their children or relatives, or who were injured or displaced by the violence and those that have lived with the effects of other historical injustices, a TJRC Act defective on these two areas is unbearable. It was therefore necessary to not only bring together staff and HURINETs to strategize on advocacy for amendment of the TJRC Act, but also to consider alternative strategies for the victims and survivors of historical injustices such as the Wagalla Massacre and Nyayo House Torture Chambers.

The KHRC has undertaken various activities aimed at building a strong advocacy voice for the amendment of the TJRC Act, agree on what transitional justice means for Kenya and adopt a

3.0 Programmes Report (Cont.)

common position on the various redress mechanisms to be pursued through the Multi-Stakeholder Task Force on Truth Commission. The Task Force forwarded its concerns, positions, and amendments as the Act was being drafted. The KHRC and the Task Force also organized a Victims Convention in October 2008 which culminated with the launch of the National Network of Victims in Kenya to lead the survivors in the transitional justice processes in Kenya. Moreover, the KHRC supported policy and legal action against the on-going destruction of the former Nyayo House torture chambers and is currently supporting the Nyayo House torture survivors in public interest litigation of 108 cases.

The KHRC was instrumental in the transformation of this Task Force into the Kenya National Transitional Justice Network in February 2009 which advocates for national unity, accountability and equity. The KHRC is its co-convenor.

In the next reporting period, the KHRC will continue to support the agenda of holding accountable the perpetrators of historical injustices, and alleviating the suffering of its survivors and averting future violence. Through the Kenya Transitional Justice Network, the KHRC will continue to engage in discussions around the TJRC among other transitional justice agendas for Kenya. The KHRC will use the opportunity possibly arising if the Act is to be amended to: a) vigorously resist any suggestion that the TJRC can or should handle the post-elections violence, except to the extent that historical injustices contributed to the same; and b) revisit those suggested amendments that were not taken on board. the KHRC has also been working with categories of survivors to prepare them, together with its HURINET partners, to contribute to the TJRC and stand advised by them as to and when to disengage. Finally, the KHRC will also strive to ensure that those responsible for the post election violence are held accountable either through a Special Tribunal for Kenya or through the International Criminal Court (ICC).

The KHRC has also been working with categories of survivors to prepare them, together with its HURINET partners to contribute to the TJRC and stand advised by them as to when to disengage.

3.4.2 IDPs: Capacity-building and Advocacy

The KHRC and the National Network for IDPs undertook monitoring, documentation of and engagements with the resettlement of IDPs dubbed the *Operation Rudi Nyumbani* (return home) programme (May 2008-May 2009); co-organized with FIDA-Kenya a tribunal to review the legal protection of IDPs in Kenya; and organized a reflection which culminated with the plan of action and elections for the National Network for IDPs. The KHRC played an instrumental role in the Protecting Working Group on IDPs and gained recognition for this role in a position that has made it possible for both communities and duty bearers to see the KHRC as a useful ally in the matter. For example, the Member of Parliament for Baringo Central has met with representatives from the rift region to discuss the plight of the affected/displaced Ilchamus community (a minority/indigenous community living in Baringo district) and seeking humanitarian support action from relevant duty bearers. Following this meeting, the District Commissioners and the

3.0 Programmes Report (Cont.)

Minister for Internal Security deployed security forces to the affected area reducing the incidences of livestock theft and insecurity. While this has worked to restore calm, the KHRC will continue to support communities to advocate for sustainable solutions to this multiple challenge of livelihoods, security, inequality, political instigation and crime.

In addition, a letter was sent to the Minister for Special programmes and other humanitarian organizations highlighting the plight of the Kirathimo/Narok returnees (victims of Post election violence) and Ilchamus community (displaced as a result of cattle rustling) and demanding for the provision of humanitarian support to these IDPs. As a result, World Vision supplied humanitarian provisions to the Ilchamus community. The KHRC has included the Ilchamus within the IDP program and is lobbying for their recognition as IDPs by government in order for government to accord them the support.

The combined effect of these activities was an increase in the understanding, commitment and consensus among CSOs on the concepts, processes, issues and strategies for intervention on transitional justice in Kenya. CSOs now have a clearer understanding of their role and mandate in the anticipated TJRC and related transitional justice and reform processes. The KHRC has also developed its internal capacity (technical and political) to lead on issues relating to transitional justice.

Among communities TJRC awareness sessions have contributed to increased public interest and sustained pressure from IDPs, HURINETs and the public at large for justice and resettlement of IDPs. There has also been more accountable, informed and sustainable response to insecurity and impunity in Kenya. The pressure on TJRC has borne fruit in getting political leadership to not only set up a TJRC for Kenya, but to also look into necessary amendments to the Act.



Training of HURINETs on the Constitution and the TJRC process.

The KHRC attended and presented policy papers during the regional workshops organized by the Institute of Security Studies (ISS), Africa Peace Forum (APF) and the African Human Security Initiative (AHSI); the Regional Centre for Security, Stability and Peace in Africa (RECESSPA) and Society for International Development (SID). The KHRC also developed a policy brief on the Government Responses to the phenomenon of internal displacement in Kenya.

In the next operational period, the KHRC plans to strengthen the capacity of IDPs and community and HURINETs to engage with such reform processes as the TJRC, the Special Tribunal for Kenya and the formulation and enactment of the National Land and IDPs policies among others.

3.0 Programmes Report (Cont.)

3.4.3 Mau Mau and Recognition of Heroes Projects

There were several activities carried out as part of the efforts geared towards increased awareness among the Kenyan public on the need to recognize our national heroes and building support for the Mau Mau reparation suit, which was expected to commence in 2009/10. The Mau Mau film festival was held in August 2008 to ensure that the connectivity of diverse individuals and organizations supportive of the reparations case was achieved. Apart from the film festival, the KHRC worked closely with the Mau Mau War Veterans Association to lobby Parliament to adopt a Veterans Act in recognition of the efforts of the Mau Mau heroes and heroines as well as all other heroes and heroines in Kenya. To this end, a public heroes and heroines meeting was held in October 18th 2008 at the Uhuru Gardens Heroes and Heroines Square where a public petition of over 7000 signatures was signed for presentation to the Kenyan Parliament.



Mau Mau War Veteran, Gitu Kahengeri, at a press conference to lobby for support for the Mau Mau suit filed in the UK

Intense public awareness on the Mau Mau suit was spearheaded on both local Radio and television stations. The Royal Media Services, through its TV and Radio broadcast services, ran the Mau Mau series for a total of eight weeks on Citizen TV in the months of March-April 2009. In addition, and in collaboration with the KHRC community networks, Royal Media Services ran the Mau Mau series on its vernacular radio stations. Each week—on both TV and Radio the Mau Mau series was guided by a team of experts drawn from a diverse pool that took into account regional representation, communities' diversity, gender balance, as well as, academic expertise on the Mau Mau movement. While every effort was made so as not to lose the main goal of the series—i.e. raising public awareness on the Mau Mau movement and building public support for the Mau Mau reparations suit in London—, the series provided an excellent forum for the KHRC to incorporate issues of Transitional Justice and Democratic Governance within the political discourse in Kenya. To this end, the panel of experts guided the overall 8-week discussions on the following broad thematic areas:

- **The Mau Mau Movement:** The focus here was on the origins of the movement and whether the movement was justified (especially within the context of international law) in rising up against British colonialism. Consequently, Britain's response to the Mau Mau movement was examined, both within the context of its domestic law as well as its international law obligations, as a way of establishing the basis for the Mau Mau suit against the British Government.

3.0 Programmes Report (Cont.)

- ❑ **The Politics of Land:** Under this theme, the contentious issue of land acquisition and land ownership both within the colonial and the post-colonial eras was be discussed.
- ❑ **The Politics of Impunity:** The colonial origins of the politics of impunity and the continuation of the same in independent Kenya were examined.
- ❑ **The Quest for Good-Governance and a Human-Rights Driven Socio-Economic and Political Order in Kenya:** The focus here was on the crisis of governance in Kenya and the relentless push by Kenyans for a more democratic society driven by, among others, the ethos of human rights.

3.5 Constitutional Reform: Land Rights Advocacy

The 54 constituency peoples' manifestos each contain, in one form or another, demands on land reform. In Taita Taveta, Isiolo, Kieni and Kibwezi, there are concerns on Human Wildlife Conflict (HWC). In Coast Province, communities allege that more than two thirds of their land is taken up by game reserves, hotels and sisal plantations, which employ but do not pay Kenyan workers fairly. In Rift Valley, Isiolo and Wajir, there are environmental concerns about the effect on communities down stream when forests or water catchments are interfered with; about how to establish wildlife conservancies in a manner that benefits the community; about sewerage disposal in Wajir Town and water quality in Wajir West.

In urban areas, there are concerns about how land is owned and used, questions that were also raised during the post election violence in the form of conflict between tenants and structure owners in Nairobi's Kasarani constituency.

In Kieni, communities are concerned about land apparently leased by a Middle East (Qatar) company to grow food, while Kenyans are not only food insecure but also still living in IDP camps. In urban areas, there are concerns about how land is owned and used, questions that were also raised during the post election violence in the form of conflict between tenants and structure owners in Nairobi's Kasarani constituency. In Kuria, the frequent conflict is about location of electoral and administrative boundaries and its effect on resource sharing between different clans. The KHRC has undertaken a critique of the Constitutional Review Bill on these diverse constitutional issues raised and presented its views to the Departmental Committee of Parliament. The KHRC will continue to support communities to organize and remain alert

to opportunities to articulate these concerns as well as propose viable solutions to relevant authorities.

3.5.1 National Land Policy

The KHRC has been part of a number of land campaigns. In the 2008/9 period, the KHRC in partnership with the National Land Coalition organized capacity building, engagement forums and consultative meetings with the landless communities, Lands

3.0 Programmes Report (Cont.)

Ministry, media, development partners and other partners which heightened advocacy around the adoption of the draft National Land Policy and the land reform agenda under the TJRC and constitutional review process.

The KHRC also participated at the National Stakeholders Conference that was organized by the Lands Ministry to critique and adopt the revised National Land Policy. In Eastern region, a consultative forum with key stakeholders that led to a national conference for Civil Society Organizations (CSOs) on land was held by the HURINETs. This provided an important opportunity for engagement between the CSOs and Ministry for Lands Ministry on both the content and process of land reforms.

Subsequently, the KHRC organized a briefing meeting between the CSOs Coalition on Land Reforms and Lands Ministers, Hon. James Orengo. Under the National Civil Society Coalition on Land Reforms a consultative meeting with the key legislators and civil society groups from the MAA (Maasai and Samburu) community has also been held to lobby support for the national land policy.

Finally, the KHRC was instrumental in the formation of the Non-State Actors Coalition on Land Reforms (NSA), the successor of the Land Coalition. NSA is therefore a consortium of the civil society and professional organizations advocating for comprehensive land reforms for sustainable livelihoods. The KHRC through its own initiatives and partnership with the above other networks intends to advance the land agenda through the land policy formulation process, the TJRC, constitutional reforms, IDPs policy, TJRC, Wildlife Policy and Bill, Mining Policy and Bill among others.

The KHRC also participated at the National Stakeholders Conference that was organized by the Lands Ministry for final Critique and Adoption of the revised National Land Policy.

3.5.2 Human Wildlife Conflict

Human wildlife conflict has been an issue that the communities living in the wildlife dispersal areas have had to contend with for a long time. The policy and bill formulation process where the KHRC supported community involvement is yet to be tabled in Parliament. During the period under review, strategic meetings were held and press conferences convened by the Kenya Coalition for Wildlife Management and Conservation (KCWMC-where the KHRC is a member) to pressure for the tabling of the draft wildlife policy and bill in parliament.

3.5.3 Oil Mining Exploration in Isiolo and Wajir

For a long time, it has been said that there are crude oil deposits in Northern Kenya. HURINETs in Isiolo and Wajir have reported that government has granted exploration and mining rights to a Chinese company, and that exploration is underway in Barsa,

3.0 Programmes Report (Cont.)



Isiolo fact finding team on a mission to investigate oil exploration in the region

which borders both Wajir and Isiolo. However, there are concerns because oil exploration has often been followed by conflicts between mining companies and the surrounding community. In countries where oil has been found, conflicts have centred on environmental issues – pollution, open mines to poor working conditions for local workers and unequal power relations, especially where the oil is found in a third world country.

The KHRC partnered with the Isiolo Human Rights Network to undertake fact finding in Barsa in June 2008. This was meant to set a basis for advocacy and awareness creation on the impact of mining on human rights protection. The fact

finding team interviewed HURINETs, provincial administration, elders and officials of the CNOOG oil exploration company to compile a report, that recommends that the Ministry of Energy, through NOC transparently shares information on progress made in this oil exploration, process followed in selection which company to explore and whether or not the same company will have mining rights should oil be found.

The findings have informed the KHRC's draft policy paper on the Human Rights Perspectives in the Mining Expeditions of the countries undertaking mining operations in Kenya, which include US, China and Canada. In the next reporting period, the KHRC will engage a consultant to look into laws, regulations and policies on mining and how these relate to the national land policy on equitable sharing of land and land based resources to avert the possibility of future conflict. This analysis will precede sensitization forums that aim to get communities aware of and engaged in trade and labour negotiations should oil be found and in environmental reclamation and conservation debates should oil not be found.

3.6 Legal, Policy and Institutional Reforms

The KHRC strives to make linkages between its work at community level, with national policy, institutional and legal reforms. This way, communities are able to see their role in monitoring human right issues at their level, but also can begin to recognize national level duty bearers who will impact on the issue. There is also a lot to be gained in being able to make linkages between community concerns in Kenya, and the international human rights discourse. While the Civic Action Team is in direct contact with communities in the regions, legal aid clinics conducted at the KHRC provide another opportunity for the KHRC to be in direct contact with communities bearing the brunt of human rights violations and situations where legal redress has not been immediately accessible to communities. Urgent action interventions both locally and internationally have also been made on a needs basis.

3.0 Programmes Report (Cont.)

3.6.1 Security Sector Reforms

In this area, the KHRC was instrumental in drafting a Police Oversight Bill, which has already been presented to key government ministries such as the security and justice and also parliamentary committees. The KHRC conducted a research on the role of police in post-election violence. The findings were integrated in the KHRC's report on the post election violence and undertook trainings of police in Kiganjo (Nyeri) and CID Nairobi.

Further, the KHRC, through the CSOs 'security sector coalition' researched and presented their findings to United Nations Special Rapporteur, Prof. Philip Alston, whose findings and recommendations on the security sector, Attorney General's Office and others have led to public debate on this sector. Unfortunately, this kind of advocacy has led to threats on the lives of Human Rights Defenders (HRDs), with some being assassinated while others forced to leave the country.

To address security concerns in Rift Valley region, a concept was developed for a study on insecurity that was to be carried out in parts of the rift region. The study intends to interrogate government inability to provide protection for the communities affected by cattle rustling. It will delve in-depth into the factors preventing the government from ending or significantly reducing the incidents.

3.6.2 Legal Aid

The KHRC continued to provide legal advice and strategic support to members of the public on cases of human rights violations through legal aid clinics conducted on a weekly basis. Labour related complaints formed the majority of the cases reported to the clinic. However, several other egregious violations were reported including discrimination on prohibited grounds, medical negligence, domestic violence, land-related conflict and child abuse among others. The nature of interventions made through the legal aid clinic included referral to partner organizations and relevant government departments, mediation and litigation. A concept to establish an electronic violations database was also developed during this reporting period. It is anticipated that the database system will significantly enhance follow up and tracking of interventions, as well as monitoring patterns and trends of human rights violations. The installment of an electronic version of Kenyan statutes and online East African case law during this period has also proven to be a critical resource to legal aid clinics and ensured timely feedback to the clients.

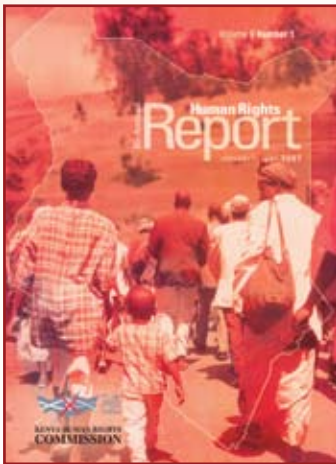


Northern Kenya MPs at the launch of the book on citizenship titled: "Foreigners at Home"

3.0 Programmes Report (Cont.)

While the legal aid project has experienced a number of challenges including lack of a comprehensive national legal aid scheme and lack of awareness among members of the public, there were also notable successes. For instance, several employer-employee disputes were resolved by mediation through the clinic; and there was successful engagement with government agencies in securing tax exemption on goods imported for resettlement and rehabilitation of internally displaced persons.

3.6.3 Monitoring of violations: Bi-Annual Human Rights Report



A copy of the Bi-Annual Human Rights Report

The KHRC worked with regional monitors to collect information from community based HURINETs, other stakeholders and media for synthesis and analysis in the production, publication and dissemination of the Bi-Annual Human rights report. The report targets the local and international media, researchers, foreign diplomatic missions, human rights advocates, activists and policy makers. The report continues to play a key role as authentic and reliable source of information on patterns of human rights violation and struggles in Kenya.

For the period under review the KHRC produced two Bi-Annual reports covering period, July –December 2007 (vol. 9. no2) and January–June 2008 (vol 10. no1). The first Bi-annual July-December 2007 contemporary issue was Elections, Violence and responsibility of Media. And the B-Annual focus was insecurity and violence: The Evil Twin of Kenya Electoral process. The second Bi-Annual period January-June 2008 was a special edition on Post Election Violence. The contemporary issue captured the flawed elections, ethnic violence and cancer of impunity. Its focus captured the internally displaced persons.

3.6.4 Urgent Action/ Important Opportunities

The KHRC petitioned and held consultations with UN Special Rapporteur on the Human Rights of Internally Displaced Persons and was part of the team that undertook the analysis on the root causes, manifestations and impacts of the political/ post electoral violence in Kenya under KPTJ.

3.6.5 National Policy and Action Plan on Human Rights (NAP)

The KHRC has been instrumental in the in development of the National Policy and Action Plan (NAP). Key outcomes was the conclusion of public hearings, this process where duty bearers were held to account on human rights matters. A draft policy emerged within the year and will be refined next year, with a view to being part of government commitment to protecting and promoting human rights.

3.0 Programmes Report (Cont.)

The KHRC has a working strategy on regional and international advocacy and networking that ensures that the local context informs regional/international advocacy. As a result of the above, staff have been participating in international networking and advocacy. During the period, the KHRC presented in various international meetings on distinct topics, for example, the EPAs meeting held within the region and also in Europe, APRM meeting jointly held with the ISS and ESCR shadow report developed through the ESCR network and presented in Geneva.

4.0 International Networking and Advocacy

4.1 ESCR Shadow Reporting

As part of the KHRC's advocacy on economic, social and cultural rights, the KHRC finalized a parallel Report to Kenya the UN's Economic and Social Council (ECOSOC)'s Committee on Economic, Social and Cultural Rights. This follows the list of questions the Committee issued to the Kenyan state in December 2007, following the list of issues presented by the KHRC at the Committee's pre-sessional working group. This parallel report shall be tabled in Geneva, November 2009. In November 2008, the KHRC, in collaboration with other civil society organisations in the country, also participated in the preparation of the parallel report for the Committee against Torture.

4.2 International Human Rights Day (IHRD)



Prof. Mahmood Mamdani at lecture at Hilton Hotel giving a key note speech 15th December 2008.

December 2008 marked the 60th anniversary of the Universal Declaration Human Rights (UDHR). The theme for the anniversary was "Dignity and justice for all". In view of the challenges posed by the electoral crisis and violence, the KHRC localized the international theme with the slogan: - *Reflections of Healing – Haki na Usawa kwa Wote*.

The KHRC marked the anniversary at the national level as well as through partnerships with community based human rights networks (HURINETs) countrywide. Between November 25 and December 15, 2008 the KHRC partnered with over 21 community based human rights networks (HURINETs) and other stakeholders

to undertake activities aimed at increasing public awareness of International Human Rights Day (IHRD), while at the same time, using the commemoration as an opportunity to relate the international day to local human rights struggles. Two key activities were undertaken, namely the Annual Human Rights Lecture and the Human Rights Film Festival.

The theme of 2008 annual human rights lecture was *Ethnicity, the State and Politics: What Prospects for Human Rights in Kenya?* Under this theme, the internationally acclaimed scholar and author, Prof. Mahmood Mamdani delivered a paper on *The Question of Justice – Lessons and Challenges*.

Similarly, four internationally acclaimed films were taken to audiences in 25 location spread across Kenya during the human rights film festival. The locations were selected on the basis of the magnitude of violence experienced in those areas during the post 2007 general elections. Four films were screened each selected to ignite discussion on a controversial issue surrounding the post 2007 election violence and the transitional justice concerns that led to the violence. The film festival provided alternative means to discuss human rights based approaches to development and transitional justice.

4.0 International Networking and Advocacy (Cont.)

During the IHRD celebrations various communities participated in what was dubbed as 'celebrating diversity' where the security and humanitarian concerns of the region were submitted to the provincial administration.

The KHRC will continue to use films to create community awareness on issues of reform and transitional justice. As the TJRC process is expected to kick off in the next reporting period, the KHRC will strive to source films on the TJRC processes of South Africa, Rwanda and other countries to prepare HURINETs and the communities they serve shape their expectations of the process.

Four internationally acclaimed films were screened each selected to ignite discussion on a controversial issue surrounding the post 2007 election violence and the transitional justice concerns that led to the violence.

5.0 Mainstreaming non-discrimination, equality and respect for diversity

5.1. Gender Festival

In the year under review with the aim of increasing respect, protection and promotion of diversity and non-discrimination the KHRC has been part of the steering team that has been organizing the first gender festival in Kenya and has continued its engagement in the festival as a member of the coordinating and fundraising committee. The gender festival is an open forum to take stock and plan how to strengthen campaigns on gender related concerns in Kenya. The KHRC has been among the lead organizations in putting together the gender festival under the overall theme of *Celebrate Diversity and Promote Gender Equality*.

5.2. International Women's Day (IWD)

In the year under review IWD celebrations were organized and commemorated at the local level by partner networks. This took different dimensions from public forums and trainings amongst others. For instance, the North Rift regional network, held a public forum on at Embomir center in Marakwet East constituency. This forum focused on recognition by the women of the need to involve and interest men in their struggles. The women also sought to continually organize themselves and support each other in order to have strong representation in all leadership positions. The network is strong on women's participation at the local level but continues to be weak in regional and national representation and participation of women.

5.3 Campaign on Equal Citizenship and Equal Access to Citizenship – Public Interest Litigation

The KHRC concluded a study on citizenship in Northern Kenya and published the findings in a report titled *Foreigners at Home: The Dilemma of Citizenship in Northern Kenya*. The study established the presence of entrenched citizenship-based discrimination of citizens of Northern Kenya on the basis of lack of recognition through denial of significant documents such as ID cards and passports. It also traces the advent of the discrimination to the colonial, post-colonial and *shifita* war eras where national policies and laws were enacted with an effect of directly and indirectly segregating Northern Kenya from the rest of the country. Though the initial agenda of the research was to put more emphasis on issues of equal rights to citizenship, the report has brought out marginalization especially with regards to development of the region. It has echoed all that was presented during the People's Manifestos and Scorecard Initiative on limited access to human rights and service delivery in Northern region, such as lack of infrastructure, roads and schools amongst others.

5.0 Mainstreaming non-discrimination, equality and respect for diversity (Cont.)

During this reporting period, the KHRC has set the ground for the institution of a public interest litigation to seek redress for discriminated residents of Northern Kenya as well as women whose right to pass on citizenship to their foreign spouses and children born out of such unions has been restricted and effectively denied by claw-backs entrenched in the Constitution of Kenya. The litigation is intended to bring to the fore citizenship-based discrimination perpetuated against women and those descendants of Northern Kenya, provide redress and influence Constitutional, institutional and administrative reform to eliminate further discrimination.



Hon. Farah Maalim, Deputy Speaker National Assembly during breakfast meeting with Northern Kenya Members of Parliament.

5.4 HIV and AIDS Mainstreaming Project

HIV and AIDS continue to pose the greatest challenge to humanity. As an organization it is essential to recognize the efforts of the organizations working in this field and identify areas for supplementing and complementing the efforts of such, whilst advancing the fight against HIV and AIDS. A training/fun day that presented an easy and conducive opportunity for learning and sharing on new aspects of HIV and AIDS was organised that led to an increase in knowledge and appreciation of HIV & AIDS. It also stimulated the participants to interrogate and identify more areas for internal and external mainstreaming.

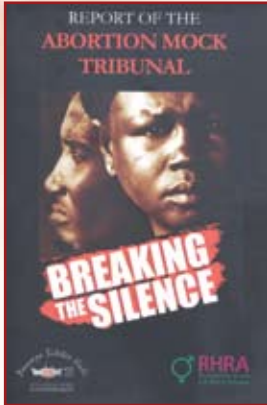
5.5 LGBTI Project

While there is a lot of homophobia among the public, this debate is taking shape and there is little appreciation among the public that non-discrimination is a principle in human rights. The KHRC held an internal training for staff and training for LGBTI Groups. In addition, the draft Report on LGBTI ready to be forwarded for printing.

5.6 RHRA Project

The KHRC continues to champion for a pro-choice agenda on constitutional and legal reforms in issues that touch on the rights of women and in particular, reproductive rights concerns. Towards this end, the KHRC is undertaking a case study on that will

5.0 Mainstreaming non-discrimination, equality and respect for diversity (Cont.)



A copy of the Abortion Mock Tribunal Report

look at the issue of unsafe abortion in informal settlements. In the past year, the Abortion Mock Tribunal report was published and will be used to lobby Parliament, the media and medical institutions on the need to legalize abortion. During the year under review, the KHRC also sought to be enjoined in supporting the Reproductive Health Rights Bill, led by FIDA.

6.0 Media and Publicity

The KHRC endeavored to publicize its events and also work with the print and electronic media, to advance its human rights education and advocacy work. Under this initiative, the KHRC has produced various publications and IEC materials for both community and national level consumption. Both local language radio and national level radio and television have also been used, in addition to the website.

6.1 Mizizi ya Haki Newsletter

This is a community Newsletter produced twice a year by the KHRC in conjunction with HURINETs. In the reporting period both regional and national editorial meetings were held, resulting in a concept paper that re-organized the way the newsletter is written and distributed. There is a clear message to duty bearers that citizens expect much more from the different levels of duty bearers.

In future, communities will be encouraged as far as possible, to use their articles to identify and directly address the duty bearer that they have issues with the specific concerns they have and propose solutions and time frames for redress. HURINETs will also be supported to follow up on issues raised in articles by going to the concerned duty bearers to ask for solutions at the expiry of a proposed time frame.

Mizizi ya Haki will strive to become a forum to circulate human rights and social justice messages that would not ordinarily reach communities. This includes providing information on training opportunities for which HURINETs and community members can benefit. Mizizi will also include articles that touch of national and international importance that directly affect community initiatives.

To facilitate follow up, the KHRC is in the process of compiling a distribution list. Further, efforts will be made to increase the number of copies produced in order to consistently reach the various duty bearers that articles address.

6.2 Local Language Radio Programmes

The KHRC's works in diverse regions where over 10 local languages are spoken. The expansion of the media has meant that local language radio today enjoys great listenership and has become a medium that cannot be ignored in human rights education and advocacy work. In the period under review, over 50 human rights radio programmes were aired, with an average of five programmes in each of the ten languages.

In Coast Province, the Mizizi ya Haki newsletter lent its name to series of 24 radio programmes aired weekly over 6 months on the Taita language Mwanedu FM, which covers most of Taita Taveta and Kwale. The programmes not only provided an opportunity to discuss the human rights issues in Taita Taveta, but also profiled the



A copy of the Mizizi Publication

6.0 Media and Publicity (Cont.)

Taita Taveta HURINET as a leader mobilizing the community for human rights education and advocacy – on public funds, child rights, workers' rights, human wild life conflict, advocacy for reform of land allocation and use patterns. The programmes and the newsletter have become a forum for awareness creation, monitoring and reporting of human rights violations, where violators are named and shamed with many changing these negative trends for fear of bad publicity. Administrators and other government officials have also become more active in rights protection.

In Western region, use of vernacular radio stations has proved most effective as a civic awareness and mobilization tool. HURINETs have used local language radio to advocate for issues raised in the people' manifesto including unfair trade in sugarcane and insecurity in Kuria.

In Western region, use of vernacular radio stations has proved most effective as a civic awareness and mobilization tool. HURINETs have used local language radio to advocate for issues raised in the people' manifesto including unfair trade in sugarcane and insecurity in Kuria. The wide listenership of local language radio (Kuria, Luhya and Luo) within the region mobilizes larger crowds for community meetings and makes it possible for many people to participate actively and passively in human rights awareness and advocacy debates aired on radio. It is noteworthy that the Kakamega HURINET has developed and gained such legitimacy in the area as to warrant free airtime on Mulembe FM whenever they have an issue to highlight.

In Rift Valley, the KHRC has worked with KASS FM, Inooro, Coro and KBC Central Station's Maasai broadcast. In northern region, the KHRC has sponsored HURINETs to be on air on Star FM, a Somali language Station broadcasting in Wajir and on Citizen's Kiswahili language radio for the cosmopolitan Isiolo listeners. In all of these broadcasts, the issues raised through Peoples' Manifesto and Scorecard Initiative were discussed with live call-ins and sms from listeners.

6.3 Resource Centre

The KHRC resource centre continued to expand rapidly within the period under review both in content, quality and quantity. It acquired and subscribed to scholarly relevant online journals/information to enable staff acquire and seek knowledge in their areas of expertise. Staff can now access JSTOR, Hein-online, Law Africa law reports and Laws of Kenya with the use of the Local Area Network (LAN). The centre also purchased a number of publications and reports which provided relevant, useful information on democracy and governance, constitutionalism, human rights based approaches, transitional justice, trade business and human rights, gender, HIV and minority rights. The resource centre received the dailies and weekly newspapers and Kenya Gazette Notices for information sharing and reference purposes. They are later bound into volumes for archival services.

The resource centre was also able to convert all its print publications into electronic format, a synopsis of which is uploaded on our website.

6.0 Media and Publicity (Cont.)

Through partnership with like minded organizations, the KHRC as part of the reference group with Accord International, Action Aid International, the Great Lake Parliamentary forum on Peace-Amani Forum, African Women Development Fund, International planned Parenthood Federation, Urgent Action Fund –Africa and Fahamu participated and publicized its materials at the ACCORD Pan African conference; ending impunity on Gender based Violence, and Lecture on Transitional Justice and Impunity discourses. The product of which is an occasional paper.



Nairobi Book Fair pupils/students from Makini at the KHRC stall.

The resource centre equally participated in the Mau Mau film festivals showing Itungati, Mau Mau freedom fighters struggle at Alliance France. As part of knowledge dissemination the KHRC participated in the 11th International Book fair organized by Kenya Publishers Association whose theme was celebrating diversity.

The resource centre received a total of 50 local newsletters/journals which are received periodical (quarterly and bi-annually), reports and publications which are coded into a bibliographic database. The resource center has more than 5000 publications, covering various human rights subjects.

7.0 Organisational Development & Sustainability of the KHRC

7.1 Internship

The KHRC has been able to accord 12 interns with a learning opportunity, in order to gain practical work experience on human rights research, education, advocacy and monitoring. This has assisted the KHRC to meet the challenges of capacity building, by facilitating the creation of a human rights constituency and hence provision of human rights workers in the sector. As a result of the success of this mentoring programme, the KHRC will be holding a consultative forum during which an alumni association of interns will be established.

7.2 Staff Development



The KHRC staff at team building at Sweet Waters Tented Camp 2009

In order to be an effective and efficient institution, the KHRC considers staff development as an imperative. More attention will also be paid to staff retention and enrolment of members of staff, in various short and long-term training programmes relevant to their jobs. It is hoped that this will improve staff performance, efficiency and retention. During the period, arising from a long felt need within programmes department, the KHRC recruited a Programme Officer to be in charge of publications and legal aid. 3 staff also left the KHRC as part of the recommendations arising from the Job Evaluation Report, which noted that the KHRC needs to be re-structured in order to deliver the Strategic Plan 2008-2012. This report will be fully implemented in the next Operational Year.

7.3 Board Development

The Board provides strategic direction to the KHRC's work and it has constituted itself into functional committees to fulfill that role. During the year, Dr. Tade Aina joined the KHRC board. He has a wealth of experience as an academia and manager with numerous organisations, the most recent being the Ford Foundation – East Africa, where he served as the Regional Representative..

The KHRC Staff and Board have also been instrumental in influencing the human rights discourse by being invited to give lectures in local colleges and universities, local and international conferences, not to mention publishing papers and books.

Kenya Human Rights Institute (KHRI)



The Kenya Human Rights Institute (KHRI) is a sister organization and a project of the KHRC and is principally engaged with churning out of knowledge on human rights discourse. The KHRI has continued to identify, analyze and communicate emerging issues and trends to actors who are directly involved in human rights work locally and in the region.

Under the banner Peace, Security and Human Rights and in collaboration with the London School of Economics, the KHRI held various round tables discussion sessions where researchers, as well as, independent scholars examined the politics and impact of the War on Terror on aid policy and practice in relation to civil societies in the region. Under the guest speaker series public forums, various guests were brought onboard, the most notable being John Githongo, former permanent Secretary, governance and Ethics in Kenya who spoke on the issue of corruption in Kenya. The KHRI also organized a forum on civil society aid and counter-terrorism in Eastern Africa post 9/11. This forum was held in conjunction with the London School of Economics; a briefing paper was published titled: *Aid and civil Society in Eastern Africa during the war on Terror*.



Guest speakers at the KHRI public forum on Corruption. The KHRI board members, Kaari Murungi, Makau wa Mutua and John Githongo

Capacity Strengthening Programme

One of the challenges facing the promotion of human rights in the region is the need for continuous strengthening the capacities of human rights actors. Strengthening this capacity requires the reconciliation of the often parallel trajectories of human rights scholarship and practice, that is, the linking of theory and practice. Toward this end, the KHRI increased collaboration activities with human rights scholars at the universities. Specifically the KHRI is currently hosting a research project sponsored and funded by the University of Witwatersrand South Africa in conjunction with IDRC (International Development Research Centre – Canada). In a separate programme the KHRI increased its networking with local universities following the undertaking of human rights induction workshops held at the Universities of Nairobi and Daystar.

Kenya Human Rights Institute (KHRI) (Cont.)

Public Information and Policy Dialogue Programme

In addition, the KHRI seeks not only to generate human rights knowledge, but also provide structured forums for policy dialogues and exchange of information between scholars and practitioners in the human rights field as well as the interested public. These forums are also designed to provide those working in the field of human rights with opportunities to reflect on their work and to test new ideas

Publications

During the period under review, the KHRI published and launched two key publications namely *"The Dilemmas of Crime and Human Rights and the Politics of Mungiki Violence in Kenya"* and the *"Human Rights Sector in Kenya; Key Issues and Challenges"*. Similarly the KHRI produced and disseminated two special briefs titled: *"Clarifying Human Rights Violations in the Kenyan Post-Election Crisis"*, *"Civil Society Responses to the Kenyan Crisis"* and *"Aid and Civil Society in Eastern Africa during the war on Terror"*.



Photo taken at a KHRI book launch; book title: *"Dilemmas of Crime, Human Rights and the Politics of Mungiki Violence in Kenya"*

Kenya Human Rights
Commission

FINANCIAL
STATEMENTS

2008-2009

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Glossary of Terms

NGO:	Non-Governmental Organisation
TROC:	Trocaire EARO
FORD:	The Ford Foundation
FINNISH:	Ministry of Foreign Affairs of Finland
DANIDA:	Danish International Development Agency
AI:	Amnesty International
NOVIB:	Netherland Organisation for International Development Co-operation
SIDA:	Swedish International Development Agency
ILRF:	International Labour Rights Fund
HIVOS:	Humanistisch Instituut Voor Ontwikkelingswerking
SOMO:	Stichting Onderzoek Multinationale Ondernemingen
EU:	European Union
CIDA:	Canadian International Development Agency
UNDP:	United Nations Development Programme
KHRC:	Kenya Human Rights Commission

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 Murungi	- Vice Chair
Muthoni Wanyeki	- Executive Director
Mwambi Mwasaru	- Member
John Githongo	- Member
Mumina Konso	- Member
Karuti Kanyinga	- Member
Davinder Lamba	- Member
Tade Aina	- Member appointed on 3 December 2008

REGISTERED OFFICE

Kenya Human Rights Commission
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NAIROBI

PRINCIPAL PLACE OF BUSINESS

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AUDITORS

PKF Kenya
Certified Public Accountants
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NAIROBI

PRINCIPAL BANKERS

National Industrial Credit Bank
NIC House
Masaba Road
P.O. Box 44599, 00100
NAIROBI

Commercial Bank of Africa
International Life House
P.O. Box 45136, 00100
NAIROBI

SOLICITORS

Waruhiu Kowade & Ng'ang'a Advocates
1st Floor Sameer Africa Complex
Mombasa/Enterprise Road Junction
P.O. Box 47122, 00100
NAIROBI

Report of the Directors

For the year ended 31 March 2009

The directors submit their report and audited financial statements for the year ended 31 March 2009, which show the state of commission's 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 Commission's 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 the KHRC

3. RESULTS

The results for the year are shown on page 53.

5. DIRECTORS

The directors who held office during the year and up to the date of this report are shown on page 52.

6. 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 July 2009

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 organisation keeps proper accounting records which disclose with reasonable accuracy, the financial position of the organisation. The directors are also responsible for safeguarding the assets of the organisation.

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 2009 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 July 2009 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 53 to 74 which comprise the balance sheet as at 31 March 2009 and the income and expenditure account, statement of changes in fund balance and cash flow statement 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 2009 and of its financial performance and cash flows for the year then ended in accordance with International Financial Reporting Standards.

Certified Public Accountants

PKF Kenya

PIN NO. P051130467R

NAIROBI

25th July 2009

337/09

Income and Expenditure Account

	Notes	2009 Shs	2008 Shs (Restated)
INCOME			
Revenue Grant income	1	114,320,295	112,283,313
Amortisation of capital grant	9(b)	2,709,715	3,373,839
Interest income		1,529,117	1,368,882
Sales of publications		106,009	91,512
Other income	2	1,784,624	1,173,974
		120,449,760	118,291,520
EXPENDITURE			
Civic Action for Human Rights		26,100,734	17,845,626
Accountability and human rights-centred governance		28,419,186	30,430,019
Leadership in learning and innovation in human rights and democratic development in Kenya		5,478,996	3,928,832
Mainstreaming equality, non discrimination and respect for diversity		2,859,803	11,732,604
Organizational sustainability of the KHRC		7,850,243	2,932,288
Staff costs	4	33,765,398	41,690,501
Administration costs		9,716,037	8,346,196
Depreciation		2,709,715	3,373,839
Total expenditure		116,900,112	120,279,905
SURPLUS/(DEFICIT) FOR THE YEAR	3	3,549,648	(1,988,385)
Comprising of:			
Restricted Fund		129,898	388,768
Transfer to/(from) General Fund		3,419,750	(2,377,153)
		3,549,648	(1,988,385)

Balance Sheet

	Notes	As at 31 March	
		2009 Shs	2008 Shs (Restated)
NON CURRENT ASSETS			
Property and equipment	6	2,805,625	2,937,826
CURRENT ASSETS			
Debtors	7	6,600,171	5,544,341
Cash and cash equivalents	8	66,072,082	37,894,741
Grant receivables	9(a)	2,450,444	-
		75,122,697	43,439,082
TOTAL ASSETS		77,928,322	46,376,908
FUND BALANCES			
General fund balance		14,149,628	10,729,878
The KHRC premises fund		10,000,000	10,000,000
Restricted Fund		129,898	388,768
Capital grants		2,805,625	2,937,826
		27,085,151	24,056,472
CURRENT LIABILITIES			
Deferred income	9(a)	29,364,804	7,177,092
Creditors	10	21,478,367	15,143,344
		50,843,171	22,320,436
TOTAL FUND BALANCES AND LIABILITIES		77,928,322	46,376,908

The financial statements on pages 53 to 74 were approved for issue by the Board of Directors on 25th July 2009 and signed on its behalf by:



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



Ms. Muthoni Wanyeki
Executive Director

Statement of Changes In Fund Balance

	General fund Shs	The KHRC Premises fund Shs	Capital grants Shs	Restricted Fund Shs	Total Shs
Year ended 31 March 2008					
Balance at 1 April 2007	13,107,031	10,000,000	5,835,295	-	28,942,326
Deficit for the year	(2,377,153)	-	-	-	(2,377,153)
Additions	-	-	476,370	-	476,370
Amortisation	-	-	(3,373,839)	-	(3,373,839)
As previously stated	10,729,878	10,000,000	2,937,826	-	23,667,704
Prior period adjustment: - Restricted fund previously treated as deferred income	-	-	-	388,768	388,768
As restated	10,729,878	10,000,000	2,937,826	388,768	24,056,472
Year ended 31 March 2009					
Balance at 1 April 2008	10,729,878	10,000,000	2,937,826	388,768	24,056,472
Surplus for the year	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)
Balance at 31 March 2009	14,149,628	10,000,000	2,805,625	129,898	27,085,151

Cash Flow Statement

	Notes	2009 Shs	2008 Shs
Operating activities			
Cash generated from/(used in) operations	11	4,598,045	(2,880,897)
Interest received		1,529,117	1,368,882
Net cash generated from/(used in) operating activities		6,127,162	(1,512,015)
Increase in debtors		(1,055,830)	(425,832)
(Increase)/decrease in grants receivable		(2,450,444)	675,252
Increase/(decrease) in deferred income		21,798,944	(10,766,430)
Increase in creditors		6,335,023	4,013,248
Net cash flows generated from /(used in) operating activities		30,754,855	(8,015,777)
Cash flow from investing activities			
Purchases of property and equipment	6	(2,577,514)	(476,370)
Net cash flows from investing activities		(2,577,514)	(476,370)
Increase/(decrease) in cash and cash equivalents		28,177,341	(8,492,147)
Movement in cash and cash equivalents			
At start of year		37,894,741	46,386,888
Movement during the year		28,177,341	(8,492,147)
At end of year	8	66,072,082	37,894,741

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 but the commission has not adopted them early :

IAS 1 (Revised) - 'Presentation of Financial Statements' (effective from 1 January 2009). The revised standard will prohibit the presentation of items of income and expenses ('non-owner changes in equity') in the statement of changes in equity, requiring 'non-owner changes in equity' to be presented separately from owner changes in equity. All 'non-owner changes in equity' will be required to be shown in a performance statement, but companies can choose whether to present one performance statement (the statement of comprehensive income) or two statements (the income statement and statement of comprehensive income). Where companies restate or reclassify comparative information, they will be required to present a restated balance sheet at the beginning comparative period in addition to the current requirement to present balance sheets at the end of the current period and comparative period. The company will apply IAS 1 (Revised) from 1 January 2009. It is likely that both the income statement and statement of comprehensive income will be presented as performance statements.

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 Balance Sheet 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.

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 is recognised when it is earned. Other income and income from bank deposits is recognised when it is earned.

c) Expenditure

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

Significant Accounting Policies (cont.)

d) Restricted Fund

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

e) 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.

f) Receivables

Receivables are recognised initially at fair value and subsequently measured at amortised cost using the effective interest rate method, less impairment.

Impairment of trade receivables is recognised in the income statement under administrative expenses when there is objective evidence that the company will not be able to collect all amounts due per the original terms of the receivables. Significant financial difficulties of the debtor, probability that the debtor will enter bankruptcy or financial reorganisation and default in payments are considered indicators that the trade receivable is impaired. The provision is based on the difference between the carrying amount and the present fair value of the expected cash flows, discounted at the effective interest rate.

Receivables not collectible are written off against the impairment. Subsequent recoveries of amounts previously written off are credited to the income statement under administrative expenses in the year of their recovery.

g) 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.

h) Payables

Payables are recognised initially at fair value and subsequently measured at amortised cost using the effective interest rate method.

i) 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.

Significant Accounting Policies (cont.)

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

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 balance sheet 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.

k) 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.

l) The KHRC premises fund

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

m) Withholding tax

Withholding tax recoverable is not recognised in the financial statement. Interest income is recognised net of withholding taxes.

Significant Accounting Policies (cont.)

n) Financial assets

The organisation's financial assets which include cash and bank balances and debtors 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 balance sheet date. All assets with maturities greater than 12 months after the balance sheet date are classified as non-current assets. Such assets are carried at amortised cost. Changes in the carrying amount are recognised in the income and expenditure account.

Financial assets are recognised on the trade date i.e. the date on which the company commits to the transactions. Financial assets are derecognised when the rights to receive cash flows from the financial assets have expired or have been transferred and the organisation 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. The amount of the impairment loss for assets carried at amortised cost is calculated as the difference between the assets carrying amount and the present values of expected future cash flows. Impairment losses are taken into account for determining operating surplus.

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 organisation and its employees contribute to the National Social Security Fund (NSSF) a statutory defined contribution scheme registered under NSSF Act. The organisations' 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 Statement

1 REVENUE GRANT INCOME	2009 Shs	2008 Shs
DANIDA	28,398,859	28,269,856
FINNISH	7,844,900	7,200,000
FORD FOUNDATION	10,615,361	9,979,629
Ford IIE	241,110	7,417,889
NORWEGIAN EMBASSY	18,071,493	12,015,452
NOVIB	10,259,264	15,960,601
NOVIB-MAKE TRADE FAIR	-	270,790
OXFAM GB	525,260	298,702
SIDA	6,600,000	8,990,117
TROCAIRE	16,494,252	20,647,168
SOMO 2	129,898	129,898
SOMO 3	59,000	264,188
EU/CIDA	-	328,921
CHRISTIAN AID	2,500,840	-
RHRA	741,449	-
OSIEA	3,750,492	-
SWISS	1,012,991	-
UNIFEM	8,340,653	-
URAIA	1,146,499	-
OTHERS	165,488	986,470
Total Grant Income (Note 9)	116,897,809	112,759,681
Less: Amounts utilised for capital acquisition (Note 9(b))	(2,577,514)	(476,370)
	114,320,295	112,283,313

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

2. OTHER INCOME	2009 Shs	2008 Shs
Miscellaneous income	36,514	779,543
Project hosting fees	921,570	301,115
Bank interest	201,021	109,799
Consultancy income	61,500	16,894
Foreign exchange gain/(loss)	420,457	(33,377)
Reversed leave accruals	143,562	-
	1,784,624	1,173,974

Notes to the Financial Statement (cont.)

	2009 Shs	2008 Shs
3. SURPLUS/(DEFICIT)		
The following items have been charged in arriving at surplus/(deficit) for the year:		
Depreciation on property & equipment (Note 6)	2,709,715	3,373,839
Staff costs (Note 4)	33,765,398	41,690,501
Directors' remuneration	4,676,916	3,774,976
Auditors' remuneration - current year	324,800	324,800
4. STAFF COSTS		
Salaries	29,012,131	35,052,110
Medical insurance	2,209,105	2,797,668
Provident fund contributions	1,927,061	2,733,157
Group personal insurance	476,701	497,329
Leave accrual	-	485,113
Welfare	90,000	65,324
NSSF contributions	50,400	59,800
	33,765,398	41,690,501
5. RESERVES		
General fund	14,149,628	10,729,878
The KHRC Premises fund	10,000,000	10,000,000
Capital grants	2,805,625	2,937,826
Restricted fund	129,898	388,768
Total reserves	27,085,151	24,056,472
General fund		
At start of year	10,729,878	13,107,031
Surplus/(deficit) for the year	3,419,750	(2,377,153)
At end of year	14,149,628	10,729,878

This fund represents accumulated surpluses from other incomes 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 Statement (cont.)

5. RESERVES (Cont.)

	2009 Shs	2008 Shs
The KHRC Premises fund		
At start and end of year	10,000,000	10,000,000

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

Capital grants

At start of year	2,937,826	5,835,295
Additions during the year	2,577,514	476,370
Amortisation	(2,709,715)	(3,373,839)
At end of year	2,805,625	2,937,826

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	388,768	6,555,512
Funds utilised	(258,870)	(6,166,744)
At end of year	129,898	388,768

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

Notes to the Financial Statement (cont.)

6. PROPERTY AND EQUIPMENT

Year ended 31 March 2009

	Prefabs Shs	Furniture and fittings Shs	Office equipment Shs	Motor vehicles Shs	Computers Shs	Total Shs
Cost						
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
At 31 March 2009	2,424,716	2,401,129	8,151,970	10,115,825	9,403,543	32,497,183
Depreciation						
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
At 31 March 2009	2,424,716	1,809,738	7,429,040	8,893,325	9,134,739	29,691,558
Net book value	-	591,391	722,930	1,222,500	268,804	2,805,625

Year ended 31 March 2008

Cost						
At 1 April 2007	2,424,716	2,352,639	7,309,988	8,485,825	8,870,131	29,443,299
Additions	-	48,490	167,468	-	260,412	476,370
At 31 March 2008	2,424,716	2,401,129	7,477,456	8,485,825	9,130,543	29,919,669
Depreciation						
At 1 April 2007	1,454,829	1,382,087	6,114,543	7,304,550	7,351,995	23,608,004
Charge for the year	484,943	213,827	648,828	989,375	1,036,866	3,373,839
At 31 March 2008	1,939,772	1,595,914	6,763,371	8,293,925	8,388,861	26,981,843
Net book value	484,944	805,215	714,085	191,900	741,682	2,937,826

Notes to the Financial Statement (cont.)

7. DEBTORS

	2009 Shs	2008 Shs
Prepaid expenses	19,184	618,318
Interest receivable	388,640	151,162
Other debtors	4,239,970	394,638
Staff advances	1,952,377	4,380,223
	6,600,171	5,544,341

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

	2008 Shs	2007 Shs
For purposes of the cash flow, cash and cash equivalents comprise :-		
Fixed deposit	28,815,855	19,230,393
Bank and cash balances	37,256,227	18,664,348
	66,072,082	37,894,741

The organisation is not exposed to credit risk on cash and bank balances as these are held with sound financial institutions.

9.(A) RESTRICTED FUND

Grant income and receipts are analysed as follows:-
Revenue grants
Year ended 31 March 2009

Donor	Balance as at 1 April 08	Prior year adjustment	Restated balance	Receipts	Transfer From deferred Income	Reversed Accruals	Grant Reciev-ables	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	665,045	4,900	-	18,826,246	7,844,900	360,000	7,844,900	-	-	-
Ford Foundation	-	28,776,562	-	-	-	-	10,615,361	-	10,255,361	-	-	-
Ford IIE	241,110	-	-	-	-	-	241,110	-	241,110	-	-	-
Norwegian Embassy	-	18,071,493	-	-	-	-	18,071,493	600,000	17,471,493	-	-	-
NOVIB	-	10,140,000	-	119,264	-	-	10,259,264	-	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	827,000	15,667,252	-	-	-
SOMO 2	129,898	-	-	-	-	-	129,898	-	129,898	-	-	129,898
SOMO 3	17,760	16,986	-	-	24,254	-	59,000	-	59,000	-	-	-
CHRISTIAN AID	-	-	2,500,840	-	-	-	2,500,840	-	2,500,840	-	-	-
RHRA	-	-	1,294,847	-	-	-	741,449	553,398	741,449	-	-	-
OSIEA	-	3,912,103	-	-	-	-	3,750,492	161,611	3,750,492	-	-	-
SWISS	-	3,455,232	-	-	-	-	1,012,991	2,442,241	1,012,991	-	-	-
UNIFEM	-	5,914,463	-	-	-	-	8,340,653	-	8,340,653	-	-	-
URAIA	-	4,717,000	494,117	-	2,426,190	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	114,190,397	129,898

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

Notes to the Financial Statement (cont.)

9.(A) RESTRICTED FUND (CONTINUED)

Year ended 31 March 2008

Donor	Balance as at 1 April 07	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 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)
DANIDA	-	25,773,932	4,282,105	162,590	-	1,948,771	28,269,856	215,958	28,053,898	-
FINNISH	-	7,200,000	-	-	-	-	7,200,000	-	7,200,000	-
Ford Foundation	-	8,659,469	1,970,039	15,166	-	665,045	9,979,629	-	9,979,629	-
Ford IIE	-	7,417,889	-	-	-	-	7,417,889	-	7,176,779	241,110
Norwegian Embassy	187,338	11,828,114	-	-	-	-	12,015,452	-	12,015,452	-
NOVIB	1,737,217	14,175,000	-	48,384	-	-	15,960,601	-	15,960,601	-
NOVIB-Make trade Fair	270,790	-	-	-	-	-	270,790	-	270,790	-
OXFAM GB	-	410,000	162,174	-	-	273,472	298,702	-	298,702	-
SIDA	4,360,167	4,629,950	-	-	-	-	8,990,117	-	8,990,117	-
TROCAIRE/DCI	-	16,471,236	4,644,769	25,280	-	494,117	20,647,168	260,412	20,386,756	-
SOMO 1	-	560,363	-	-	(560,363)	-	0	-	-	-
SOMO 2	-	244,787	-	-	(114,889)	-	129,898	-	-	129,898
SOMO 3	-	264,188	-	-	-	-	264,188	-	246,428	17,760
EU/CIDA	-	-	328,921	-	-	-	328,921	-	328,921	-
CHRISTIAN AID	-	2,500,840	-	-	-	2,500,840	0	-	-	-
RHRA	-	1,294,847	-	-	-	1,294,847	0	-	-	-
OTHERS	-	986,470	-	-	-	-	986,470	-	986,470	-
Grand total	6,555,512	102,417,085	11,388,008	251,420	(675,252)	7,177,092	112,759,681	476,370	111,894,543	388,768

The end of year balances above are disclosed in the balance sheet as follows:-

	2009	2008
	Shs	Shs
Deferred income	29,364,804	7,177,092
Grant receivable	2,450,444	-

Notes to the Financial Statement (cont.)

9.(B) CAPITAL GRANTS

	2009 Shs	2008 Shs
Cost		
At start of year	29,919,669	29,443,299
Additions	2,577,514	476,370
At end of year	32,497,183	29,919,669
Amortisation		
At start of year	26,981,843	23,608,004
Amortisation	2,709,715	3,373,839
At end of year	29,691,558	26,981,843
	2,805,625	2,937,826

10. CREDITORS

PKF Kenya	324,800	324,800
Other accrued expenses	11,319,260	11,235,017
Other Creditors	1,007,329	-
Report and IEC materials	2,066,404	1,247,348
KHRC projects	6,760,574	2,336,179
	21,478,367	15,143,344

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	11,319,260	11,319,260
Other accrued expenses	6,760,574	6,760,574
Other Creditors	2,066,404	2,066,404
Report and IEC materials	1,007,329	1,007,329
The KHRC projects	324,800	324,800
	21,478,367	21,478,367

Notes to the Financial Statement (cont.)

11. CASH GENERATED FROM OPERATIONS

	2009 Shs	2008 Shs
Surplus/(deficit) for the year	3,549,648	(1,988,385)
Adjustment for:		
Capital grant receipts	2,577,514	476,370
Depreciation	2,709,715	3,373,839
Amortisation of grant income	(2,709,715)	(3,373,839)
Interest income	(1,529,117)	(1,368,882)
Operating surplus/(deficit) before working capital changes	4,598,045	(2,880,897)

12. RELATED PARTY TRANSACTIONS

	2009 Shs	2008 Shs
(i) Key management compensation		
Short-term employee benefits	2,709,715	3,373,839

ii) Staff Advances

As at 31 March 2009, balances outstanding in the advance to staff account amounted to Kshs 1,952,377 (2008: Kshs 4,380,224). 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:

	2009 Shs	2008 Shs
Property and equipment	994,000	-

Notes to the Financial Statement (cont.)

13. COMMITMENTS (Cont.)

Operating lease commitments

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

	2009 Shs	2008 Shs
Falling due within one year	2,120,558	2,024,167
Falling due between one and five years	3,392,892	5,513,450
Falling due after five years	-	-
	5,513,450	7,537,617

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 2009		
	US \$	Euro	Total
Effect of surplus/(deficit) increase	8,545	29,143	37,688
	Year 2008		
	US \$	Euro	Total
Effect of surplus/(deficit) increase	381,274	11,509	392,783

Notes to the Financial Statement (cont.)

14. RISK MANAGEMENT OBJECTIVES AND POLICIES (Cont.)

(b) 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 2009, if the interest had been 1% point higher with all other variables held constant, surplus for the year would have been Shs. 1,407 (2008: Shs 13,689) higher.

15. CAPITAL MANAGEMENT

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

16. TAXATION

The organisation 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.

17. EMPLOYEES

The number of employees at the end of the year was 20 (2008:24)

18. REGISTRATION

The organisation is registered in Kenya under the Non Governmental Organisations Co-ordination Act, 1990.

19. PRESENTATION CURRENCY

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



KENYA HUMAN RIGHTS
COMMISSION

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