



# ANNUAL REPORT

& Financial Statements 2010-2011

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## LIST OF ABBREVIATIONS

ALPS	Accountability, Learning and Planning System
CADL	Comprehensive Anti Discrimination Law
CBO	Community Based Organisation
CDF	Constituency Development Fund
CDF	Constituency Development Funds
CIC	Commission for the Implementation of the Constitution
CIOC	Constitutional Implementation Oversight Committee
CoE	Committee of Experts
CRECO	Constitution and Reform Education Consortium
EPA's	Economic Partnership Agreements
FBO's	Faith Based Organisations
FCO	Foreign and Commonwealth Office
FIDA-Kenya	Federation of Women Lawyers, Kenya
GoK	Government of Kenya
HRDs	Human Rights Defenders
HURINETs	Human Rights Networks
ICC	International Criminal Court
ICJ-Kenya	International Commission of Jurists, Kenya Chapter
ICT	Information and Communication Technology
IDPAC	Internal Displacement Policy and Advocacy Centre
IDPs	Internally Displaced Persons
IHRD	International Human Rights Day
IIEC	Interim Independent Electoral Commission
IWD	International Women's Day
KANU	Kenya African National Union
KESSF	Kenya Small-Scale Farmers Forum
KHRC	Kenya Human Rights Commission
KHRI	Kenya Human Rights Institute
KNDR	Kenya National Dialogue and Reconciliation
KNHREC	Kenya National Human Rights and Equality Commission
KPTJ	Kenyans for Peace with Truth and Justice
LGBTI	Lesbian, Gay, Bisexual, Transgendered and Intersex
MMWVA	Mau Mau War Veterans Association
MoJNCCA	Ministry of Justice, National Cohesion and Constitutional Affairs
MoSSP	Ministry of State for Special Programmes
MSC	Most Significant Change
NGO	Non-governmental organisation
NGOMA	Ng'ombe (cattle) and Mahindi (maize) Farmers' Association
ODM	Orange Democratic Party
PCK	Proposed Constitution of Kenya
PM&SC	People's Manifesto and Score Card Initiative
PNU	Party of National Unity
PWGID	Protection Working Group on Internal Displacement
RBM	Results Based Management
RCK	Refugee Consortium of Kenya
SGBV	Sexual and Gender Based Violence
TFDG	Task Force on Devolved Government
TJRC	Truth, Justice and Reconciliation Commission
UNHCR	United Nations High Commission for Refugees
UPR	Universal Periodic Review



## ACKNOWLEDGEMENTS

The production of the Kenya Human Rights Commission (KHRC) Annual Report throughout the years is often a collective effort of the KHRC community one way or another. We would like to thank all the staff, associates, interns and board members who contributed to the process. We wish to acknowledge individuals, communities and institutions that supported the work of the KHRC in this operational year. These the partnering community of the Human Rights Networks (HURINETS), the partnering non-governmental organisations (NGOs) in various coalitions, development partners, partner Government of Kenya institutions, regional and international state and non-state actors.

Of particular mention are individuals who have put in time and effort to ensure that the Annual Report is produced on time and according to standard. We acknowledge Julie Kingsland, Senior Programme Officer, Resource Mobilisation and M&E, for the immense contribution of compiling the first draft of the report. Special acknowledgement goes to Prof. Makau Mutua, Chair of the KHRC board of directors, for his insights in the opening message and to Muthoni Wanyeki, the outgoing KHRC Executive director, for her great foreword for this Annual Report.

Much thanks to Beryl Aidi, Media and Communications Programme Officer for proof reading, editing form and content and supervising the production of the report. Finally, we acknowledge Tom Kagwe, Senior Programme Officer, Research and Advocacy, for useful comments and overall editing of the report to ensure quality control and assurance.

## The Organisation

### BOARD OF DIRECTORS

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Tom Kagwe	Senior Programme Officer, Research and Advocacy
Nduta Kweheria	Senior Programme Officer, Civic Action
Julie Kingsland	Senior Programme Officer, Resource Mobilization and Monitoring and Evaluation

### PROGRAMMES

#### Research and Advocacy Team

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Esther Waweru	Programme Officer (Legal Affairs)
Beryl Aidi	Programme Officer (Media and Communication)
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Virginia Munyua	Programme Officer (Western Region)
Andrew Odete	Programme Officer (Coast Region)
Tabitha Nyambura	Programme Officer (Eastern Region)
Vincent Musebe	Programme Officer (Northern Region)
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## The Organisation (contd.)

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Peter Kibiru	Finance Officer
Ivy Munoko	Accounts/IT Assistant
Jamilla Wahome	Office Administrator
Vicky Mwangi	Office Assistant

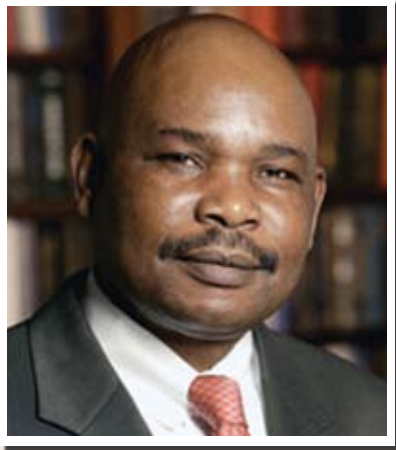
### INTERNS

Francis Mwangi	Pauline Wanja
Grace Thungu	Viola Jobita
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Derrick Odemba	Kelly Imathiu
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Josephine Kinyanjui	Joash Nyagwachi
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Doris Kawira	Valentine Mukoya

### KENYA HUMAN RIGHTS INSTITUTE

Javas Bigambo - Programme Associate  
Kevin Luyegu - Intern

## MESSAGE FROM THE CHAIR



It is my pleasure, once again, as Chair of the Board of the Kenya Human Rights Commission (KHRC), to write this introduction to our Annual Report. The last year has been historic. The most important achievement in Kenya – since independence in 1964 – was the adoption in August 2010 of the new democratic Constitution. That document – the nation’s principal charter – has forever transformed Kenya even before it is fully implemented. Its values, norms and standards have fundamentally reconstructed power. Citizens will no longer be subjects and rulers will no longer be masters. Citizens are their own agents and the rulers will become servants. Democracy will be deepened. Kenya has now entered the era of permanent reform.

For the KHRC, this is a moment of celebration, but also of humility. We were the key civil society organisation that initiated – and led – the struggle for a new Constitution. The triumph is our baby. But it was a collective effort by reformers in Kenya. We recognise, however, that the hard work of implementation now begins. There has never been a more opportune moment to transition leadership at the KHRC. L. Muthoni Wanyeki, our fearless leader, deftly guided us – and the country – through the madness of the 2007 elections. She, and the KHRC team, were instrumental in crafting key agreements that led to the adoption of the new Constitution. Working with our Board, staff, and partners, Muthoni took the KHRC to greater heights. She has been the ideal Executive Director (ED). But now she must leave us to pursue higher studies and a doctorate. We wish her the very best and know that she will do well. But she will always be one of us. Muthoni – *asante sana*. I will miss you as my ED. Muthoni is being succeeded as ED by Atsango Chesoni, formerly the Vice Chair of the Committee of Experts (CoE). Atsango brings to the KHRC a brilliant mind, an articulate tongue and a robust devotion to human rights. As a “mother” of the new Constitution, I can think of no one better to advocate for, and oversee, its implementation and “upbringing.” We are very fortunate to have “AC” as our leader.

Finally, I want to note that the leadership of the new Constitution – which AC will oversee – is already in great hands. Willy Mutunga, the former ED of the KHRC, and a mentor to most of us, is Kenya’s new Chief Justice and President of the Supreme Court. Willy, as we know him, is the fruit of the labour of civil society. He has been our doyen. Now he takes his learning, theories about “human rights from below” and humility as the guardian of law and legality in Kenya to the pinnacle of the Judiciary. This is a huge victory for transparency, democracy, and the rule of law. It serves notice that impunity – the cancer that we have fought for decades – will soon be history. I cannot think of a more hopeful moment in Kenya’s recent past. The future is ours.

*Prof. Makau Mutua, Chair, Board of Directors  
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## FOREWORD

It gives me great pleasure to present this Annual Report, the Kenya Human Rights Commission (KHRC)'s first under our new Constitutional dispensation!

Our goal for the operational year covered by this Annual Report was 'towards reforms for accountability and justice.' On reforms, after two decades of struggle, to which the KHRC contributed from the start to the end, we finally achieved the Constitution of Kenya, 2010. The Constitution addresses many of the long-standing concerns of the KHRC: a strengthened Bill of Rights, with better equality protection, the incorporation of economic, social and cultural rights, the restoration of separation of powers and checks and balances and the devolution of powers.



Its pass by the majority of Kenyan people justifies the time spent last year on ensuring participation in the constitution reform process. We did this through: participation in the Reference Group to the Committee of Experts; advocacy with the relevant parliamentary committee; civic education with Human Rights Networks (HURINETs) we partner with across the country through training, media work and the community newsletter, *Mzizi Ya Haki*; and our sub-granting to organisations able to reach specific communities for the purposes of targeted civic education. In addition, we monitored the referendum process, trying to ensure responses by the state to areas of concern (such as potential violence). The result is clear to see, as captured in our report *Wanjiku's Journey!*

As concerns accountability and justice, the KHRC also registered clear results. While trying to address transitional justice through the Truth, Justice and Reconciliation Commission (TJRC) was abandoned, at least its Chair resigned and a Tribunal was established to investigate the allegations made about him, to which the KHRC submitted. The KHRC also supported the submissions to the Tribunal of the survivors of the Wagalla Massacre.

Also the KHRC continued to establish the truth about our past and to obtain justice for survivors of gross and systemic human rights violations through other means, including court action. Survivors of torture from the colonial period continued their case against the British Government. The Government of Kenya (GoK) finally lent its support to the case through the commissioning of a submission on state succession and the financing of a review by a team of historians from Oxford University of disclosed documents on the period. Survivors of torture from the Moi regime, the Nyayo House torture survivors, continued their cases against the GoK here. By the close of the year, 21 had received individual awards and the High Court had ordered a collective out-of-court settlement for 32 of the pending 83 cases. Victory!

The KHRC also continued to support the search for justice of internally displaced persons (IDPs). The final monitoring report of the GoK's resettlement exercise was released, drawing from which the KHRC continued collaboration with the GoK on an IDPs policy and began public interest litigation for IDPs together with the Federation of Women Lawyers (FIDA) - Kenya.

The KHRC's focus on resolving our past was not at the expense of dealing with more contemporary human rights violations. A baseline report on human rights violations from 2005-10 was produced, against which we will, in future, assess progress under our new Constitution. An additional baseline was developed through the Outcomes Charter (with indicator matrix) developed in respect of Kenya's report from the Universal Periodic Review (UPR). The Ministry of Justice, National Cohesion and Constitutional Affairs (MoJNCCA) has already indicated the Charter is of use to their work. Also additional reports and documentaries on situations of human rights concern were also produced and used for public education through the media and advocacy with relevant state duty bearers. Particularly, reports addressed the security and equality concerns of Kenya's Lesbian, Gay, Bisexual, Transgendered and Intersex (LGBTI) community and insecurity owing to cattle rustling in Samburu. The KHRC also continued to provide legal aid support to survivors of human rights violations through our legal aid clinic and identified an additional 80 advocates across the country to whom the HURINETs could turn (or engage within the HURINETs) and provided training for eight of them as a start.

The vision of the KHRC for the HURINETs is to 'root human rights in communities' and this past year has shown that the long-term investments in catalysing and capacitating the HURINETs is paying off. Five more geographic HURINETs were formally registered as were the thematic Nyayo House torture survivors and IDPs networks, meaning that 16 of the 27 HURINETs are now institutionalised, all now have Constitutions and have democratised their membership and increasingly exchange experiences and views through Mzizi. The results are also clear in terms of their interventions. The Isiolo and Nyakach HURINETs had successes with respect to improving health service provision, while the Baringo HURINET registered success with respect to anti-corruption and improving water service provision, the Ikolomani and north Rift HURINETs had successes with respect to improving security and the coastal HURINETs had successes with respect to improving child protection. The KHRC is thrilled with these results and at what it portends for realising the KHRC's Vision 2012 as well as the promise of that vision in respect of all Kenyans being ultimately able to claim and defend their human rights!

The Ministry of Justice, National Cohesion and Constitutional Affairs (MoJNCCA) has already indicated the Charter is of use to their work. Also additional reports and documentaries on situations of human rights concern were also produced and used for public education through the media and advocacy with relevant state duty bearers.

The KHRC continued to contribute to critical collectives within the human rights community. Most notable in respect of following through on the reforms envisaged by the Kenya National Dialogue and Reconciliation (KNDR) and the justice agenda therein is Kenyans for Peace with Truth and Justice (KPTJ). It is through KPTJ that the KHRC engaged most vigorously with the justice effort for survivors of the

2008 post-elections violence. KPTJ continues to support the work of the International Criminal Court (ICC) Victims' Participation and Reparations Service and to help manage the politics most notably by contributing to voicing and advocating in support of the public resistance to the GoK's attempts to stall proceedings against the six suspects by a deferral and then inadmissibility attempt. The KHRC also continues to support the work of the National Coalition on Human Rights Defenders (HRDs) in respect of HRD protection and, unfortunately, where necessary given persistent multilateral and state gaps in the same, victims' and perceived witnesses' protection.

The KHRC also won the Civil Society Organisation of the Year Award (CSOYA) in the best performing civil society organisation (CSO) category, awarded by the Constitution and Reform Education Consortium (CRECO). The award was in recognition that: "while service delivery among many CSOs remains a great challenge in the midst of a rapidly changing environment; the KHRC has managed to sustain focus on its mandate. As a result the organisation has demonstrated tenacity in delivery of services towards changing the society into a community that upholds and respects the fundamental values of human dignity, societal rights and hope even in the midst of adverse political environment." The organisation had demonstrated commendable results and capability to impacting significantly on the Kenyan society as guided by its vision mission and mandate.

It has, in short, been a busy year! But it has been a year of consolidation for our organisation internally, with improvements in our monitoring and evaluation (M&E) and improved income-generation as well, through fund management services, which has helped us cater for lower than anticipated grant incomes for the year. It has also been a year of reflection as to our necessarily changed roles under the new Constitution. We close the year therefore excited by the impact we've had so far, and even more determined and excited by the prospect of our re-definition and transition in the year ahead, to focus on both monitoring implementation of the new Constitution and on assisting with its realisation in respect of equality, justice and economic, social and cultural rights. Watch this space!

In closing, we, our Board, management and staff, thank you all for your contributions to the KHRC, your appreciation of our work and your continued involvement with us moving forward. We need all our colleagues in the human rights community, those within the HURINETs and our other partner organisations—and we need all our well-wishers within the GoK as well as within the grantmaking community. Aluta continua!

*L. Muthoni Wanyeki*  
*Executive Director*

# 1. INTRODUCTION TO REPORT

## 1.1. About the KHRC

The Kenya Human Rights Commission (the KHRC) is a non-governmental organisation (NGO) founded in 1992 and registered in 1994.<sup>1</sup> The KHRC's mission is to promote, protect and enhance enjoyment of all human rights for all individuals and groups. To achieve this mission, the KHRC is divided into two departments: programmes; and finance and administration. Within the former, there are two teams: 1) Research and Advocacy (RAT); and 2) Civic Action (CAT).

## 1.2. Context of the Year

Kenyans ratified the proposed Constitution of Kenya 2010 at a national referendum on the 4<sup>th</sup> August 2010. By this ratification, followed by promulgation on the 27<sup>th</sup> August 2010, Kenya finally began its transition to democracy, characterised by enhanced citizens' participation, accountability, equality and equity. The Constitution provides an opportunity for people to advocate for their rights founded on its provisions and also ushers in an era of institutional reform.

The dust has now settled after the promulgation of the Constitution and the KHRC's attention has turned to ensuring the implementation of the new Constitution to strengthen accountability and justice. Political disagreements within the Grand Coalition Government are a key challenge to implementation. The Orange Democratic Party (ODM) and the Party of National Unity (PNU) disagreed, for example, about composition of the Constitutional Implementation Oversight Committee (CIOC), a Parliamentary Select Committee created to provide leadership in the introduction and passage of legislation contemplated by the Fifth Schedule.<sup>2</sup> This Committee is crucial to the formation of other Commissions and setting up infrastructure for the operation of County Governments. The Grand Coalition also disagreed on appointments to key positions within the Judiciary. These disagreements are likely to continue especially as the General Elections slated for 2012 draw near. The elections themselves pose a further challenge.

It is important to distinguish four aspects about legislation: the need for new legislation; the need for amendments to existing legislation; the need for supportive legislation; and, finally, the time lines set out. The KHRC will invest in ensuring that all legislation is in line with the spirit of the Constitution.<sup>3</sup> Challenges to implementation are also both political and technical, especially in respect of: the vetting of judges versus the formation of the Judicial Service Commission (JSC); the consolidation of land laws; and the harmonisation of all laws relating to devolution.

The establishment of different commissions, for instance the Commission for the Implementation of the Constitution (CIC), and task forces, for instance the Task force on Devolved Government (TFDG) offer an opportunity for citizens to engage in how the system of governance will work under the new Constitution. There is a need for further civic education so that the Human Rights Networks (HURINETs) with which the KHRC works can engage with these structures from an informed position.

<sup>1</sup> Since 2004, the KHRC implemented *Vision 2012*, whose tenets are to: establish a state that respects, protects and promotes all human rights for all individuals and groups; and, mobilise and organise people into advocacy networks as the basis for a social movement.

<sup>2</sup> This Schedule provides legislation which must be drafted to implement the new Constitution with specific time-lines.

<sup>3</sup> The KHRC's Secretariat met on October 1, 2010 to isolate legislative and policy advocacy to re-orient our work. The KHRC's Board and senior staff met in early December, 2010 on the same.



Vested interests are already making transition from the Provincial Administration to a two tier national and county level government system difficult. These interests pertain too in respect of the transfer of functions from the National Government to the County Governments and how the decentralisation of services at county level, as provided for under Article 176, will be done. Resistance to change—political, institutional and personal—is evident and will persist. Kenyans must exercise vigilance as implementation begins. Fundamental reforms are just beginning and the Constitution provides fertile ground on which to realise the same through advocacy and public interest litigation, amongst other strategies.

Within the reporting period the issue of justice for survivors and victims of the post-elections violence has become prominent. The government stated it was unable to set up a Special Tribunal for such prosecutions in May 2010 under the Universal Periodic Review (UPR).<sup>4</sup> In the 2010/2011 year the International Criminal Court (ICC) named six Kenyan's (William Ruto, General Hussein Ali, Uhuru Kenyatta, Francis Muthaura, Henry Kosgei, and Joshua arap Sang) as bearing the greatest responsibility for crimes against humanity. The government has indicated some willingness to work with the ICC.<sup>5</sup>

However, a section of Kenya's leadership has changed direction and now wishes to defer the cases and leave the trials for the six accused conducted in Kenya. The issue of the six has entrenched the political divide in government. Discussion on the ICC trial is also increasing tensions amongst citizens along ethnic lines as some people incorrectly view the selection of defendants as ethnically led. However, this is not the case and as Luis Moreno-Ocampo aptly summarised, on December 02, 2010: "I want to be clear, we are not investigating the elections; we are not analysing political responsibilities; we are not making judgement of political parties. We are investigating murders, rapes and forced displacements, which constitute crimes against humanity." Tension is especially high in the North and Central Rift where there are allegations of people arming prior to the 2012 elections.<sup>6</sup> There is widespread concern that ethnic tension could erupt into violence.

Related to the above, Human Rights Defenders (HRDs) exposing human rights violations or speaking up for justice through the ICC have been threatened and/or had their offices raided. Others have been illegally remanded in custody and yet others face dubious charges for speaking against illegal renditions.<sup>7</sup> Such threats to HRDs, when Kenya is under a new Constitutional order, is an affront to human rights and the rule of law, as elaborated in recent High Court judgements.<sup>8</sup>

These challenges demonstrate how politicians and state security agencies perceive their role in the new Constitutional dispensation—resistance to change is rampant, contrary to the Constitution. The KHRC will work towards ensuring the Constitution is defended and upheld through strategies including public interest litigation.

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<sup>4</sup> See Report on Recommendations from Kenya's UPR on May 6, 2010.

<sup>5</sup> In October 2010, the Chief Justice appointed Lady Justice Kalpana Rawal to oversee the taking of the statements of provincial administrators and security agents concerning the post-elections violence in accordance with the International Crimes Act in respect of reluctant witnesses.

<sup>6</sup> Initial findings from investigations done by the KHRC, media reports as well as information from partners working in areas that were most affected by the PEV support this claim.

<sup>7</sup> These HRDs include: Al-Amin Kimathi, in Uganda facing charges with connection with the July 11, 2010 bombings in Kampala; Mbugua Mureithi, held incommunicado for two days in Uganda in mid-September; and, Ndung'u Wainaina, whose offices at the International Centre for Policy and Conflict (ICPC), were raided the first week of October, 2010.

<sup>8</sup> See ex-parte ruling of September 27, 2010 by Justice Mohammed Warsame, in the *Constitutional Application No. 544 of 2010*, which challenged the rendition of Mohammed Aktar Kana. The Judge stated that such an act would violate the constitutional rights of the applicant, and hence directed State institutions responsible to respect the Bill of Rights. See similar sentiments echoed by Justice Aggrey Muchelule, in the *Miscellaneous Criminal Application 441 of 2010*, who made a similar ruling on September 30, 2010.

### 1.3. Introduction

Since 2008, the KHRC has worked towards realising five strategic objectives, contained in the Strategic Plan (2008-2012):

- 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;
- 4) Mainstreaming equality, non-discrimination and respect for diversity; and finally,
- 5) Organisational sustainability.

The goal of the Operational year 2010-2011 was: *Towards Entrenching Reforms for Accountability and Justice*. The idea was that by investing in the national reform agenda, contained in Agenda Items 1-4 of the Kenya National Dialogue and Reconciliation (KNDR), the KHRC would achieve greater impact, enabling accountability (for human rights violations) and justice (for survivors/victims of the same).



President Mwai Kibaki and PM Raila Odinga sign the National Accord in the open in front of Harambee house February 28th 2008. Looking on are the AU Chairman President Jakaya Kikwete of Tanzania and Chief Mediator Kofi Annan. Picture courtesy of In2EastAfrica, EA Media Group LLC.

Thus, within the period under review, we have pursued constitutional, legal, policy and institutional reforms, particularly through advocacy for the new Constitution of Kenya (2010). We have also pursued justice for survivors and victims of gross and systemic human rights violations over the years, including in respect of the post-elections violence, through monitoring, documenting and responding on the same as well as through our transitional justice project. These, together with our other projects, described in Section 2.0 below, have shown results towards meeting the year's goal.

This report is divided into 11 sub-sections, which collectively capture our work and results in the period under review at the local, national, regional and international levels. Within Strategic Objective 1, we report on: building social movements; the people's manifesto and scorecard initiative; and regional advocacy initiatives. Within Strategic Objective 2, we report on: monitoring, documenting and responding to human rights violations; constitutional reform; transitional justice; and business, trade and human rights.

Thereafter, we report on the Kenya Human Rights Institute (KHRI) and our work on communication, media and publicity, which fall within Strategic Objective 3. Within Strategic Objective 4, we report on: equality and anti-discrimination, which includes our work with the Lesbian, Gay, Bisexual Transgendered, and Intersex (LGBTI) community. Finally, we report on sustainability and programme effectiveness, which fall under Strategic Objective 5.

Each of the 11 sections will consider; activities and results, difficulties and solutions, opportunities grasped and next steps. Basically, the report will explain what the KHRC did, what difference it made, the challenges it faced and how those challenges were overcome. The report will also describe any work undertaken additional to that originally planned in order to capitalise on arising opportunities. In conclusion, the report will draw together the key lessons learnt during the 2010/2011 year and summarise a few plans going forward.



## 2. ANNUAL REPORT

### 2.1. Building Social Movements

In the 2010/2011 year the KHRC built social movements by partnering with organised community structures e.g. the Kenya Institute of Education, Faith Based Organisations (FBOs) and local language media. The KHRC supported the organisational development of HURINETs to lead social movements and built their capacity to engage duty bearers on topical human rights issues. In order to mobilise and share learning regional and national community reflections were facilitated and two issues of the *Mizizi ya Haki* (Root of Rights) newsletter were published.

**Activities and Results:** The KHRC believes that communities must own their problems, solutions and be at the forefront of struggles to claim their rights, with the KHRC playing a support role. Based on this belief, three (January, May and October) reflection and planning sessions were held bringing together representatives from 27 regional and thematic HURINETs.<sup>9</sup>

The first meeting evaluated what was achieved and learnt. Plans on how to advance gains were made and this informed the KHRC's operational plan. At the second meeting the specific support that the KHRC would provide HURINETs (often advocacy at national, international or policy level, capacity building and media) were agreed upon and HURINETs identified strategies to inform the community of and ensure participation in the struggles. At the third reflection at mid-year International Human Rights Day (IHRD) and the International Women's Day (IWD) events were used to feedback to communities the human rights gains made. The national level evaluation and planning meeting, held between the 7<sup>th</sup> and 11<sup>th</sup> of February 2011, brought together 35 representatives of HURINETs and was highly rated as indicated in the table below.

WORKSHOP CONTENT/ FACILITATION	Very Good	Good	Fair	Poor
Relevance of topics	91%	8%		
Time management	17%	52%	22%	9%
Quality of facilitation	70%	30%		
Participants involvement	57%	42%	1%	

The outcomes of the reflection meetings were:

- Participation and relevance:** Through reflections communities inputted into the work that the KHRC undertakes and the KHRC was able to remain in touch with human rights concerns that matter most to Kenyans.
- Equality:** Reflection meetings offered an opportunity for HURINETs to mainstream the participation and agenda of traditionally marginalised groups. Overall, about 40% of those attending this year's reflections were women.

<sup>9</sup> HURINETs are based in different parts of the country: Northern Kenya (Isiolo and Wajir); the Coast (Taita Taveta, Kwale, Kinango, Lamu and Mombasa); the Rift Valley (Narok, Baringo, Greater Baringo, Laikipia and Nakuru); Western Kenya (Migori, Kakamega, Kuria, Nyando and Siaya); and Eastern Kenya (Kibwezi, Mwingi, Thika, Nyeri and Nairobi). 'Communities,' to the KHRC, are not restricted to regional communities but include communities 'of interest' that experience similar human rights violations. For example, internally displaced people or the lesbian, gay, bisexual, transgendered and intersex (LGBTI) community.



- c. **Empowerment:** Different HURINETs have demonstrated empowerment through the progressive ability to claim rights. The Isiolo HURINET was able to get the BBC, K24 and finally Royal Media Services (Citizen) to draw national attention to challenges in access to healthcare, when the HURINET came out boldly on the lack of reproductive health facilities in the area, while a case study of Baringo HURINET's anti-corruption work found national level expression as shown in the case study below:

## CASE STUDY

The Baringo Human Rights Consortium was able to bring to the national limelight the case of Gladys Jepng'etich Tarus, a young woman who was informed that she had been selected to join the armed forces through a recruitment drive held in Eldoret. She was later informed in writing that she had lost her place in the army owing to pregnancy. However, she was not pregnant at any time, leading the Baringo HURINET to suspect that her place in the army was sold to a wealthier person. Baringo HURINET highlighted this case to the media, put pressure on the area MP to raise the matter in Parliament and accompanied Gladys to Nairobi to meet with the parliamentary committee on defense to explain how she was defrauded. While she has not been reinstated in to the armed forces, this case is proof that a small community based HURINET can draw national attention to an issue.

The 2010/2011 year has witnessed five geographic HURINETs formally register.<sup>10</sup> With regard to thematic HURINETs, the IDP Network and the Nyayo House Torture Victims Network were also registered and join the Mau Mau, Workers and Victims of Post Election Violence networks as independent organisations. Overall there are now 11 regional and five thematic registered networks (16 out of the total 27 networks that the KHRC works with).

These organisations have finalised their internal constitutions, which contain clear guidelines on non-discrimination, financial accountability as well as social accountability to the people that they represent. This has meant that for example the Isiolo and Wajir HURINETs now have officials drawn from all the clan groups in the area, as well as women and people with disability. Membership databases have also been established and members get SMS updates. The networks have firmed up their identity by developing organisational values, mission and vision, designing banners and letter heads and opening a bank account.

The KHRC supports registered networks to draft funding proposals. If funded, this is a final step in achieving the KHRC's agenda of rooting rights at community level. Six networks have proved that they can fundraise, manage funds and internal conflicts and effectively lead social movements.<sup>11</sup>

<sup>10</sup> Kuria, Isiolo, Wajir, Greater Baringo and Kwale HURINETs have in 2010 – 11 formally registered. The following geographic networks have registered overall:

Western – Kuria, one in five HURINETs registered (20%);

Rift Valley – North rift and Greater Baringo, i.e. two in five HURINETs registered (40%);

Coast – Kwale, Taita Taveta and Mombasa i.e. three in five HURINETs registered (60%) and;

<sup>11</sup> Centre for Human Rights and Civic Education, Mwingi, Kasarani Youth Congress, Nairobi, Citizen Land Network (CLAN), Kibwezi, Taita Taveta Human Rights Network, North rift Human rights Network and CODEF / Greater Baringo Human rights Network.

## CASE STUDY

The North Rift Human Rights Network started out as a group of individuals who constantly called on the KHRC to support them to undertake activities in Marakwet. In response to the KHRC's advice and Guidelines for Developing or Reviewing HURINET Constitutions, in 2008/2009 they democratised the network by having elections and incorporating women, persons from different ethnic groups and clans and CBOs pursuing various human rights agendas. They also drafted a Constitution, recruited members and established a membership database, resulting in the registration of the North Rift HURINET which now covers Kerio Valley, East Pokot and Marakwet (communities suffering from cattle theft and ethnic rivalry).

In 2009 the North Rift HURINET, responded to several calls for proposals forwarded by the KHRC staff and had one of their members elected into the editorial team of *Mizizi ya Haki*, a community newsletter published by the KHRC. In 2010, two proposals were successful which enabled them to produce a newsletter, purchase a lap top and desk top computer, digital camera and video camcorder for the network; while two of their members were selected to attend the climate change conference in Copenhagen.

The Network is now proud to say that one of the results of their work is the change in the community from living in fear of attacks from neighbouring communities, to peaceful co-existence. They attribute this to the support offered by the KHRC through small funds, film festivals on cattle theft, capacity building on the Constitution and other policy reform issues, and the guidelines that have made it possible to implement the organisational development needed to transform from a group of passionate but disunited individuals to a legitimate CBO.



*Mizizi ya Haki* (the Roots of Rights) Community Newsletter is a human rights education tool reaching people who do not get newspapers on a daily basis owing to cost or distance, some of whom have also never had a chance to attend a human rights education baraza or training. *Mizizi ya Haki* was hailed in 2010 as the only form of civic education on the referendum available, at a time when the Committee of Experts (CoE) on Constitutional Review and the Interim Independent Electoral Commission (IIEC) had not been able to deliver copies of or any civic education on the proposed Constitution to places such as Kuria, Baringo and Wajir. For HURINET members, *Mizizi ya Haki* is also an exchange platform for network members. One network member in the Western region said "The Newsletter reflected what other networks are doing across the country in addressing challenges and as such is a great eye opener as to how we can relate the same to different situations." *Mizizi* gives networks a platform for advocacy to expose issues with one case in Kuria constituency being singled out where the author was summoned by the Constituency Development Fund (CDF) committee. This year 9,000 copies and two issues (September 2010 and March 2011) of the newsletter have been

produced and distributed to HURINETs, duty bearers (provincial administration, MPs, public funds committees, police officers etc), FBO and CSO partners.

**Difficulties and Solutions:** There are a few HURINETs who look upon the KHRC as a donor rather than a facilitative partner supporting their technical (human rights knowledge and skills) and organisational development towards independence. Such HURINETs often feel that the KHRC should finance all aspects of their work plans, and not merely partner on some. Further even for HURINETs that clearly understand that they are partnering with the KHRC, and thus must

also fundraise, it is an ongoing challenge for them to do so. At the January 2011 reflections the KHRC revisited this discussion.

Many of the KHRC's partners but particularly those in the Rift Valley had issues of collective community ownership resulting from ethnic rivalries, opposing political affiliations and at times cultural and religious affiliations. This has hindered aspects of mobilising communities around issues that are pertinent to them. The KHRC will seek to do more to foster cross community understanding.

**Opportunities Grasped:** the KHRC has strengthened HURINET's capacity to engage duty bearers on topical rights issues. For example, in view of the need to formulate laws to guide devolution, the February 2011 national reflection also built HURINET capacity in this area. Facilitators included Mutakha Kangu, the chair of the TFDG, who spoke on what was expected on citizens at the county hearings of the TFDG. The result is that nine of the HURINETs prepared memoranda articulating their views on what devolution laws should address and presented these during county hearings. The national community reflection session also invited facilitators to help strengthen understanding of the ICC and TJRC. The petition to stay in the ICC and try suspects at the Hague was signed by network representatives and people in their communities.

**Next Steps:** the KHRC will in 2011/2012, support the remaining 11 HURINETs to also register and become independent CBOs. The KHRC also plans to build thematic networks that bring CBOs to work together on common issues across county, regional and even ethnic boundaries to truly build social movements from the community to the national level.

The May 2011 community reflections revisited capacity building aimed at making the 11 HURINETs independent of the KHRC by focusing on internal democratisation (constitutions, membership databases etc), monitoring and evaluation and resource mobilisation. This reflection will also share our operational plan (2011/2012) and the KHRC's new thematic rather than geographic way of working.

To be able to manage 27 independent HURINETs particularly in this period of Constitutional transition, the KHRC has approached SIDA's SPIDER (Swedish Programme for ICT in Developing Regions) project for support to HURINETs through capacity building in ICT that will enable HURINETs to share information with and mobilise their constituencies more effectively in the vast areas they cover. ICT will be a key strategy in gathering information from communities on election processes and Constitutional implementation and the economic social and cultural rights achievement. The information gathered will be shared with communities through a web platform so that the data can be used as evidence for advocacy. ICT will also be a useful tool for civic education.

## 2.2. People's Manifesto and Scorecard (PM&SC) Initiative

Kenya has a high rate of death for newborn babies (55 babies per 1,000 live births). But what is most infuriating is that the major causes of these deaths are common and easily preventable and treatable conditions. The number of deaths alone does not reveal the full scale of this tragedy as families see their children needlessly suffering. Having a child is one of the most significant events in many people's lives and should be a joyous occasion, full of hope.

Unfortunately, a child who is starved of oxygen during child birth may sustain lifelong damage to their cognitive abilities preventing them from reaching their full potential. This is a problem that is clearly apparent in some of the rural areas where the KHRC's partners work and has led





to demands for improved health facilities and staffing as well as for more attention to be given to improved education for children with mental or physical disabilities.



Cherwa dispensary in Nyakach Constituency constructed using CDF but is not operational owing to lack of staff and equipment

Knowing this is the situation that is persisting for many Kenyans makes the fact that funds allocated to resolve these problems are often stolen or inefficiently used by officials doubly shocking. Allowing this situation to continue is unacceptable for children, families and for all communities in Kenya. Poor health prevents communities from embracing new economic opportunities. Parents stay away from work to care for their children and the money spent on treatments for a sick child is not available to meet the other needs of the family for example buying school uniforms for the children or to invest in a business asset.

**Activities and Results:** The good news is that there is a solution. The KHRC's PM&SC Initiative is

benefiting Kenyan families by providing a practical and innovative solution to the poor provision of essential health, water, education, agricultural and security services. The exciting thing is that, now the initiative has been proven successful and if funds are available, it has the potential to be replicated in all counties of the country.

The initiative promotes accountability in the utilization of public funds and seeks to ensure peoples / community demands are addressed by their leaders and the various government departments. In 2007, prior to the last elections, communities developed 'the People's Manifestos' and encouraged candidates to sign that if elected they would deliver on them. The manifestos contained short, medium and long term demands.

At set times throughout the MPs tenure communities have developed and verified score cards on their performance. The score card results were printed, disseminated and publicised on local radio. Meetings have been held in the 2010/2011 year to bring together those responsible for delivering services (councillors, district health, education, youth and security officers, mayors, devolved fund chairs, administrative chiefs and religious leaders) with communities, CBO and human rights organisation representatives.



KHRC and Nyakach HURINET meeting with the chair of the Project Management Committee Cherwa dispensary, during the audit of the People's Manifesto and Scorecard.

The results of the KHRC's PM&SC Initiative have been impressive. Firstly, service provision has improved. For instance, in Baringo, a borehole was built in a secondary school to respond to not only a lack of water in the school but also girls systematically dropping-out of school as they got pregnant in the process of going to collect water from a river. Lives have also improved in Nyakach and Ikolomani constituencies in Western Kenya where there is a clear positive trend in terms of health care provision. The health demands were given a sharp focus by the leaders (MP and council). The compiled scorecards show a significantly improved situation in comparison to



2007 and communities say that additional health facilities and health staff have made it easier to get treatment when it is needed. This is outlined in the 'Story of Change' below:

## A STORY OF CHANGE:

### Ikolomani Responding to Demands from People's Manifesto

*Before the 2007 General Elections, maternity services and facilities were only available at Kakamega Provincial Hospital and Mukumu Mission Hospital. Owing to continuous demands from the people and the HURINETs in the region, and also monitoring the use of decentralized funds, there has been commendable increase of these facilities. There are 6 available maternity facilities for use. These are: Iguhu, Shibwe, Shiseso, Kilingili, Musoli Mission and Savane. All these have been constructed using either Constituencies' Development Fund (CDF) or Local Authority Transfer Funds (LATF). There has been improvement of reproductive healthcare services in the constituency. This improvement has translated to better lives for the citizens, especially women. As such, there have been fewer deliveries done at home, which is expected to lead to a reduction of maternal deaths resulting from complicated deliveries. Further, this development should in time lead to fewer cases of brain damage for the children being born.*

*In a related story, mental disability problems among children were very rampant in the area, where out of the 17 special schools in the constituency, 14 dealt with such children. Indeed, communities demanded in 2007 that more special schools be built arising from this need, which was a result of the above maternal complications. In 2007 there were only two. Out of the 17 currently functioning, two are dealing with hearing impairment; one for the visually challenged; and 14 for the mental disabled children. While these establishments have been realised through efforts of the Ministry of Education, CDF has been used to support this. The former Eregi Special Unit has since been upgraded to a fully-fledged school, where it has a four-classroom block and an administrative block. Going forward the KHRC would like to do more to ensure demands that will assist these children to get the additional support needed to be able to attend mainstream schools and classes.*

As a result of demands in Nyakach an anti-stock theft unit has been installed at Tol, to address cattle theft and semi permanent houses have been erected for the unit using Constituency Development Funds (CDF). This has made people feel safer and protects their livelihood. Security has also been one of the key demands in Ikolomani's People's Manifesto. The District Officer 1 agreed to involve the networks in efforts to improve and restructure the community policing projects they were establishing which would replace the vigilante groups in the area.

Corruption and apathy or a sense of hopelessness are mutually reinforcing conditions, leaders know that they will not be challenged and communities feel that leaders will not listen to them. Both attitudes help to ensure that children do not get the education they need and that communities continue in a cycle of cattle theft, suspicion and ethnic intolerance. The PM&SC Initiative has strengthened the capacity (knowledge and skills) of people to identify and prioritise issues pertinent to their development and to develop a set of demands directed to the duty bearers. As a result of the PM&SC initiative communities have become more organised, resilient and confident to engage leaders. Next time there is an election people will be prepared and they will never again feel that there is nothing that they can do to change their situation.

HURINETs have also gained legitimacy which is illustrated by the development of a media partnership between HURINETs, such as the mid-rift HURINET and *Sauti ya Mwananchi* radio

in Nakuru. Over the years, local struggles through these tools have been enlarged through initiation of new partnerships with organised community structures. As a result, there has been growing appreciation of the PM&SC Initiative among Faith-Based Organisations (FBOs). With this growing legitimacy, new actors involvement, media interest and strong networks the PM&SC Initiative has also contributed to bringing local issues and related governance concerns to the national level. Through the PM&SC Initiative local HURINETs have been able to engage with national reform processes such as on land, Constitutional reforms and also transitional justice.

Likewise, the MPs and other leaders have become more conscious of the communities ability to hold them accountable on the delivery of the services outlined for improvement in the Peoples Manifestos. There has been a gradual shift in the attitude of government officers from perceiving rights agitation as criminal, incitement, nuisance and breach of peace to accepting issues raised as concerns that must inform government planning processes.



Nduta Kweheria, senior programme officer, KHRC, displays a copy of the Baringo Central People's Manifesto during the devolution forum with stakeholders held in Nairobi. The forum was one of the build-up activities for the 2010 International Human Rights Day.

This concomitant change in attitudes of communities, civil society organisations and the duty bearers has in turn allowed for more engagement between the MPs and the community representatives. This can be seen by the fact that in some constituencies, for example Baringo, bilateral meetings were held between the MP and community representatives where collective action plans were agreed. Once communities and duty bearers get talking it is clear that the PM&SC Initiative is a solution that is both sustainable and delivers real success.

The magnitude of the problems that this initiative addresses is huge (corruption, poor service delivery and unresponsive duty bearers), as are the benefits, but the difference this innovative approach can make to marginalised families cannot be measured.

**Difficulties and Solutions:** In 2007 the initiative was rolled out in many constituencies. The KHRC can now see that it was over ambitious in its attempts to start big. The initiative took time to get significant community buy-in and hence mobilising the community to hold the duty bearers accountable was difficult. The KHRC therefore scaled back to fewer constituencies which was more practical for a new approach.

Owing to economic challenges some community members prioritised the immediate fulfilment of needs over taking a longer-term rights based approach. The KHRC has continued to emphasise that a rights based approach will ensure more sustainable solutions and as communities began to see practical changes in their lives they have realised that all their efforts were worth it.

The economic challenges have also in some instances led to gate-keeping (community members who seek to control funds). At the same time many members are passionate and committed. The KHRC seeks to identify the gate keepers and to ensure democratic structures and financial controls are key to HURINETs way of working.

In Uriri, the short, mid and long term demands in the PMs have not been achieved. This is due to the slow pace of project implementation by and lack of commitment of various public fund committees, the MPs use of patronage and the project management committee's collusion with the contractors for their own benefit. Naturally the HURINET feels despondent that their efforts

have not yet born fruit. In some constituencies bilateral meetings with MPs on scorecards did not occur as the MP ignored requests for a meeting date.

**Next Steps:** In view of the 2012 elections, the project will be reconfigured to fit within the new Constitutional dispensation with regard to the chapter on affirmative action in representation. The PM&SC Initiative will also be reviewed in line with the devolved government system and to hence have county manifestos. As a great initiative to keep leaders on their toes it is important that the People's Manifestos for the next election (2012) should be developed soon.

In Uriri, all in attendance agreed that the scorecard gave the true picture of the situation and accepted the challenges and all agreed that a lot still needs to be done in order to meet the people's demands in the manifesto within the short time remaining before the next elections.

The KHRC also plans to document the PM&SC Initiative process as a best practice and tool that can be replicated. The score cards can be used as civic education prior to elections as they measure leaders' performance and their eligibility to run for office, especially now that the Constitution of Kenya requires leaders with integrity and dedication to public service.

### 2.3. Regional Advocacy Initiatives

There are a vast number of regional initiatives which tackle a broad range of rights. Many of the HURINETs used International Human Rights Day and International Women's Day to raise awareness of and address key human rights issues in their communities. Engaging with the TDG was also incorporated into some HURINETs work. A few examples of local advocacy initiatives are given below:

**Activities and Results:** Kinango Human Rights Network is one of the youngest HURINETs working with the KHRC. Kinango, Kwale, Kinango, Lamu and Taita Taveta HURINETs in the Coastal region have all recorded high levels of poverty and also abuse of women and children. The People's Manifestos highlighted improved access to and quality of education as a key way to reduce poverty. The KHRC has thus supported all the HURINETs in Coast through capacity building on gender, child protection and the right to education.

In fighting child exploitation in the Coast region members of the Taita Taveta HURINET intervened in a situation where children and young people are abused and exploited through acts of witchcraft and questionable religious practices. The young woman in the picture (right) is assisted to get up after her "exorcism." She was "suspected of being demon-possessed" and subsequently was taken through a rigorous "exorcism" process. The process involved praying, shaking her, shouting at her, rolling her on the ground and hitting her on the head with the Bible. After the ritual she said that she felt better although she felt weak and was unable to walk. The Taita Taveta HURINET has stepped in through their child protection initiative with the support from the KHRC to prevent such exploitation and abuse.





As a result, the Kwale, Lamu, Kinango and Taita Taveta HURINETs have each started child protection initiatives. Kinango HURINET does this by demanding a stop to the impunity of defilements without prosecution. Kinango HURINET has come to be identified by community members as a place that one can report defilement and get the support needed in terms of going to the police to report, getting medical reports and following up on the matter to conclusion. While many cases are reported, Kinango has in this period one great success to celebrate – the 20 year jail term of a witchdoctor for defilement. This success is significant because being a poor community, many in Kinango still rely on ‘wizards’ for medical and social problems. Many of these ‘wizards’ hold positions of authority which they abuse by sexually molesting their clients in the name of healing. The tough sentence on one has sent a loud message to others that there is no longer impunity.

**Difficulties and Solutions:** Empowerment is a gradual process that requires time (months, years or even generations perhaps). Society at large also needs to change its attitudes towards women who decide to report and leave their violent husbands. However, partial success towards empowerment of Sexual and Gender Based Violence (SGBV) survivors is a key challenge. SGBV survivors attribute their awareness, rescue and ability to come out and talk about SGBV to interventions by the KHRC’s CBO partners. However, networks often lack strong counselling and legal aid mechanisms to support survivors to fully put the SGBV experience behind them.

For example, Alice was beaten by her husband and locked in the house. As a result her injuries worsened and she had to be hospitalised for six months. *Sauti ya Wanawake*, one of the CBOs that make up the Taita Taveta Human Rights Network exposed the case, got her a P3 form and medical attention and even a donor to pay for the skin grafting required.



The Queens of Change Initiative: The opening of a Queens of Change speaking box (where children can report abuse anonymously and safely) in Madarsani primary school, Taita Taveta, by Taita Taveta HURINETs and KHRC staff.

However, she remains unable to leave the marriage despite the fact that she owns the land on which the family lives and is thus economically able to do so. She continues to live with the perpetrator and has dropped charges against him despite frequent beatings and a fear that her husband may kill her. She argues that she stays “because she has no brothers and her father has no man except her husband to leave the ‘boma’ (home) to.” Alice also says that she ‘understands’ why he beats her because she has given birth to three daughters and no son. She is emphatic that Taveta society is very hostile to a woman alone.

The need for improved legal skills in HURINETs can be seen through another incident. A two year old child was sexually assaulted by her mother’s suitor. The HURINET got the report through the anonymous speak boxes and demanded that the matter be investigated and the perpetrator prosecuted. The court found him guilty and sentenced him to 26 years imprisonment. The child has undergone a series of reconstructive surgery. However, within months, the perpetrator appealed at the High Court in Mombasa, and was released. He now mocks the mother and says that he did it because she was unresponsive to his advances. The mother explains that she wishes she could kill the man or get the elders to banish him from that village, but feels helpless, as she did not know that he could appeal, or what she could have done to know and oppose



the grounds of his appeal. The HURINET also did not have the legal skills to find out on what grounds the appeal was done, or to follow up on the same in Mombasa.

**Lessons learnt:** The lessons learnt are that empowerment is a process not an event and the price of liberty is eternal vigilance. HURINETs can celebrate short and medium term indicators of their positive impacts – such as the increase in reporting of SGBV cases, increased dialogue on what were formerly taboo topics such as Female Genital Mutilation (FGM), LGBTI, and even, where a few government officers are trained on human rights and begin to support human rights work. However, this is only the beginning. More needs to be done to get the majority in society to accept the woman who leaves her husband because he is violent. More needs to be done to get the majority of teachers to say no to corporal punishment and to stop defending their peers who violate the human rights of their students. Hopefully, the new Constitution will make courts more accessible and friendly to poor people.

**Going Forward:** In the KHRC's next operational plan issues of 'power to' (knowledge and skills) and 'power within' (confidence and inner strength) will be further addressed. The KHRC is committed to the quality of our professionalism. Therefore, we will further engage professionals (legal and counselling etc) to address some of the issues highlighted above. Our focus on equality and anti-discrimination as a key theme in the 2010/2011 year will work to ensure women's labour rights, political representation as well as to ensure attitude change through initiatives such as ensuring quality curriculum content on equality.

## 2.4. Monitoring, Documenting and Responding to Human Rights Violations

**Activities and Results:** This has been the KHRC's niche over the years—producing credible reports to mitigate against human rights violations. Production and dissemination of the Biannual Human Rights Report (BHRR) created awareness about patterns of human rights violations in the two six month periods. KHRC also created a baseline which showed what types of human rights were violated and how frequently each 6 month periods between 2005 and 2010. Graphs clearly show changes in frequency of different violations. Government performance on human rights protection and promotion in the 5 years prior to the promulgation of the new constitution can be seen. KHRC will be able to compare the Government performance from before and after promulgation of the new Constitution.

With respect to the legal aid clinic, the KHRC has received 899 clients (263 women and 636 men) in the last year. Complaints resolved conclusively through mediation and negotiation were 244. Cases still pending conclusion of the conciliation are 200. Three cases were taken up with a view to filing them in court.<sup>12</sup> The rest of the clients received were either referred to other organisations or advised on their legal rights and responsibilities. To assist with this work, KHRC has identified 80 *pro bono* advocates that work across the country and given detailed training to 8 of these. Two results are clear: awareness creation, especially about labour rights through the *Termination Booklet* and advice given; and case resolution.

With regard to the Universal Periodic Review (UPR), Kenya was reviewed in May, 2010. A key result was that, after developing an advisory paper to the government on the need to reconsider adoption of deferred and rejected recommendations, the government accepted all 15 deferred and five of the rejected recommendations (save for two on: abolition of death penalty; and sexual minorities).<sup>13</sup>

<sup>12</sup> These cases are about: matrimonial property; the right to education for students of Kenyatta University; an imprisoned minor, who fell sick in custody, where we are seeking revision of the custodial sentence to a non-custodial one. Names of clients withheld.

<sup>13</sup> This advisory paper was presented at the 15th Human Rights Council (HRC) session in September, 2010. In the debate surrounding gay relationships, two ministers (for Special Programmes and Justice, National Cohesion and Constitutional Affairs) stood up on the need to respect and tolerate the human rights of the LGBTI community. Efforts by the KHRC to support the Ministers (and equality, anti-discrimination and de-criminalisation) including our Chair's efforts to end homophobia, have been met with criticism. The KHRC statement is available. See Sunday Nation, October 10, 2010 and Sunday Nation, October 17, 2010.



Tom Kagwe addressing the media during a media breakfast roundtable on the launch of *Biannual Human Rights Report* (June-December 2010) and the five year (2005 – 2010) trend analysis

Despite the above setback, an achievement has been fruitful engagement between the government and civil society stakeholders. We shared the shadow report and the advocacy charter with the government, deviating from ambushing the government in Geneva. Another success was creation of civil society's stakeholders' coalition and the professional manner in which it engaged in the process under the Kenya National Commission on Human Rights (KNCHR). The strategy adopted by the coalition was lauded by many organisations and countries as a model recommended to other states awaiting their UPR. The Kenyan UPR has become a model case study for other states.

To ensure recommendations of the UPR are implemented the KHRC has developed an Outcomes Charter (Implementation Matrix) which we launched on the 23<sup>rd</sup> February 2011 and disseminated to key duty bearers. The Ministry of Justice, National Cohesion and Constitutional Affairs (MOJNCCA) has indicated that the matrix is very useful.

**Difficulties, Solutions and Opportunities:** The general good will of the government to work with the coalition was a real opportunity in engaging in the UPR. However, there was a lack of adequate funding to publish enough copies of the UPR Implementation Matrix for wider dissemination (especially to HURINETs).

Regarding legal aid, progress in resolving some disputes was slow owing to a lack of co-operation on the part of the perpetrator. This has been resolved by endeavouring to emphasis on the legal obligations of both parties.

The target number of 21 *pro bono* lawyers (one from each HURINET) was not realised because of two major reasons- the greatest being that the HURINETs did not understand the mandate of the *pro bono* lawyers and therefore sent names of advocates unwilling to work *pro bono*; the other reason was that some of the lawyers were unable to attend training owing to prior court engagements

**Next Steps:** A popular version of the Outcomes Charter will be developed that will be disseminated at the grassroots level. The KHRC will prepare quarterly reports on the implementation of the Charter. The KHRC will also continue to advocate for the consideration of the rejected recommendations and for the government to take a leadership role in the same to change public opinion on abolition of death penalty and equality of LGBTI people.



The KHRC will monitor the work of the *pro bono* lawyers that have been identified and trained and engage the lawyers in advocacy activities in the regions. The KHRC will also circulate a list of registered *pro bono* lawyers to HURINETs.

## 2.5. Constitutional Reform

**Activities and Results:** Capacity building was undertaken with 27 HURINETs. Activities included disseminating information on the content of the Proposed Constitution of Kenya (PCK) and civic education to build capacities of communities to engage in the process of Constitutional development. The KHRC also used local and national media and the *Mizizi ya Haki* newsletter for civic education. Through the Reference Group<sup>14</sup>, engagement of various Parliamentary Select Committees and progressive MPs, *Katiba Sasa!*<sup>15</sup> and HURINETs capacity building the KHRC helped to ensure broad participation in the drafting of the Constitution. KHRC had encountered communities saying that they would vote no in the referendum because they felt that the PCK gave too many gains to women at the expense of men.

The KHRC trained constituency based monitors who monitored the referendum process and reported any human rights concerns to the KHRC's office in Nairobi. The KHRC acted on reports by sharing them with the relevant authorities and pressing for remedial action or by raising awareness of human rights abuses through the media creating public pressure for an open and fair process. After the referendum the KHRC published a report on the referendum process titled *Wanjiku's Journey*.

**Opportunities Grasped:** Many Kenyan's claimed to have voted 'NO' at the 2005 referendum solely because they believed that women would gain too much under the then proposed Constitution. HURINET members constantly reported to the KHRC the need to invest more in gender sensitisation. They feared that again people were being misdirected to reject the PCK because it had too many gains for women at the expense of men. Therefore, in addition to the activities above, the KHRC prepared for the referendum on the PCK by engaging communities on gender issues and what the Constitution said about these issues. As a result the KHRC witnessed a growing acceptance among HURINET members and the communities they serve that women's gains in the Kenyan Constitution are actually gains for the whole community.



KHRC and KPTJ march to Parliament in protest of judicial nominees named by President Kibaki in February 2011, contrary to Constitutional requirement, while rooting for the ICC in the fight against impunity.

**Difficulties and Solutions:** During the project period there were incidents of malicious misinformation regarding the content of the Constitution by politicians and subsequent dispersal of this misinformation by community leaders. Hate speech was the worst manifestation of this.

To counteract this problem the KHRC sought to provide unbiased information on the Constitution through a range of channels so that different audiences were reached. The KHRC also condemned hate speech publicly whenever it occurred and instead promoted tolerance, celebrated diversity and raised awareness of the fact that conflict is often poverty and not ethnic related. Also the presence of and reports from the referendum

<sup>14</sup> See KHRC of Kenya Review Act, 2008, Schedule Four. The 30 CSOs included: the KHRC, Cradle and FIDA-Kenya. Professional institutions include: the Central Organisation of Trade Unions (COTU), the Law Society of Kenya (LSK) and the Kenya National Union of Teachers (KNUT). Faith-based groups are: the KEC and the National Council of Churches of Kenya (NCCK).

<sup>15</sup> A joint CSO initiative outside the Reference Group. Tom Kagwe represented the KHRC in both the Reference Group and the *Katiba Sasa!* lobby group.

process observers and their linkage to an observation centre in Nairobi reduced the level of damaging messages during the YES/NO campaigns.

**Next Steps:** The 2011/2012 year will see a strong focus on supporting and demanding the implementation of the Constitution.

## 2.6. Transitional Justice

Transitional justice is a key project at the KHRC, seeking redress for past gross and systemic human rights violations reconciliation. Within this project, we focused on justice for the Mau Mau freedom fighters and those held at Nyayo House under the Kenya African National Union (KANU) regime both of which suffered torture and degrading treatment. Work included a campaign for an effective and rights-based Truth, Justice and Reconciliation Commission (TJRC). To ensure justice for the victims of Post Election Violence (PEV) KHRC has engaged with the ICC. Initial investigation of memorial sites and their potential as sites of conscience was conducted. Finally, the KHRC was busy supporting Internally Displaced People (IDP) to demand for their rights to protection, assistance and resettlement under the Kenya National Dialogue and Reconciliation (KNDR) Agenda item 2 on addressing the humanitarian crisis following the PEV. Some results are documented below.

### Mau Mau

**Activities and Results:** Our forebears, the Mau Mau War Veterans Association (MMWVA), have sued the British Government for the human rights atrocities committed during the colonial 'error' (yes, error). Many freedom fighters were killed, tortured, raped, castrated and rendered homeless and destitute while fighting an occupational and foreign government in our rightfully-owned land.



Mau Mau Veterans Ndiku Mutua, Paulo Nzili, Wambugu Wa Nyingi and Jane Muthoni Mara in front of the British Prime Minister's office on 10 Downing Street, London

The Attorney General and the Minister for Foreign Affairs have lent the KHRC legal and political support in the period under review, including through the commissioning of its own expert opinion on state succession. Cross-party support from parliamentarians in both Houses of the United Kingdom (UK) has remained. However, indications from the Foreign and Commonwealth Office (FCO) demonstrate that the new British government has no intention of settling out of court.

At the close of this operational year four out of the five original claimants were in London seeking justice. Should the British Government liability be established, this will enable for numerous cases of injustice beyond the four to be pursued.

**Difficulties, Solutions, Opportunities and Next Steps:** The MMWVA faced a leadership crisis, with two factions seeking leadership of the movement. The KHRC supported their national elections, with the outcome being legitimate leadership including, for the first time, of women in the leadership. Through the June, 2010 elections, one woman was elected to join the eight-member Executive Committee while four women were elected to the 28-member national committee.<sup>16</sup>

### Nyayo House

**Activities and Results:** On 21<sup>st</sup> July 2010, 21 victims received court awards ranging from 1.5 to 3.0 million Kshs (total Ksh. 39.5M). This has set a progressive legal precedent critical in shaping human rights protection and promotion. On 27<sup>th</sup> October 2010 there was a Court Order directing an out of court settlement for 32 of the 83 pending cases.

<sup>16</sup> There is a contrast between women's roles in the Kenya Land and Freedom Army and the MMWVA. The former had many women in combat and in logistical support.



**Difficulties and Solutions:** Survivors receiving court awards argue that their lawyers should get less pay. This alongside government tardiness has held up payments awarded.

**Opportunities Grasped:** The fact that the Prime Minister is a former detainee enables the KHRC to work with his office more easily. On December 6<sup>th</sup> 2010 the Prime Minister directed the Attorney General to have the victims' claims for compensation settled expeditiously through negotiations in the spirit of the new Constitution. He also requested to be kept updated of the developments of this matter.



KHRC programme officer Davis Malombe (left) joins lawyer Rumba Kinuthia (second right) and other former torture victims to celebrate the court Kshs. 38m award

**Next Steps:** The KHRC with the victims' network will continue to engage the High Court, the Offices of the Prime Minister and Attorney General to agree out of court settlements for 32 cases.

### Truth Justice and Reconciliation Commission (TJRC)

**Activities and Results:** Key successes regarding this Commission were the resignation of Bethwel Kiplagat as the chair of the TJRC on 5<sup>th</sup> November 2010 and increased support by the stakeholders on the need for a more credible and legitimate truth, justice and reconciliation processes in Kenya.

The main activities included organising the National Dialogue Conference on Transitional Justice at the Kenya International Conference Centre from September 1-3, 2010; developing and presenting at least three petitions to the Chief Justice demanding for the resignation of and formation of a tribunal to investigate the Bethwel Kiplagat (The TJRC chair) between September 1 and October 18, 2010; organising a conference on truth and justice at the Intercontinental Hotel in January 31, 2011; organising a briefing meeting between the KHRC and TJRC at the KHRC's offices on February 2, 2011; developing and submitting a memorandum to the Tribunal investigating the conduct of Mr. Kiplagat on February 28, 2011; organising Wagalla representatives to submit their memorandum on the involvement of Mr. Kiplagat in Wagalla Massacres.



Tom Kagwe addressing the media at the launch of the Interim IDPs Report in December 2010

**Difficulties, Solutions, Opportunities and Next Steps:** The Constitutional provisions on the rights to administrative action; leadership and integrity gave opportunities and tools on the campaign against Mr. Kiplagat. There was a lot of resistance from the executive but KHRC's resolve and resilience bore fruit. KHRC will seek for oral submissions of our memorandum and monitor the work of the tribunal for it is currently failing. In addition the KHRC will seek a local tribunal and provide advice to ensure a mechanism that is effective and has integrity so that those affected by PEV can get justice.

## Internally Displaced Persons (IDPs)

**Activities and Results:** In partnership with the Legal Sub-Committee of the Protection Working Group on Internal Displacement (PWGID) the KHRC's work on IDPs will offer durable solutions (for protection and assistance) to IDPs in Kenya.<sup>17</sup> The KHRC first mapped out the existing and draft laws and policies related to IDPs and then provided technical and administrative leadership in the formulation of a draft National Policy on IDPs. In early 2011 the KHRC attended a retreat with the KNCHR and Refugee Consortium of Kenya (RCK) to develop an abridged version of the Draft National Policy on IDPs. With the United Nations High Commission for Refugees (UNHCR) and KNCHR, the KHRC submitted a Cabinet memo on the Draft IDPs policy (Dec. 10-Jan. 11). On the 16<sup>th</sup> March 2011 the KHRC met with the Minister of State for Special Programmes (MoSSP) to present the Cabinet memo and the Minister gave support for its content.

In order to foster the protection of and assistance to IDPs in Kenya accurate data and information on their situation is needed. Therefore, the KHRC identified and trained 26 monitors (18 men and eight women) in October 2010 who then collected data in 12 Counties. A fact finding mission was also organised in December 2010 in the Rift Valley province for the verification of the data and familiarisation with the situation.

Lawyers have been contracted, cases have been identified and research has been conducted in order to start proceedings for public interest litigation this month. The KHRC also built the capacity of the IDPs network so it can be independent, resilient and effective.



Davis Malombe (in chains), KHRC Advocacy Programme Officer, joins other activists in the demonstrations to commemorate the murder of Fr. John Kaiser in August 2010.

Fr. John Anthony Kaiser became a hero because of his fight for the rights of disadvantaged Kenyans and particularly the protection of IDPs. His body was found by a roadside in August 2000. During the 2010 anniversary of his death, the KHRC managed to get the Ministry of Roads, through the National Highway Authority, to accept a request for the construction of a chapel at the Naivasha/Morendat junction in his memory. This is where his body was found.

**Difficulties, Solutions, Opportunities and Next Steps:** The MoSSP lacks capacity in, policy formulation, data collection on and verification of the claims of IDPs to protection and support. The KHRC took advantage of this to provide inputs and to compliment the capacity of the state. Next the KHRC needs to launch the

popular version of the draft policy; use it to create awareness and lobby for its adoption and enactment.

The quantity of data on IDPs is difficult to manage. The KHRC will support the government to manage the data whilst at the same time improved data will enable civil society to hold the government to account. Through field research the KHRC will verify the Ministries database and work to ensure IDP access to land.

The new Constitution has given more opportunities and momentum for public interest litigations (Article 22). It has taken time (almost one year) to negotiate with our partners FIDA-Kenya and International Commission of Jurists, Kenya Chapter (ICJ-Kenya) on the content and process of the litigation and to prepare.

<sup>17</sup> The PWGID brings together the key government, civil society, development and IDPs Organisations working on IDPs issues.



The IDPs network has gained capacity through stakeholders' forums on the draft IDPs policy, engaging the ICC and training as human rights monitors. The challenge is that the network wants training in other areas. The KHRC has conducted a capacity and gaps analysis with the IDPs network as well as supported their annual general elections for the leadership. The KHRC will link the network with the Internal Displacement Policy and Advocacy Centre (IDPAC) which should lead future trainings for the network.

The adoption of the new Constitution especially the recognition of freedom fighters and heroes and heroines both in the Preamble and *Mashujaa*<sup>18</sup> Day provided a strategic chance to advance the memorialization agenda. The KHRC will follow-up on this agenda and initiate research into sites of conscience.

## 2.7. Business, Trade and Human Rights

**Activities and Results:** The constituency of those against the Economic Partnership Agreements (EPAs) was increased, as indicated by the incorporation of 19 Ng'ombe (cattle) and Mahindi (maize) Farmers' Association (NGOMA<sup>19</sup>) members based in Keiyo South constituency in the EPAs suit. In June, 2010, NGOMA joined as additional petitioners, backed by 200 farmers.<sup>20</sup> Public awareness continued to be created through infomercials carried in the print media and aired in the electronic media. Finally, there was debate on the EPAs in parliament. The debate is summarised in the box below.

### THE PARLIAMENTARY DEBATE OF EPAS

On August 11, 2010, Honourable Polyns Ochieng, MP of Nyakach, raised a question before the House on the EPAs. The MP inquired of the then Minister of Trade the role of the Ministry in pursuit of the EPAs, whether he was aware of the potential negative impact of the EPAs on the agriculture sector and the economy generally and what measures the government had taken to mitigate such negative impacts.

To respond, the Minister noted the measures that the government had taken to mitigate the negative impacts of the EPAs were that strategic products were excluded from liberalisation. However, the Minister failed to point out to the MPs that strategic sectors such as poultry had not been protected. The Exclusion List presented to the European Commission (EC) has defects, among them is that frozen cuts of chicken, other fowls and sheep as well as some processed beef and pork have not been protected.

The Minister also stated that experience drawn from West Africa has shown there has been a surge in imports of cheap poultry from Europe to countries such as Togo and Benin. These cheap imports have devastated the poultry sector in these countries and have also had a spillover effect on local meat production and other industries such as animal feed industries owing to the increasing substitution effect.

The Minister noted the government was negotiating simpler rules of origin that were development oriented and supportive of value addition for agricultural commodities and industrial development. In this response, the Minister failed to point out that, if the EPAs are concluded, Kenya risks becoming a net food and beverage importer. A study carried out by the Kenya Institute of Public Policy Research and Analysis (KIPPRA) (2004) states that 65 per cent of Kenyan industries will face unfair competition from EU industries.

<sup>18</sup> *Mashujaa* the Swahili word for heroes and is celebrated on October 20<sup>th</sup> which previously only celebrated the founding father of the nation of Kenya, Mzee Jomo Kenyatta as Kenyatta Day.

<sup>19</sup> *Ng'ombe* and *Mahindi* is Swahili for Cattle and Maize

<sup>20</sup> This meeting was held on June 10, 2010. The mention slated for June 12, 2010 was not held. Our lawyers sought an adjournment in an earlier hearing to ensure incorporation of NGOMA as petitioners together with other small-scale farmers under the Kenya Small-Scale Farmers Forum (KESSF).



## DEBATE CONTINUES

These vulnerable industries include food processing, textiles, paper and printing. The report notes that food and beverages sourced from the EU will increase from KES1.6 billion to KES4.6 billion. From KIPPRA's analysis, the EU will become the main supplier of food and beverages accounting for 67 per cent of all food and beverages imported into the country. This in turn would affect food processing exports to regional markets which account for KES1 billion.

The Minister was however challenged by MP Honourable Ekwe Ethuro to explain whether he had communicated the statement he released to the House to the KHRC and the MP mentioned the advertisements the KHRC has been running in the media on the impact of the EPAs. In his response, the Minister informed the House that the KHRC has been misinforming the public and that MPs should ignore information they receive from the KHRC.<sup>21</sup> He was however rebuked by an MP for that.

(Source: Parliamentary Hansard, September 2010)

**Difficulties and Next Steps:** The KHRC feels that whilst EPAs are an important issue the KHRC has not succeeded in making the trade agreements simple enough for large scale public engagement on the issues. Therefore, the KHRC has re-conceptualise this area of work by taking stock of results, identifying gaps and how to fill them and re-designing the work which will fall under a goal of 'Improved access to Economic, Social and Cultural Rights (ESCR) for poor and marginalized people under devolution' and the objective 'to improve workers livelihoods / standard of living.' Specifically, in the next operational year the KHRC will focus on research and advocacy on specific agricultural sectors (Sugar, Coffee and Sisal), women's rights as workers and protecting the rights of the marginalised Boni people whose land is being stolen for the development of Lamu Port.



Owing to poverty, young boys are forced out of school to help clear overgrown cane from their family's farms to avoid losing the entire season crop

<sup>21</sup> The Minister misled the House. Our research on the EPAs is credible. See *"Trading our Lives With Europe"* on [http://www.khrc.or.ke/resources/publications/economic-social-and-cultural-rights/doc\\_download/5-trading-our-lives-with-europe.html](http://www.khrc.or.ke/resources/publications/economic-social-and-cultural-rights/doc_download/5-trading-our-lives-with-europe.html)

## 2.8. Communication, Media and Publicity

**Activities and Results:** The media is central to achieving and protecting human rights. At the same time, the media needs an evidence base for its reporting and the KHRC is an authority on human rights in Kenya. To strengthen our role as a resource for the media the KHRC organised a training session for journalists which increased their interest in and knowledge of human rights.

The KHRC works with the media for civic education helping citizens to understand and claim their rights. For example, among other media engagements, the KHRC:

- Aired a documentary on accountability in decentralised funds (*Citizen TV* and *KTN*)
- Arranged two talk shows on Devolution and the IHRD (*KBC*)
- Placed an advertorial on IHRD (*Star Newspaper*).

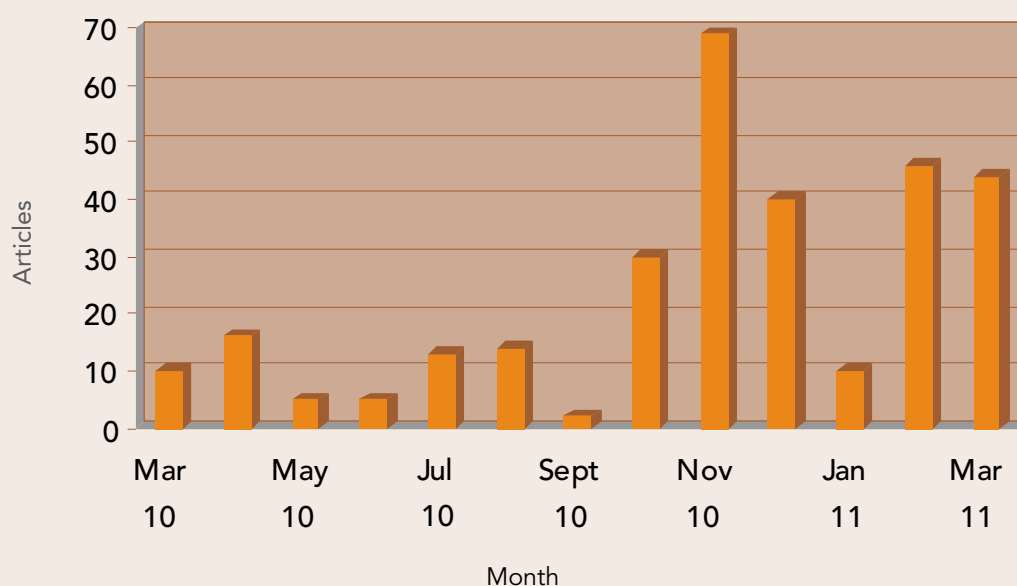


Figure 1: Media monitoring report of KHRC's coverage for the 2010-11 year

The media is also used to progress advocacy work. At regional level, for example, negotiations between sugar farmers, millers and outgrowers were covered in newspapers in Western Kenya. The KHRC also engages the media to bring regional issues to the national stage. For example, the public interest litigation supported by the KHRC regarding Northern Kenyan's inability to access ID documents was covered in the *Nation* newspaper. Also the KHRC held several press conferences on topical issues, for example, regarding protests over land grabbing in Guung'ombe, Mombasa.

The KHRC'S work continues to draw a fairly good media attention. The KHRC'S press conferences are well-attended and the subsequent mentions are particularly effective for publicising research recommendations. The KHRC organised press launches for four reports:

- Biannual Human Rights Report* (June-December 2010) and the five year (2005 – 2010) trend analysis;
- Trading Our Lives with Europe* on Economic Partnership Agreements (EPAs);
- Wanjiku's Journey* on the Referendum;
- Moran's No More* on addressing cattle theft.

Other interim reports also received media coverage, for example the Interim Report on the Referendum Process in August 2010 and the Interim Status Report on IDPS in December 2010.



The following publications were also produced: *Gains and Gaps- IDPs Policy Report*, *Outlawed Among Us- LGBTI Report*, *Contested Rights-KHRC Policy Brief on LGBTI*, *TJRC Policy Report*, and *Lest We Forget- Lustrations Report*.

In February 2011, while launching *Wanjiku's Journey*, the KHRC held a press conference to present a score card on progress against the national accord signed by the President and the Prime Minister following the PEV three years on. This effectively held the government accountable for its promises. The KHRC's staff have, especially Muthoni Wanyeki and Tom Kagwe been interviewees on radio and TV shows including Al Jazeera, *This is Louis* (K24); and Nation TV's Breakfast Show and *Making of the Constitution*, among others.

Display and sale of the KHRC's resource materials at book fairs helped human rights messages to reach new audiences. In July 2010 the KHRC had a stand at the Law Society of Kenya (LSK) legal Week. This event provided access to a strategic audience for the KHRC's educational materials as legal professionals can strongly influence the achievement of human rights.

**Difficulties, Solutions and Opportunities:** A number of prominent media houses in Kenya are either owned or are heavily influenced by politicians who have vested interests in human rights coverage on some issues. Some of our media briefings and events have received media blackouts or reporters choose stories that will not upset their employers. The solution is to create a buzz using smaller independent media houses, our website and social networks until the big media houses can't ignore the news.



Some of the publications produced during the 2010-11 Operational year. All are available online through the following address: <http://www.khrc.or.ke/resources/publications.html>



The KHRC held press conferences presenting the KHRC's position on national issues of human rights concern. Specifically:

- a. Need for a new TJRC;
- b. Rendition to Uganda of Kenyan suspects in the July 11 2010 Kampala bombings;
- c. ICC process and efforts at deferral of the cases;
- d. Appointment of the Chief Justice, Attorney General, Director of Public Prosecution and the Controller of Budget.

**Next Steps:** We will also work with media houses to target journalists for our media roundtables and to lower media rate cards for our sector. The KHRC will identify journalists who are interested in human rights issues for capacity building in the human rights reporting. The KHRC will also employ more ICT methods in advocacy campaigns as well as civic education.

## 2.9. Equality and Anti-Discrimination Campaign

**Activities and Results:** Alongside some of the regional advocacy initiatives outlined above the KHRC with the Equal Rights Trust, FIDA-Kenya and the Law Society of Kenya has increased understanding on the need for a comprehensive anti discrimination law (CADL). KHRC has done this by mapping existing legislation and policies, identifying gaps or negative provisions and drafting a legislative advisory. The KHRC held an advocacy and training workshop for lawyers on CADL. Early in 2011 a public forum on equality and anti-discrimination law was organised. The KHRC prepared and disseminated an advisory on Article 59 and held strategic meetings with the National Council for Persons with Disabilities (NCPWD) and Parliamentary Committee on Equal Opportunities to posit the KHRC's position that there should be one human rights and equality commission. The KHRC also continues to pursue the case on equal citizenship rights for Northern Kenyans

The KHRC held an advocacy and training workshop for lawyers on CADL. Early in 2011 a public forum on equality and anti-discrimination law was organised.

The Constitutional requirement that the Kenya National Human Rights and Equality Commission (KNHREC) must be in place by August 2011 is in our favour.

**Difficulties, Solutions and Opportunities:** KHRC believes that there is a need for one CADL and for one equality and human rights national commission. With one area of law and one institution this will ensure that people know where to look for support when their rights are violated. At the same time, it will be easier to ensure that those experiencing violations receive a joined up response. However, this stance is controversial and some sections of civil society believe that the gender and equality commission should remain separate so that the rights of women are not submerged within a larger commission. There is also a problem of territory and job protectionism amongst those currently working with the two commissions. A third position is that the two commissions should remain separate for the next few years and then merge. Owing to the controversial nature of KHRC's view resistance to merging the commissions has been considerable. The Constitutional requirement that the Kenya National Human Rights and Equality Commission (KNHREC) must be in place by August 2011 is in our favour. However, scheduling meetings with key players to give recommendations on its formulation has still been challenging.

Owing to financial challenges it was not possible to train lawyers practicing outside Nairobi on CADL and it was not possible to support representatives from outside Nairobi to travel to attend the public forum.

**Next Steps:** The KHRC will furnish the lawyers we trained with any additional and new information on the development of the law. The KHRC will also identify cases on equality and

anti-discrimination that can be taken up by the trained lawyers. We will push for the adoption of the core principles of a CADL on the basis of public support and attend meetings with other key recipients of the advisory. The KHRC is now ready to engage a draftsman to draft an Equality Bill on the basis of the core principles developed.

## 2.10. Kenya Human Rights Institute



ICC officials consulting with Muthoni Wanyeki (right) and Javas Bigambo of Kenya Human Right Institute (KHRI) during the KHRI Conference on ICC and Complimentarity, November 2010.

**Activities and Results:** The KHRI undertook to conclude the series of human rights colloquia and produce policy briefs or publications on the same. It also committed to a joint research project with the Stockholm International Peace Research Institute on the role of external actors in security sector reform which is now complete. In the period under review, work undertaken included a roundtable to discuss a policy brief on corruption, which was later published. KHRI created awareness about the nexus between anti-corruption and human rights norms. The policy brief was produced and disseminated. A study on

the LGBTI community and human rights was completed and a roundtable to discuss it was also conducted.

**Difficulties, Solutions and Opportunities:** The KHRI has made efforts to become financially sustainable but it is still looking for a suitable Dean to give impetus and strategic direction.

**Next Steps:** Recruiting a Dean for the KHRI, to provide direction, energy and leadership, will be a top priority for the KHRC's Board in the coming year.

## 2.11. Sustainability and Programme Effectiveness

The KHRC continues to use Results Based Management (RBM), Most Significant Change (MSC) and Accountability, Learning and Planning System (ALPS) as its approaches to monitoring and evaluation (M&E). The Norwegian Embassy also conducted a useful organisation evaluation of the KHRC.

As the KHRC draws to the end of its 2008-2012 strategic plan an independent, external evaluation will be commissioned to consider the extent to which the KHRC achieved its strategic objectives. The evaluation will also consider how relevant, efficient, effective and sustainable programmes were and what long term results they achieved. Recommendations from the evaluation will help with development of the Strategic Plan 2012-2016. A baseline and a Knowledge Attitude and Practice (KAP) study will be conducted in schools in five constituencies so that the KHRC can better measure the long term results of its work.

The KHRC has been fortunate enough to build relationships with a wide range of funders that strive with us to build a human rights state and society. In fact, 17 grantmakers supported

the KHRC in the past year. This enabled the KHRC to work in partnership with marginalised communities and groups in Kenya to achieve major improvements in their enjoyment of rights.

Many of the KHRC's partners choose to make donations towards our operational plan (core funding). This income is incredibly important as it gives us the flexibility and independence to respond quickly to those suffering human rights abuses. Some of our partners prefer to fund specific projects. In these cases, the KHRC identifies suitable projects which fulfill both the KHRC's objectives and those of our partners.

We are hoping to build on our existing network of partners. Are you a trustee? Do you have links with a grant making institution? Maybe you can help. For more information please contact Julie Kingsland, the KHRC's Senior Programme Officer (SPO) M&E and Resource Mobilisation at [jkingsland@khrc.or.ke](mailto:jkingsland@khrc.or.ke)



### 3. THANK YOU:

The KHRC would like to thank the following grantmakers for their support:

- Akiba Uhaki
- Ausaid
- Canadian International Development Agency (CIDA)
- Christian Aid
- Danish International Development Agency (DANIDA)
- Department for International Development (DfID) through the Equal Rights Trust (ERT)
- Embassy of Finland
- Embassy of Switzerland
- Ford Foundation
- Open Society Initiative for Eastern Africa (OSIEA)
- Royal Netherlands Embassy
- Swedish International Development Agency (SIDA)
- Stichting Ondoerzoek Multinationale Ondernemingen (SOMO)
- Trocaire
- United Nations Development Programme (UNDP) through Amkeni wa Kenya
- United Nations Voluntary Fund for Torture Victims (UNVFTV)
- UN WOMEN

# The Winning Team



1



2



3



4



5

1. The KHRC won the Civil Society of the Year Awards (CSOYA) award for best performing civil society Organisation that delivered according its mandate in 2010. The awards were organised by CRECO
2. A staff team working together during the annual Operational Planning retreat
3. Staff in a team building session
4. KHRC's Uwazi Cup football team 2010 organised by ICJ Kenya
5. The team celebrates 1<sup>st</sup> runner up in the Uwazi Cup tournament, 2010

Kenya Human Rights Commission

FINANCIAL  
STATEMENTS

2010-2011

For The Year Ended 31 March 2011



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## COMMISSION INFORMATION

For the year ended 31 March 2011

### 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
Mumina Konso	- Member
Karuti Kanyinga	- Member
Davinder Lamba	- Member
Tade Aina	- Member

### REGISTERED OFFICE

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

### PRINCIPAL PLACE OF BUSINESS

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

### AUDITORS

PKF Kenya  
Certified Public Accountants  
P.O. Box 14077, 00100  
NAIROBI

### PRINCIPAL BANKERS

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

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

### SOLICITORS

Waruhiu Kowade & Ng'ang'a Advocates  
Taj Towers 4th, Floor Wing B  
Upperhill Road  
P.O. Box 47122, 00100  
NAIROBI

# REPORT OF THE DIRECTORS

For the year ended 31 March 2011

The directors submit their report and audited financial statements for the year ended 31 March 2011, 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 Organisation (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
- Organisational sustainability of KHRC

## 3. RESULTS

The results for the year are set out on page 44.

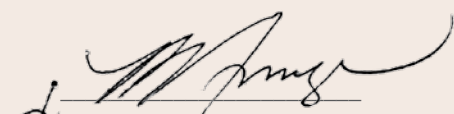
## 4. DIRECTORS

The directors who held office during the year and up to the date of this report are shown on page 40.

## 5. AUDITOR

The independent auditor, PKF Kenya, have expressed their willingness to continue in office.

By order of the Board



Professor Makau Wa Mutua  
Chair of the Board of Directors

14 June 2011



## STATEMENT OF DIRECTORS' RESPONSIBILITIES

*For the year ended 31 March 2011*

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.

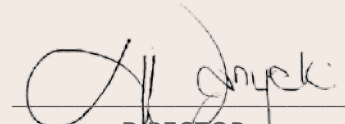
The directors are of the opinion that the financial statements give a true and fair view of the state of the financial affairs of the organisation as at 31 March 2011 and of its operating results for the year then ended. The directors further confirm the accuracy and completeness of the accounting records 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 14 June 2011 and signed on its behalf by:



DIRECTOR



DIRECTOR

# INDEPENDENT AUDITOR'S REPORT

For the year ended 31 March 2011

## TO THE MEMBERS OF KENYA HUMAN RIGHTS COMMISSION

We have audited the accompanying financial statements of Kenya Human Rights Commission, set out on pages 44 to 64 and which comprise the statement of financial position as at 31 March 2011 and the statement of comprehensive income, statement of changes in fund balance and statement of cash flows for the year then ended, and a summary of significant accounting policies and other explanatory information.

### Directors' responsibility for the financial statements

The directors are responsible for the preparation of financial statements that give a true and fair view accordance with International Financial Reporting Standards and the requirements of the Non Governmental Organisation Co-ordination Act, and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

### Auditor's responsibility

Our responsibility is to express an 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 about 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 judgment, including the assessment of the risks 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 financial position of the Kenya Human Rights Commission as at 31 March 2011 and of its financial performance and its cash flows for the year then ended in accordance with International Financial Reporting Standards.

*PKF Kenya*  
Certified Public Accountants  
PIN NO. P051130467R  
NAIROBI

23 June 2011

460/11

## STATEMENT OF COMPREHENSIVE INCOME

For the year ended 31 March 2011

	Note	2011 Shs	2010 Shs
<b>INCOME</b>			
Revenue Grant income	1	135,725,105	163,475,286
Amortisation of capital grant	9(b)	1,658,347	1,098,007
Interest income		327,740	2,196,302
Sales of publications		124,249	174,901
KHRC Premises		-	375,643
Other income	2	11,471,384	3,292,209
		<b>149,306,825</b>	<b>170,612,348</b>
<b>EXPENDITURE</b>			
Civic Action for Human Rights		29,297,116	40,578,372
Accountability and human rights-centred governance		43,855,395	52,314,947
Leadership in learning and innovation in human rights and democratic development in Kenya		5,147,742	11,268,224
Mainstreaming equality, non discrimination and respect for diversity		3,628,288	4,780,483
Organisational sustainability of KHRC		5,455,611	6,915,488
Staff costs	4	45,743,618	37,729,552
Administration costs		9,939,029	9,502,145
Depreciation		1,970,847	1,098,007
Total expenditure		<b>145,037,646</b>	<b>164,187,218</b>
<b>SURPLUS FOR THE YEAR</b>	<b>3</b>	<b>4,269,179</b>	<b>6,425,130</b>
<b>TOTAL COMPREHENSIVE INCOME</b>		<b>4,269,179</b>	<b>6,425,130</b>
Comprising of:			
Restricted Fund		2,441,693	763,605
Transfer to General Fund		1,827,486	5,661,525
		<b>4,269,179</b>	<b>6,425,130</b>

The significant accounting policies on pages 48 to 51 and the notes on pages 52 to 64 form an integral part of these financial statements. Independent auditor's report - page 43.

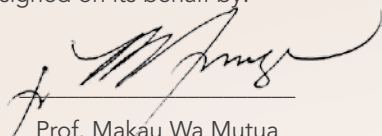


# STATEMENT OF FINANCIAL POSITION

As at 31 March 2011

	Note	2011 Shs	2010 Shs (Restated)	2009 Shs (Restated)
<b>NON CURRENT ASSETS</b>				
Property and equipment	6	4,054,519	2,061,418	2,805,625
<b>CURRENT ASSETS</b>				
Debtors	7	1,015,780	808,990	6,600,171
Cash and cash equivalents	8	88,326,592	70,013,174	66,072,082
Grant receivables	9(a)	10,408,652	5,205,825	2,450,444
		99,751,024	76,027,989	75,122,697
<b>TOTAL ASSETS</b>		<b>103,805,543</b>	<b>78,089,407</b>	<b>77,928,322</b>
<b>FUND BALANCES</b>				
General fund balance		21,262,996	19,435,510	14,149,628
KHRC premises fund		10,375,643	10,375,643	10,000,000
Restricted Fund		2,441,693	763,605	129,898
		34,080,332	30,574,758	24,279,526
<b>CURRENT LIABILITIES</b>				
Deferred income	9(a)	50,173,757	27,393,191	29,364,804
Capital grants	9(b)	3,117,019	2,061,418	2,805,625
Payables	10	16,434,435	18,060,040	21,478,367
		69,725,211	47,514,649	53,648,796
<b>TOTAL FUND BALANCES AND LIABILITIES</b>		<b>103,805,543</b>	<b>78,089,407</b>	<b>77,928,322</b>

The financial statements on pages 5 to 22 were authorised for issue by the Board of Directors on 14 June 2011 and signed on its behalf by:

  
 Prof. Makau Wa Mutua  
 Chair of the Board of Directors

  
 Ms. Muthoni Wanyeki  
 Executive Director

The significant accounting policies on pages 48 to 51 and the notes on pages 52 to 64 form an integral part of these financial statements. Independent auditor's report - page 43.

## STATEMENT OF CHANGES IN FUND BALANCE

For the year ended 31 March 2011

	Capital grants Shs	General fund Shs	KHRC Premises fund Shs	Restricted Fund Shs	Total Shs
<b>Year ended 31 March 2010</b>					
Balance at 1 April 2009					
As previously stated	2,805,625	14,149,628	10,000,000	129,898	27,085,151
Transfer to liabilities	(2,805,625)	-	-	-	(2,805,625)
As Restated	-	14,149,628	10,000,000	129,898	24,279,526
Total Comprehensive income		6,425,130	-	-	6,425,130
Transfer to restricted Income		(763,605)	-	763,605	-
Transfer to KHRC premises Fund		(375,643)	375,643	-	-
Funds utilized		-	-	(129,898)	(129,898)
Balance at 31 March 2010		19,435,510	10,375,643	763,605	30,574,758
<b>Year ended 31 March 2011</b>					
Balance at 1 April 2010	-	19,435,510	10,375,643	763,605	30,574,758
Total Comprehensive income		4,269,179	-	-	4,269,179
Transfer to restricted Income		(2,441,693)		2,441,693	-
Transfer from restricted Income		-	-	-	-
Transfer to KHRC premises Fund		-	-	-	-
Additions		-	-	-	-
Amortisation		-	-	-	-
Funds utilized		-	-	(763,605)	(763,605)
Balance at 31 March 2011	-	21,262,996	10,375,643	2,441,693	34,080,332

The significant accounting policies on pages 48 to 51 and the notes on pages 52 to 64 form an integral part of these financial statements. Independent auditor's report - page 43.

# STATEMENT OF CASH FLOWS

For the year ended 31 March 2011

	Notes	2011 Shs	2010 Shs
<b>Operating activities</b>			
Cash from operations	11	3,591,307	4,157,580
Interest received		327,740	2,196,302
Net cash from operating activities		3,919,047	6,353,882
(Increase)/decrease in debtors		(206,790)	5,791,181
Increase in grants receivable		(5,202,827)	(2,755,381)
Increase/(decrease) in deferred income		22,780,566	(1,971,613)
Decrease in creditors		(1,625,605)	(3,418,327)
Increase/(Decrease) in capital grants		1,055,601	(744,207)
Net cash from operating activities		20,719,992	3,255,535
<b>Cash flow from investing activities</b>			
Cash purchases of property and equipment	6	(3,963,948)	(353,800)
Proceeds from disposal of property and equipment		900,000	1,185,400
Net cash (used) in/ from investing activities		(3,063,948)	831,600
Increase in cash and cash equivalents		17,656,044	4,087,135
<b>Movement in cash and cash equivalents</b>			
At start of year		70,013,174	66,072,082
Increase		17,656,044	4,087,135
Foreign exchange Gain/(loss)		657,374	(146,043)
At end of year	8	88,326,592	70,013,174

The significant accounting policies on pages 48 to 51 and the notes on pages 52 to 64 form an integral part of these financial statements. Independent auditor's report - page 43.



## NOTES: SIGNIFICANT ACCOUNTING POLICIES

*For the year ended 31 March 2011*

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 applicable and mandatory for the entity's accounting periods beginning on or after 1 January 2010:

IAS 36 (amendment), 'Impairment of assets', effective 1 January 2010

IAS 24 (revised), 'Related party disclosures' effective 1 January 2011

### **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 Organisations' right to receive the funds is established. Capital grants are amortised to income over the useful life of the related fixed assets. Income from investments in treasury bills, fixed deposits, sale of publications is recognised when it is earned.

### **c) Expenditure**

Expenditure comprises expenses incurred directly for programme activities.

### **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) 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.

### **g) 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 using the straight line method to write down the cost of the property to its residual value over its estimated useful life using the following annual rates:

# NOTES: SIGNIFICANT ACCOUNTING POLICIES

For the year ended 31 March 2011

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

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

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

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

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

## h) Impairment of non-financial assets

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

An impairment loss is recognised for the amount by which the asset's carrying amount exceeds its recoverable amount. The recoverable amount is the higher of an asset's fair value less costs to sell and value in use. For the purposes of assessing impairment, assets are grouped at the lowest levels for which there are separately identifiable cash flows (cash-generating units). Non-financial assets that suffered an impairment are reviewed for possible reversal of the impairment at each statement of financial position date.

## i) Financial instruments

### Financial assets

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

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

## NOTES: SIGNIFICANT ACCOUNTING POLICIES

*For the year ended 31 March 2011*

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

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

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

### Financial liabilities

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

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

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

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

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

### k) Cash and cash equivalents

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

### l) Capital grants

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

### m) KHRC premises fund

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



# NOTES: SIGNIFICANT ACCOUNTING POLICIES

For the year ended 31 March 2011

## n) Withholding tax

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

## o) Employee entitlements

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

## p) Retirement benefit obligations

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

The 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 the current year. In conformity with recent changes to International Accounting Standard (IAS) No.1, three statements of financial position have also been presented because of the reclassification of capital grants from fund balances to current liabilities.

For the year ended 31 March 2011

	2011 Shs	2010 Shs
1. REVENUE GRANT INCOME		
NORWEGIAN EMBASSY	15,894,295	33,985,928
DANIDA	20,033,870	30,063,477
FORD FOUNDATION	14,900,698	23,724,690
TROCAIRE	13,667,876	14,271,109
SIDA Thr' UNDP	2,260,629	12,739,371
URAIA	-	8,287,501
CIDA	11,072,252	7,155,513
FINNISH	10,186,000	7,140,000
UNIFEM	1,153,936	5,464,888
AMKENI Wa KENYA	7,500,000	-
AUSAID	7,097,653	-
SIDA	11,645,152	-
CHRISTIAN AID	5,944,120	4,042,272
UNVFVT	138,288	3,844,169
RNE	10,177,159	3,698,618
SWISS	679,900	2,982,128
OSIEA	1,121,024	2,903,110
ERT (DFID)	3,710,465	1,776,732
SOMO 3		505,888
SOMO 2	242,718	129,898
OTHERS	-	483,912
RHRA	183,728	372,670
OXFAM	-	257,212
UHAI	810,090	-
AKIBA UHAKI	19,200	
Total Grant Income (Note 9)	138,439,053	163,829,086
Less: Amounts utilised for capital acquisition (Note 9(b))	(2,713,948)	(353,800)
	135,725,105	163,475,286

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

# NOTES

For the year ended 31 March 2011

	2011 Shs	2010 Shs
<b>2. OTHER INCOME</b>		
Project hosting fees	8,980,047	757,500
Foreign exchange gain/(loss)	657,374	(146,043)
Bank interest	871,038	476,927
Miscellaneous income	962,925	2,203,825
	<b>11,471,384</b>	<b>3,292,209</b>

	2011 Shs	2010 Shs
<b>3. SURPLUS</b>		
The following items have been charged in arriving at surplus for the year:		
Staff costs (Note 4)	45,743,618	37,729,552
Directors' remuneration	8,869,751	5,147,008
Depreciation on property & equipment (Note 6)	1,970,847	1,098,007

	2011 Shs	2010 Shs
<b>4. STAFF COSTS</b>		
Salaries	39,021,174	32,033,738
Medical insurance	2,448,344	1,889,787
Provident fund contributions	3,499,266	2,924,051
Group personal insurance	268,921	461,046
Group Life insurance	171,460	-
Leave accrual	133,483	377,530
Welfare	155,570	-
NSSF contributions	45,400	43,400
	<b>45,743,618</b>	<b>37,729,552</b>



## NOTES

For the year ended 31 March 2011

	2011 Shs	2010 Shs (Restated)	2009 Shs (Restated)
<b>5 RESERVES</b>			
General fund	21,262,996	19,435,510	14,149,628
KHRC Premises fund	10,375,643	10,375,643	10,000,000
Restricted fund	2,441,693	763,605	129,898
<b>Total reserves</b>	<b>34,080,332</b>	<b>30,574,758</b>	<b>24,279,526</b>
<b>General fund</b>			
At start of year	19,435,510	14,149,628	10,729,878
Surplus for the year	1,827,486	5,285,882	3,419,750
At end of year	21,262,996	19,435,510	14,149,628

This fund represents accumulated surpluses from other income other than restricted funds.

The reserves are to build up capital base so as to increase the stability of the commission overtime

	2011 Shs	2010 Shs (Restated)	2009 Shs (Restated)
<b>KHRC Premises fund</b>			
At start	10,375,643	10,000,000	10,000,000
Additions during the year	-	375,643	-
At end of year	10,375,643	10,375,643	10,000,000

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

	2011 Shs	2010 Shs	2009 Shs
<b>Restricted fund</b>			
At start of year	763,605	129,898	388,768
Transfer to restricted Income	2,441,693	763,605	-
Funds utilised	(763,605)	(129,898)	(258,870)
At end of year	2,441,693	763,605	129,898

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

# NOTES

For the year ended 31 March 2011

## 6. PROPERTY AND EQUIPMENT

Year ended 31 March 2011

	Prefabs Shs	Furniture and fittings Shs	Office equipment Shs	Motor vehicles Shs	Computers Shs	Total Shs
<b>Cost</b>						
At 1 April 2010	2,424,716	2,524,929	7,475,170	7,838,925	9,579,543	29,843,283
Additions	-	175,253	235,625	3,050,000	503,070	3,963,948
Disposals	-	-	-	(4,528,325)	-	(4,528,325)
At 31 March 2011	2,424,716	2,700,182	7,710,795	6,360,600	10,082,613	29,278,906
<b>Depreciation</b>						
At 1 April 2010	2,424,716	2,023,366	6,938,648	7,023,925	9,371,210	27,781,865
Charge for the year	-	235,537	247,953	1,170,000	317,357	1,970,847
Reversal on Disposal	-	-	-	(4,528,325)	-	(4,528,325)
At 31 March 2011	2,424,716	2,258,903	7,186,601	3,665,600	9,688,567	25,224,387
<b>Net book value</b>	-	441,279	524,194	2,695,000	394,046	4,054,519

Year ended 31 March 2010

	Prefabs Shs	Furniture and fittings Shs	Office equipment Shs	Motor vehicles Shs	Computers Shs	Total Shs
<b>Cost</b>						
At 1 April 2009	2,424,716	2,401,129	8,151,970	10,115,825	9,403,543	32,497,183
Additions	-	123,800	54,000	-	176,000	353,800
Reversal on Disposal	-	-	(730,800)	(2,276,900)	-	(3,007,700)
At 31 March 2010	2,424,716	2,524,929	7,475,170	7,838,925	9,579,543	29,843,283
<b>Depreciation</b>						
At 1 April 2009	2,424,716	1,809,738	7,429,040	8,893,325	9,134,739	29,691,558
Charge for the year	-	213,628	240,408	407,500	236,471	1,098,007
Reversal on Disposal	-	-	(730,800)	(2,276,900)	-	(3,007,700)
At 31 March 2010	2,424,716	2,023,366	6,938,648	7,023,925	9,371,210	27,781,865
<b>Net book value</b>	-	501,563	536,522	815,000	208,333	2,061,418

For the year ended 31 March 2011

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

## 7. DEBTORS

	2011 Shs	2010 Shs	2009 Shs
Staff advances	546,040	537,666	1,952,377
Other debtors	100,000	271,324	4,239,970
Prepaid expenses	42,000	-	19,184
Interest receivable	327,740	-	388,640
	1,015,780	808,990	6,600,171

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

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

There is no concentration of risk since amount receivable are held by several parties.



## NOTES

For the year ended 31 March 2011

### 8. CASH AND CASH EQUIVALENTS

For purposes of the statement of cash flows, cash and cash equivalents comprise :-

	2011 Shs	2010 Shs	2009 Shs
Bank and cash balances	40,906,953	70,013,174	37,256,227
Fixed deposit	45,000,000	-	28,815,855
Unaccounted Travel advances	2,419,639		-
	<u>88,326,592</u>	<u>70,013,174</u>	<u>66,072,082</u>

In the opinion of the directors, the organisation's cash and bank balances are held with major Kenyan financial institutions and, insofar as the directors are able to measure any credit risk to these assets, it is deemed to be limited.

The carrying amounts of the company's cash and cash equivalents are denominated in the following currencies:

	2011 Shs	2010 Shs	2009 Shs
Kenya Shillings	85,290,238	68,333,606	65,780,109
US Dollar	255,813	253,675	85,988
Euro	162,051	1,425,893	205,985
UK Pound	2,618,490	-	-
	<u>88,326,592</u>	<u>70,013,174</u>	<u>66,072,082</u>



# NOTES

For the year ended 31 March 2011

## 9.(a) RESTRICTED FUND (CONTINUED)

Year ended 31 March 2011

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



## NOTES

For the year ended 31 March 2011

## 9.(a) RESTRICTED FUND (CONTINUED)

Year ended 31 March 2009

Donor	Balance	Prior year	Restated	Receipts	Transfer From	Reversed	Grant	Transfer to	Grant	Capital	Expended	Balance as
	Shs	Shs	Shs	Shs	Shs	Shs	Shs	Shs	Shs	Shs	Shs	Shs
as at 1 April 08	adjustment	balance	Shs	Shs	deferred Income	Accruals	Receivables	deferred Income	Income	Grants		at 31 March 09
Shs	Shs	Shs	a	b	c	d	e	f	g=(a+b+c+d+e-f)	h	i	j=(g-h-i)
DANIDA	-	-	29,310,671	-	1,948,771	280,800	-	3,141,383	28,398,859	790,514	27,608,345	-
FINNISH	-	-	7,840,000	-	-	4,900	-	-	7,844,900	-	7,844,900	-
Ford Foundation	-	-	28,776,562	-	665,045	-	-	18,826,246	10,615,361	360,000	10,255,361	-
Ford IIE	-	241,110	-	-	-	-	-	-	241,110	-	241,110	-
Norwegian Embassy	-	-	18,071,493	-	-	-	-	-	18,071,493	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
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	-	-	553,398	741,449	-	741,449	-
OSIEA	-	-	3,912,103	-	-	-	-	161,611	3,750,492	-	3,750,492	-
SWISS	-	-	3,455,232	-	-	-	-	2,442,241	1,012,991	-	1,012,991	-
UNIFEM	-	-	5,914,463	-	-	-	2,426,190	-	8,340,653	-	8,340,653	-
URAI A	-	-	4,717,000	-	-	-	-	3,570,501	1,146,499	-	1,146,499	-
OTHERS	-	-	577,700	-	-	-	-	412,212	165,488	-	165,488	-
Grand total	-	388,768	388,768	135,841,345	7,177,092	404,964	2,450,444	29,364,804	116,897,809	2,577,514	114,190,397	129,898

	2011	2010	2009
	Shs	Shs	Shs
Deferred income	50,173,757	27,393,191	29,364,804
Grant receivable	10,408,652	5,205,825	2,450,444

# THE Organisation

For the year ended 31 March 2011

	2011 Shs	2010 Shs	2009 Shs
<b>9.(b) CAPITAL GRANTS</b>			
Cost			
At start of year	32,850,983	32,497,183	29,919,669
Additions	2,713,948	353,800	2,577,514
At end of year	35,564,931	32,850,983	32,497,183
Amortisation			
At start of year	30,789,565	29,691,558	26,981,843
Transfer to income	1,658,347	1,098,007	2,709,715
At end of year	32,447,912	30,789,565	29,691,558
	3,117,019	2,061,418	2,805,625

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

## 10. PAYABLES

Accrued expenses	13,549,207	10,212,285	11,319,260
KHRC projects	2,456,673	5,149,974	6,760,574
Report and IEC materials	-	2,049,966	2,066,404
Other Creditors	428,555	647,815	1,007,329
	-	-	324,800
	16,434,435	18,060,040	21,478,367

In the opinion of the directors, the carrying amounts of creditors approximate to their fair value.

The maturity analysis of creditors is as follows:

	0 to 1 month Shs	Total Shs
Other accrued expenses	13,549,207	13,549,207
Other Creditors	428,555	428,555
KHRC projects	2,456,673	2,456,673
	16,434,435	16,434,435

For the year ended 31 March 2011

## 11. CASH GENERATED FROM OPERATIONS

	2011 Shs	2010 Shs
Surplus for the year	4,269,179	6,425,130
Adjustment for:		
Depreciation	1,970,847	1,098,007
Foreign Exchange gain/loss	(657,374)	146,043
Gain on disposal of property and equipment	(900,000)	(1,185,400)
Adjustment of restricted income or prior year	(763,605)	(129,898)
Interest income	(327,740)	(2,196,302)
Operating surplus before working capital changes	3,591,307	4,157,580

## 12. RELATED PARTY TRANSACTIONS

	2011 Shs	2010 Shs
(i) Key management compensation		
Short-term employee benefits	8,869,751	5,147,008
(ii) Staff Advances		
As at 31 March 2011, balances outstanding in the advance to staff account amounted to Kshs 546,040 (2010: Kshs 537,667). These represents interest free short-term advances recoverable within two years.		

## 13. COMMITMENTS

Contractual commitments for the acquisition of property and equipment

	2011 Shs	2010 Shs
Property and equipment	2,607,500	9,405,500

## Operating lease commitments

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

	2011 Shs	2010 Shs
Falling due within one year	2,332,620	2,226,585
Falling due between one and five years	1,060,272	1,166,307
	3,392,892	3,392,892



# NOTES

For the year ended 31 March 2011

## 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 and monitored 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 2011

	US \$	Euro	UK Pound	Total
Effect of surplus/(deficit)				
Increase	25,581	16,205	261,849	303,635

	US \$	Euro	UK Pound	Total
Effect of surplus/(deficit)				
Increase	142,589	25,365	-	167,954

### Year 2010

## 15. RISK MANAGEMENT OBJECTIVES AND POLICIES

### Interest rate risk

The commission is exposed to fair value interest rate risk as the interest earned on its fixed deposits is fixed at the time of deposit. At 31 March 2011, if the interest had been 1% point higher with all other variables held constant, surplus for the year would have been Shs. 21,963 (2010: Shs 1,407) higher.

## 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.

## NOTES

*For the year ended 31 March 2011*

17. EMPLOYEES

The number of employees at the end of the year was 21 (2010:20)

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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