



KENYA HUMAN RIGHTS
COMMISSION

ANNUAL REPORT

APRIL 2013 TO MARCH 2014

Organizational Goal (2013-2014):

Enhancing Human Rights-Centred Governance At All Levels

KENYA HUMAN RIGHTS COMMISSION
Postal Address: 41079 00 100, Nairobi
Opposite Valley Arcade, Gitanga Road,
P.O. Box: 41079, 00100 GPO, Nairobi, Kenya.
Tel: +254-(0)20-3874998/9 3876065/6
Fax: +254-(0)20-3874997
Email: admin@khrc.or.ke
Website: <http://www.khrc.or.ke>

TABLE OF CONTENTS

STRUCTURE OF THE REPORT	10
CHAPTER 1: INTRODUCTION.....	12
CHAPTER TWO: CIVIL AND POLITICAL RIGHTS PROGRAMME	14
CHAPTER THREE: ECONOMIC AND SOCIAL RIGHTS PROGRAMME	53
CHAPTER FOUR: EQUALITY AND NON-DISCRIMINATION(END)	71
CHAPTER FIVE: INSTITUTIONAL DEVELOPMENT AND SUSTAINABILITY (IDS) PROGRAMME	85

LIST OF ACRONYMS AND ABBREVIATIONS

ACCA	Africa Coalition on Corporate Accountability
ACHPR	African Commission on Human and Peoples' Rights
AfCHPR	African Court on Human and Peoples' Rights
AfDB	African Development Bank
AG	Attorney General
AGM	Annual General Meeting
ALFA	Agriculture, Livestock and Fisheries Act
ASALs	Arid and Semi-Arid Lands
ASP	Assembly of State Parties to the Rome Statute
ATJF	Africa Union Transitional Justice Policy Framework
ATPU	Anti-Terrorism Police Unit
AU	African Union
BGM	Bi-Annual General meeting
CAJ	Commission on Administrative Justice
CAJ	Commission on Administrative Justice
CBA	County Based Assemblies
CDF	Constituency Development Funds
CIC	Commission on Implementation of the Constitution
COK	Constitution of Kenya
COMESA	Common Market for Eastern and Southern Africa
CORD	Coalition for Reforms and Democracy
CPR	Civil and Political Rights
CRA	Commission on Revenue Allocation
CSOs	Civil Society Organizations
DDR	Dis-armament, De -mobilization and Re - integration
EAC	East African Community
EACC	Ethics and Anti-Corruption Commission
EJEs	Extra-Judicial Executions
END	Equality and Non-Discrimination
EPAs	Economic Partnership Agreements
ER-SP	Economic Rights and Social Protection
FCR	Full Cost Recovery
FIDH	International Federation for Human Rights
FIFO	Fisher Folk Forum
GII	Gender Inequality Index
GoK	Government of Kenya
HDI	Human Development Index
HDR	Human Development Report
HRBA	Human Rights Based Approach
HRC	Human Rights Committee
HURINETS	Human Rights Networks
ICC	International Criminal Court
ICESCRs	International Convention on Economic, Social and Cultural Rights

ICT	Information Communication Technology
IDS	Institutional Development and Sustainability
IDAHO	International Day Against Homophobia
IDPAC	Internal Displacement Policy and Advocacy Centre
IDPs	Internally Displaced Persons
IEBC	Independent Electoral and Boundaries Commission
IGP	Inspector General of Police
IHRD	International Human Rights Day
IIRA	Incidents, Impact and Redress Assessment
IMF	International Monetary Fund
IRM	Independent Review Mechanism
KANU	Kenya African National Union
KBC	Kenya Broadcasting Corporation
KDF	Kenya Defence Forces
KENSGU	Kenya National Sugarcane Growers Union
KESGA	Kenya Sugar Cane Growers Association
KHRC	Kenya Human Rights Commission
KNCHR	Kenya National Commission on Human Rights
KPTJ	Kenyans for Truth, Peace and Justice
KSG	Kenya Sugar Board
KSSF	Kenya Small Scale Farmers Association
KTJN	Kenya Transitional Justice Network
KTN	Kenya Television Network
LAPSSET	Lamu Port Southern Sudan- Ethiopia Transport
LGBTI	Lesbian, Gay, Bi-Sexual, Trans-Gender and Inter-Sex
MAMBO	<i>Matunda na Mboga</i> Association
MDGs	Millennium Development Goals
MMWVA	Mau Mau War Veterans Association
MOV	Means of Verification
MPI	Multi-dimensional Poverty Index
NCCC	National Consultative Coordination Committee
NCCK	National Council of Churches of Kenya
NCHRds	National Coalition for Human Rights Defenders
NGEC	National Gender and Equality Commission
NGO	Non-Governmental Organization
NGOMA	<i>Ng'ombe na Mahindi</i> Association
NIS	National Intelligence Service
NLC	National Land Commission
NPS	National Police Service
NPSC	National Police Service Commission
OECD	Organisation for Economic Co-operation and Development
OHCHR	Office of the High Commissioner on Human Rights
OSIEA	Open Society Institute of East Africa
PEV	Post-Election Violence
PIL	Public Interest Litigation
PWDs	People With Disabilities

RECs	Regional Economic Communities
SALWs	Small Arms and Lightweight Weapons
SAWA	<i>Sauti ya Wafugaji</i>
SGBV	Sexual and Gender-Based Violence
SMART	Specific, Measurable, Attainable, Realistic and Time-Bound
SPO	Senior Programme Officer
SRC	Salaries and Remuneration Commission
SSR	Security Sector Reforms
SUCAM	Sugar Campaign for Change
TA	Transitional Authority
TJRC	Truth, Justice and Reconciliation Commission
TOT	Trainer of Trainers
TUM	Trade Union Movement
UN	United Nations
UNECOSOC	United Nations Economic and Social Council
UNHRAC	United Nations Human Rights Council Advisory Committee
UNSC	United Nations Security Council
UPR	Universal Periodic Review
VPRS	Victims Participation and Reparations Section

GLOSSARY OF TERMS

<i>Mau Mau</i>	Freedom Fighters and War Veterans Involved in the struggle for independence between 1952 to 1963.
<i>Wazees</i>	Kiswahili for old men and women.
HOYMAS	A group of community and human rights-based organization/s for sexual workers
MAMBO	<i>Matunda na Mboga</i> Association (Fruit and Vegetable Association)
NGOMA	<i>Ng'ombe na Mahindi</i> Association (Cattle and Maize Association)
SAWA	<i>Sauti ya Wafugaji</i> (Voice of Pastoralists)

ACKNOWLEDGEMENTS

The year 2014 marks the 23rd anniversary since the formation and incorporation of the Kenya Human Rights Commission (KHRC) in the United States of America and the 20th anniversary of our existence and operations in Kenya.

Those years have seen the Commission grow and become one of the premier civil society organizations working in the fields of human rights and democratic governance in Africa.

For the inordinate achievements realized and countless challenges overcome from 1991 to date, we wish to acknowledge the support received from different actors and partners. These are not presented in any order of priority and importance.

First, the unambiguous and strategic direction received from our board of directors (both the former and current). These include current- Prof. Makau Mutua (Chair), Betty Murungi (Vice-chair), Prof. Karuti Kanyinga, Davinder Lamba and Maina Kiai who are current members, and past members- Mwambi Mwasaru, John Githongo, Tade Aina, Mumina Konso, Njeri Kabeberi.

Second, the unequivocal commitment and resolve exhibited by our staff members in the delivery of our mandate.

Third, is the effective technical back-up received from our interns, associates and consultants; and *fourth*, the unrivalled solidarity and resilience from our thirty, grassroots based Human Rights Networks..

Fifth, the unwavering amity and synergy from the civil society organizations community at county, national, regional and international levels.

Sixth, the incessant visibility and publicity owed to the support of the media.

Seventh, the political goodwill from the state, including but not limited to the complimentary and congenial relationship we have had with the constitutional commissions, independent offices, some line ministries, the East African Community, African Union, United Nations among others;

Eighth, the effective administrative support from our suppliers and service providers; and *ninth*,

The generous support from and sustained partnership with our development partners indicated below:

**Development
Partner**

Project/ Initiative

Amkeni UNDP

Access to Justice project

Christian Aid

Towards Building a Movement for Citizenship Rights in Kenya

Global Partners Digital	<i>Global Internet Freedom Program</i>
Misereor	<i>Peace and Security in Cattle Theft Prone Areas in Kenya</i>
Trocaire	<i>Governance and Human Rights programme: Public Participation in Devolved Governance</i>
CSVR/ Belgian Embassy	<i>The Peace Through Accountability in Africa Project (PTAAP)</i>
Traidcraft	<i>Kenya Horticulture - A Fair Deal for Small Farmers and Workers</i>
British High Commission	<i>Mau Mau Memorial Project</i>
DANIDA through the Drivers of Accountability Programme (DAP)	<i>Towards more accountable and Human Rights centred Governance project</i>
The Swedish Programme for ICT in Developing Regions SPIDER-	<i>Promoting Leveraging ICTs in Human Rights</i>
SIDA-CIPESA (Collaboration on ICT Policy In Eastern and Southern Africa)	<i>Promoting Open Government, Human Rights, Rights to Information and Civic Agency in Kenya</i>
Ford Foundation- Regional Office for Eastern Africa	<i>Institutional Sustainability & Equality of opportunities</i>
Ford Foundation- Regional Office for Eastern Africa	<i>General Support-Champions for Democracy Award and the Financial Sustainability Training</i>
Ford Foundation- Global Human Rights Initiative Fund	<i>Towards A Human Rights Based Constitutional and Democratic Culture in Africa</i>
Norwegian Embassy	Core funding towards the Operational plan entitled: Enhancing Human Rights-Centred Governance At All Levels.
UNFVT	<i>Campaign for Justice for February Eighteenth Movement torture victims & survivors</i>

UNWOMEN	<i>Protecting Women’s Rights to Political Representation and Participation</i>
FES	<i>A study on the Equitable Benefit Sharing of Natural Resources in Kenya</i>
GIZ	<i>Partnership on Transitional Justice and Human Rights Monitoring initiatives</i>
SOMO	<i>Human Rights and Grievance Mechanisms Project</i>
OSIEA	<i>Strategic Litigation at the East African Court of Justice to Promote Freedom of Movement in the Region for Human Rights Defenders</i>
INCLO/ OSF	<i>Response and Partnership on Emerging Civic Liberties Issues - Phased approach for the International Network of Civil Liberties Organizations (INCLO)</i>

Note: *Some of these partners manage funds mobilized from other donors. For instance, UNDP Amkeni programme which is funded by the European Union, Embassy of Sweden, the Kingdom of Netherlands and Embassy of Japan. Others are the SOMO, INCLO, UNFVT, DAP, GPD, SPIDER, CIPESA, Trocaire, Traidcraft, Miserior and Christian Aid Initiatives.*

STRUCTURE OF THE REPORT

The KHRC's draft **Planning, Learning, Monitoring and Reporting (PLMR) Framework/ Manual (September 2013)** provides organisationally agreed approaches and tools for managing programmatic work and documenting institutional results.

During the last twelve months, there has been both increased institutional demands and consensus on the need for an internal reporting tool and process that is simpler, concise and results based- mainly, focusing more on what has been achieved(results) and less on what has been done(activities).

Thus concerted effort has been made to ensure that these standards and expectations are met in this report. This means, therefore, that this report is by no means exhaustive and we would urge you to contact KHRC directly if you require further detail.

The report is broken down into five Chapters:

Chapter 1: Dedicated to the profile of the Kenya Human Rights Commission, a statement from the chairperson and a foreword from the Executive Director.

Chapter 2: Dedicated to the results achieved within the Civil and Political Rights Programme/ Theme (CPR).

Chapter 3: Dedicated to the results achieved within the Economic and Social Rights Programme/ Theme (ESR).

Chapter 4: Dedicated to the results achieved within the Equality and Non-Discrimination Programme/ Theme (END).

Chapter 5: Dedicated to the results achieved within the Institutional Development and Sustainability Programme/ Theme (IDS).

First, each thematic part presents the key results achieved. This includes but is not limited:

- The actual outcomes and impact (if any)-those planned within the OP and unplanned but were achieved out of the unforeseen and grasped opportunities.
- The rights holders/ sector networks involved and duty bearers influenced.

Second, it captures an overview of the initiative, key results achieved, challenges and difficulties experienced and next steps and further actions.

Basically, the report will explain what the KHRC did and what difference it made. Results will be presented to particularly capture duty bearers; a) commitments - statements, policies and laws, b) actions/efforts, and c) results for communities.

These correlate to the UN Office of the High Commission for Human Rights recommendations of using **structural, process and outcome** indicators of change.

At the same time, the KHRC wants to measure changes in community empowerment and changes in the relationship between duty bearers and rights holders. The former can be measured through the use of a power cube.

The latter will look at responsiveness, transparency, and changes to the structures/rules for decision making. In this way, the KHRC will be measuring results from the duty bearer (supply), rights holder (demand) and outcomes angles.

This report is dedicated to dozens of human rights defenders who suffered abominable human rights violations in the hands of state.

CHAPTER 1: INTRODUCTION

A. OUR HISTORY, VISION, MISSION AND SCOPE OF WORK

The Kenya Human Rights Commission (KHRC) is a premier and flagship non-governmental human rights and governance institution in Africa that was founded in 1991 and registered in Kenya in 1994. Its founders and staff are among the foremost leaders and activists in struggles for human rights and democratic reforms in Kenya.

We deal with human rights and social justice issues and situations at all levels in the society. The KHRC is a member of many influential networks at all levels in the society. We enjoy observer and consultative statuses with the African Commission on Human and People's Rights (ACHPR) and the United Nations Economic and Social Council (UNECOSOC).

KHRC works with thirty Human Rights Networks (HURINETS) and other grassroots based organisations in thirty counties; partners with more than thirty national level- state and non-state actors and coalitions; and more than fifty sub-regional, regional and international human rights organizations and networks.

Our work is grounded on our 2014/ 2018 Strategic Plan whose *Vision* is to *secure human rights states and societies* and the *Mission* is to *foster human rights, democratic values, human dignity and social justice*. This vision and mission will be driven by an overall goal and mandate of *enhancing human rights centred governance at all levels*.

Our interventions are inspired by an approach and belief in the *discourse and norms of human rights* (and complimented by *social justice* as the tools for advocacy and social transformation) and the *people* (as the agents of change and liberation struggles) at all levels in the society.

KHRC therefore espouses a holistic concept of human rights that straddles *civil and political rights* (as fundamental to political democracy); *economic and social rights* (as critical building blocks for social democracy); and *equality and non-discrimination* (both as integrated and specific interventions).

Our interventions are executed under four interdependent strategic objectives and thematic programmes: *Civil and Political Rights (CPR)*; *Economic and Social Rights (ESR)*; *Equality and Non-Discrimination (END)* and *Institutional Development and Sustainability (IDS)*. All the programmes are meant to synergise and to deliver at county, national, regional and global levels.

Our work is organized around various strategies namely: research, monitoring and documentation; legislative and policy advocacy; legal aid and public interest litigations; capacity building and networking with state and non-state actors; engaging in urgent action and rapid response to emerging issues; mainstreaming diversity and ensuring equality and non-discrimination; fostering media relations and publicity; monitoring and evaluation; and, enhancing institutional capacity and sustainability.

A review and an assessment of the Commission's work confirm that we are recognized for countless and remarkable capacities and achievements. It is on this basis that the Commission has received many awards and accolades. For details about the KHRC's achievements and awards, refer to the KHRC's strategic plan and website, www.khrc.or.ke.

CHAPTER TWO: CIVIL AND POLITICAL RIGHTS PROGRAMME

Overall Goal/ Strategic Objective:

Enhanced human rights-based cultures of constitutionalism, people-driven governance and responsive justice.

Below are the key projects implemented, results achieved, challenges experienced and the next phases of engagement for this thematic area.

1. Justice for Widows of Nyayo House Torture Victims and other Torture Victims:

i) Overview:

KHRC continues to pursue cases for compensation in favour of orphans and widows of Nyayo House torture victims. Ten out of the 18 cases selected for the current phase of litigation under the project have progressed to the substantive aspect of either filing and or actual proceedings.

A status conference was held between the lawyers and clients in October, 2013. Meanwhile, KHRC received progress reports for August 2013 from one of the two lawyers assigned the cases.

In August 2013, KHRC undertook a profiling exercise in Bungoma County to identify torture victims from the February 18 Movement also known as February Eighteenth Revolutionary Army(FERA) in order to establish whether there were viable cases that could be instituted on behalf of victims for compensation.

After the profiling exercise, an initial forum with the FERA victims was conducted at the end of October 2013, to explain the litigation process. This was followed by a field visit February 2014 to Bungoma to commence the process of drafting and filing petitions.

ii) Key Results Realized:

- First, the October 2013 status conference helped to secure a re-commitment by the clients to support their cases.
- Second, the initial profiling exercise and subsequent field visit to Bungoma yielded 38 potential case profiles with 17 petitions being drafted and filed before the High Court.
- Finally, at least four of the cases filed on behalf of the widows and orphans have proceeded to full hearing.

iii) Challenges/ Difficulties Experienced:

- Some of the current clients encountered difficulty in accessing some of the required documentation, such as letters in respect of the estate of the deceased torture victims

for whom compensation was being sought. Client commitment to the cases despite legitimate reasons remains varied and places considerable strain on the lawyers not to mention delaying project timelines.

- KHRC had to terminate a contract with one of its lawyers after he failed to submit progress reports and attend the October status conference. His cases have since been transferred to the remaining lawyer.
- While 38 case profiles have already been developed with respect to FERA, it is already apparent that the documentary evidence required to institute a case will not be easy to acquire for most victims. The October forum and subsequent field visit to Bungoma helped bridge some of the information gaps and saw at least 17 petitions drafted on site.

iv) Next Steps/Further Actions:

KHRC will continue to seek progress reports from the lawyers retained to undertake the cases and convene status conferences to update the clients. KHRC will further endeavour to have the 38 petitions with respect to the FERA cases filed at the High Court by April 2014.

2. Land Reforms and Rights Advocacy, including the Endorois Case

i) Over view:

This project aims to protect land rights and entrench land reforms as envisaged in the Constitution of Kenya, the National Land Policy and the relevant legal frameworks within the land sector. It thus provides mechanisms for addressing both the contemporary and historical land injustices and enhancing sustainable and accountable governance of the land based resources.

To this effect, KHRC continues to support the Endorois community in their quest to have the decision of the African Commission on Human and Peoples' Rights (ACHPR) fully implemented providing legal and policy advice on the viable options for implementation of the decision.

ii) Key results realized:

- First, the paper developed by the KHRC for the Land Sector Non-State Actors (LSNSA) entitled: "The National Land Commission's Milestones" and presented to the NLC in September, 2013 was adopted by the NLC in its 2013/ 2018 Strategic Plan. This is captured in Chapter Two of the Strategic Plan entitled: *Institutional Set up of the National Land Commission*. The paper frames the constitutional, legal and policy mandates and responsibilities as key targets/ milestones and obligations.
- In March 2014 KHRC coordinated the publishing of an open letter to the government and a press statement alongside the Sengwer Community, Kenya National Commission on Human Rights (KNCHR), Kenya Land Alliance (KLA) and Katiba Institute (KI) in response to the arbitrary displacements and forceful evictions meted against the Sengwer Community; habitual residents of the Embobut Forest. The NLC responded to queries raised and provided some form of direction as to the interventions they can take to address the concerns of the Sengwer.



Members of the Sengwer community the habitual residents of the Embobut Forest join leading human rights activists in a press conference at KHRC to protest the violations of their human rights in the manner in which the government carried out evictions from the forest. This resulted in a positive response by the NLC on the matter.

A Success Story: “Positive Response by NLC over our Petition on the Embobut Forest evictions”.¹

Following the press statement released, an open letter published and petition submitted to the government by the Sengwer community, KHRC, KNCHR, KLA, KI in response to the arbitrary displacements and forceful evictions meted against the Sengwer Community (the habitual residents of the Embobut Forest in March 2014), the NLC responded to queries raised and made some policy commitments by noting *inter alia* that:

“We are ... aware that in their efforts to restore and protect these forest areas that ... agencies have repeatedly evicted occupants and that the Sengwer were among those recently evicted from Embobut Forest. We note your concern that not all occupants received compensation and

¹See for details: National Land Commission “In response to the land and Human rights Advocacy organizations’ open letter to the government of Kenya and other state actors on Land, Environment and Natural Resources” published in the Daily Newspapers dated 20th February 2014. See also <http://tenebo.files.wordpress.com/2014/04/national-land-commission-press-release.pdf>. Site visited on June 6, 2014.

that the amount was insufficient to enable permanent resettlement. We also take very gravely allegations and photographic evidence that human rights abuses including burning of houses and possessions occurred, contrary to our constitution.”

“Foremost, we wish to inform you that the National Land Commission takes responsibility in leading resolution of such matters very seriously. It is also our duty to guide national land policy and to manage public lands of which National Forest Reserves are one component ... in consultation with appropriate agencies, in this case with the Ministry of Environment, Water and Natural Resources and the Kenya Forestry services. We also need to consult our partners and county governments”.

“We are committed to working with these bodies and to involving non-government and other parties interested in arriving at fair solutions. Those solutions must resolve the land rights and livelihood issues faced by traditional forest dwellers. They must also be structured so as not to jeopardize the conservation of forest resources precious to the whole nation”.

A Case Study of the Land Rights Advocacy

- Second, in addition to seeking a commitment from the government during the implementation hearing, KHRC’s advocacy efforts to encourage the ACHPR to invoke its promotional mandate along with that of the African Court on Human and Peoples’ Rights (AfCHPR) and seek a visit to Kenya yielded fruit as the AfCHPR undertook a sensitization visit to Kenya and paid courtesy calls to various State officials in July 2013. The African Commissioner and Special Rapporteur for Kenya, Commissioner Pacifique Manyirakiza followed-up on the Endorois and Ogiek cases during this time by conducting visits and meeting with the respective communities.

The Commission on Administrative Justice (CAJ) has formally taken up the Endorois case and issued correspondences to the office of the Attorney General requiring that he provides a status update on the implementation process for the Endorois decision. The forum on compensation saw Dejusticia undertake a preliminary data collection exercise that will help in devising a methodology for determining appropriate reparations for the Endorois.

- Third, our engagements with likeminded partners in the land sector have enhanced our engagements with the duty bearers and informed the drafting and dissemination of proposals on community land legislation.

iii) Challenges and Difficulties Experienced:

- Inadequate resources and political goodwill for the land sector to effect the necessary reforms and provide effective services at the national and county levels. This has been complicated by the unending altercations and conflicts over mandates between the Lands Ministry and NLC.
- Lack of effective citizen participation in decision making coupled with impunity as demonstrated by the consistent failure of duty bearers to even attempt to enforce the progressive pieces of legislations enacted.
- Failure by the State to implement a coherent policy towards the ACHPR decision on the Endorois case. Despite being encouraged by the ACHPR to engage the Endorois community

in dialogue, the government is yet to do so. The office of the Attorney General is yet to respond to correspondences issued by the ACHPR and CAJ in regard to the Endorois case.

iv) Next Steps/ Further Actions:

- Engage the NLC gazetted Task Force mandated to formulate legislation on investigation and adjudication of complains arising out of historical land injustices.
- Create public awareness on land rights and governance frameworks in Kenya; monitor and influence the legislative and institutional reforms in the land sector, especially the NLC.
- Document and propose remedies to emerging and historical land injustices in Kenya. Towards this, we will make follow ups with the NLC in respect of the Embobut and Endorois land cases. We will also publish a desktop study on equitable benefit sharing of land-based resources which is currently in its final preparation stages.
- Additionally, KHRC will continue to engage the ACHPR generally and the Working Group on Indigenous Populations specifically and urge them to escalate their engagement with the Kenyan government on the matter of land rights for marginalized communities (as defined in the Kenya's Constitution, 2010). Furthermore, Kenya will raise these issues with UN Special Mechanisms and include them in the alternative report for Kenya's Universal Periodic Review slated for January 2015.

3. Engaging with the TJRC process: Reparations Policy and Implementation Framework

i) Overview

The Truth, Justice and Reconciliation Commission (TJRC), finally released its report in May 2013. Through a press release and press statement the KHRC together with the Kenyan Transitional Justice Network initially acknowledged the release of the report but took issue with its delayed official submission to the President and the fact that the second volume of the report which contained the land chapter was not endorsed by all commissioners.

On the content of the report, KHRC alongside the membership of KTJN undertook a 3-day retreat in June 2013 which yielded both a summary of the report and a critique on the findings and recommendations of the report on a thematic basis.

KHRC convened a 2-day national conference attended by an average of 70 participants consisting of victims, Civil Society Organizations and relevant State actors to discuss the TJRC report.

KHRC in partnership with members of KTJN have begun a series of public dialogue forums aimed at popularizing the findings and recommendations of the TJRC report around the country.

In December 2013, KHRC facilitated a KTJN Strategy Retreat aimed at developing a comprehensive implementation strategy for the TJRC report and other ongoing transitional justice processes.

ii) Key Results Realized:

- KHRC, through the KTJN which it coordinates, has successfully raised public attention towards the need to widely disseminate the TJRC report and ensured renewed impetus on the implementation of the report and the wider transitional justice agenda among stakeholders.
- A KTJN policy brief, “Transitional Justice Approaches in the context of the Implementation of Agenda Item Number Four of the Kenya National Dialogue and Reconciliation Agreement”, developed from a national conference held in February 2013 was finally published. Other publications developed within the KTJN partnership include a simplified version of the TJRC report and a publication on reparations entitled, “Litigating Rights: Realizing the Right to Reparations in Kenya”.
- The national conference saw a series of robust thematic discussions on the report which culminated in the issuance of a Communique entitled: “In Defense of Truth and Justice: Victim and Survivor Perspectives on the Implementation of the TJRC Report”.
- Issued during a press briefing², at the end of the conference, the communique outlined victims’ concerns and disappointments in regard to State conduct since the release of the report while also articulating their expectations from the implementation process.
- The KTJN Strategy Retreat facilitated by KHRC has served to re-energize the network and provide it with an action plan that will guide and coordinate upcoming interventions.

iii) Challenges and Difficulties Experienced:

The Kenyan government and in particular, the office of the Attorney General has remained ambivalent on the matter of implementing the TJRC report and largely non-responsive on queries regarding the delayed dissemination of the report to the public. Legal action in regard to the challenges in accessing copies of the report is also under consideration.

iv) Next Steps/ Further Actions:

² Press coverage of the conference can be seen on the following links:

- i. http://www.standardmedia.co.ke/m/?articleID=2000092175&story_title=Human-rights-abuse-victims-want-TJRC-report-made-public;
- ii. [http://www.ghettoradio.co.ke/victims-of-injustices-threaten-to-go-to-court-over-tjrc-report/;](http://www.ghettoradio.co.ke/victims-of-injustices-threaten-to-go-to-court-over-tjrc-report/)
- iii. [http://www.thepeople.co.ke/18018/group-threatens-suit-over-tjrc/.](http://www.thepeople.co.ke/18018/group-threatens-suit-over-tjrc/)

KHRC will continue to support the mass production of the abridged version of the TJRC report as prepared by KTJN and undertake dialogue forums around the country to popularize the report. This will then be followed by a series of engagements with State actors on the matter of implementing the TJRC report. KHRC alongside other KTJN members will continue to undertake a series of regional forums around the country to disseminate the findings and recommendations of the report.

4. Protection and Assistance of Internally Displaced Persons (IDPs)

i) Overview:

This entails engagements with the Draft IDPs Policy, IDPs Act, **Incidents, Impact and Redress Assessment (IIRA)** tool and IDP Monitoring.

KHRC continues to seek the operationalization of the Prevention, Protection and Assistance of Internally Displaced Persons and Affected Communities Act, 2012 (IDP Act).

KHRC has issued a series of communications to the Ministry of Devolution and Planning, urging them to constitute the National Coordination Consultative Committee (NCCC) which is the operational framework for the IDP Act. KHRC's consultations with other members of the Protection Working Group on Internal Displacement (PWGID) yielded an abridged version of the IDP Act for wider dissemination amongst IDPs and the wider public.

In regard to the IIRA tool, KHRC and its partners on the project Mazingira Institute and the IDPs Network, have completed the phase of mapping various displacement incidences, and are developing a digital map of the same.

KHRC carried out periodic assessments on the situation of IDPs in select camps across Kenya, especially in 22 locations, where the Government has offered some form of protection and assistance and even resettled quite a number of IDPs and has carried out minimal assistance and protection interventions. In each area, we interacted with duty bearers and selected leaders of the targeted rights claimants (IDPs).

ii) Key Results Realized:

A series of digital maps of various counties that experienced displacement have been prepared, while also indicating the nature of human rights violations experienced in the course of displacement. An overall concept for development of an abridged version of the IDP Act as proposed by KHRC has been endorsed by the PWGID.

Out of our field visits and engagements with stakeholders on IDPs issues, we:

- KHRC demystified the provisions of the IDP Act. In all the sites visited we targeted the IDP leaders as rights claimants and the relevant duty bearers. Consequently both the duty bearers and the rights claimants were made aware of the policy and legislative frameworks that facilitate protection and assistance for IDPs.
- The report developed from the site visits highlighted the humanitarian situation that integrated IDPs are facing in areas that have otherwise received little or no attention from the government and other non-state actors. This will ensure that moving forward the

various issues affecting integrated IDPs are considered on the same wave length as IDPs that had previously put up in camps and have since been resettled by the Government.

- The monitoring exercise provided a platform where the duty bearers and the rights claimants interacted and formed networks and partnerships at the local level. The resultant networks and alliances should ease and facilitate access to justice for the affected persons; in relation to access to services, access to information and assistance from the various offices at local level.
- The data collected from the site visits will act as baseline information not only to give an overview on the status of the integrated IDPs but also to give more insight in the needs analysis of the affected persons, so as to inform the advocacy interventions that KHRC seeks to undertake moving forward.

iii) Challenges and Difficulties Experienced:

The Ministry of Devolution and Planning and by extension the government remains non-responsive to multiple calls by stakeholders to constitute the NCCC.

Despite the existing legislative framework assigning duties and obligations on the offices held by relevant duty bearers, they remain non-responsive on IDP protection and assistance issues.

The rights claimants (IDPs) are not aware of the available remedies to their concerns especially in the existing policies and legislative framework that should facilitate their protection and assistance.

iv) Next Steps/ Further Actions:

KHRC alongside other members of PWGID will develop an advocacy strategy for operationalization of the IDP Act and creation of the NCCC.

KHRC is currently finalizing on a narrative for digital maps from the IIRA tool project with a view to uploading the maps on its website. The project will move to the next phase of data collection in three key incident sites for in-depth analysis as per the tool's parameters to develop the data sets requisite for developing the digital maps.

Further action include the sensitization of both the duty bearers and rights claimants in regard to the legislative framework and providing spaces and platforms that all stakeholders can converge and share challenges and lessons learnt from the various perspectives.

KHRC will also follow up on the various linkages formed in the platforms we provided. For instance; in each of the counties visited, the IDPs interacted and came up with actions points that would create and ease the working relations between them.

5. Regional and International Advocacy on Transitional Justice

- *Participation in the 53rd and 54th Ordinary Sessions of the African Commission on Human and Peoples' Rights*

i) Overview

KHRC attended and co-convened, with other CSOs, a number of side events at both the 53rd Session in April and the 54th Session in October-November period respectively. The objective was to highlight and interrogate issues of accountability regarding the 2008 PEV in light of the Kenyan ICC cases and the implementation of transitional justice approaches in Africa including the Right to Reparations under the African Human Rights Framework, with the Mau Mau Case in Kenya as a case study.

ii) Key Results Realized

In the 53rd Session, KHRC and FIDH successfully advocated for the adoption of the adoption of an NGO resolution on international criminal accountability, the fight against impunity and the need for greater cooperation with the ICC. At the end of the 53rd Session, the African Commission adopted a resolution fronted by KHRC and other regional partners mandating Commissioner Pacifique Manyirakiza to embark on a study to assess the viability of establishing a special mechanism focusing on transitional justice within the ACHPR.

KHRC was subsequently during the 54th Session, appointed as a member of the Regional Advisory Group to this study. KHRC was further able to successfully disseminate the KTJN Policy Brief at a regional level and issue statements which expanded the interest and focus on the implementation of Kenya's transitional agenda.

In regard to the implementation hearing of the Endorois case, the ACHPR reprimanded Kenyan government for failing to make significant progress in implementation and required them to provide both a status update and roadmap for implementation of the decision.

iii) Challenges and Difficulties Experienced

The ACHPR study on a special mechanism for transitional justice is yet to fully commence as the resource mobilization process is incomplete. Furthermore, most states continue to be non-responsive to the resolutions and directions of the ACHPR as is the case with Kenya which has failed to act on the directions from the implementation hearing of the Endorois case.

iv) Next Steps/ Further Actions

KHRC will continue to contribute actively to the discussion on establishing a special mechanism on transitional justice within the ACHPR and regularize discussions on transitional justice within the spaces of the ACHPR ordinary sessions either through the NGO Forum panel discussions or through thematic side-events on the margins of the ordinary session.

- ***Africa Union Summit***

i. Overview

KHRC was part of an FIDH coordinated mission to Addis Ababa in January 2014 aimed at influencing the debate of the January 2014 AU Summit during which the AU was set to evaluate the outcome of the 12th Assembly of State Parties to the Rome Statute (ASP) and deliberate on how to push for further amendments to the Rome Statute.

The mission consisted of other CSO representatives from countries such as CAR and Mali. The mission was able to have bilateral discussions with the representatives to the AU of the USA, Germany, France, Chad, Uganda, Rwanda, Burundi and the African Union Commission.

ii. Key Results Realized

As with the ASP, we were able to share alternative information that had not been disclosed to state representatives with respect to the Kenyan situation and specifically that the Kenyan Constitution at Article 145(3) expressly prohibits immunity for international crimes.

AU proposals for amendments to the Rome Statute to provide for immunities for sitting heads of states would therefore be tantamount to interfering in Kenya's sovereignty and undermining the Constitution of Kenya- an argument that proved persuasive against the notion of immunity for international crimes.

iii. Challenges and Difficulties Experienced

While we were able to participate in the side-line discussions and meetings convened by civil society, KHRC was unable to participate in the actual deliberations of the AU Summit due to lack of prior accreditation as a result of the stringent and unclear accreditation process for NGOs.

- ***The 11th Session of the United Nations Human Rights Council Advisory Committee (UNHRAC)***

i) Overview:

KHRC participated in the 11th Session of the UNHRAC in August 2013 in Geneva, Switzerland with an aim to partake in the discussions on HRC Council Resolution 22/16 which requests the Advisory Committee to look into the best practices and main challenges in the promotion and protection of human rights in post-disaster and post-conflict situations. KHRC's objective at this session was to infuse considerations of transitional justice within the Advisory Committee's focus on post-conflict situations.

To this end, KHRC issued a statement to the Advisory Committee calling on it to explore the manner in which the Human Rights Council can accentuate its role in supporting the development of transitional justice processes in countries emerging from conflict situations and monitoring progress on the same; including proposed interventions that enhance the capacity of States to effectively implement post-conflict justice mechanisms.

KHRC further met with the Rapporteur and Coordinator of the Advisory Committee Working Group responsible for the study on post-conflict situations.

ii) Key Results Realized:

The meeting with the Rapporteur and Coordinator for the Advisory Committee Working Group yielded some opportunities for collaborative engagement, namely: sharing documentation of relevant country situations, participating in a survey to be conducted by the Advisory Committee in regard to post-conflict situations (via questionnaire); and their direct participation in our transitional justice programmes (such as conferences and studies).

iii) Next Steps/ Further Actions:

KHRC will participate in the Advisory Committee's survey and disseminate it to other local organizations for their input as well. KHRC also intends to participate in subsequent sessions of the Advisory Committee and explore prospects for stronger collaboration in future.

- *Participation in the 24th and 25th Sessions of the United Nations Human Rights Council (HRC)*

i) Overview:

The KHRC participated in the 24th Session of the HRC in September 2013, where it concerned itself with: 1) Interactive Dialogue with the Independent Expert on a Democratic and Equitable International Order; 2) Interactive Dialogue with the Special rapporteur on Truth, Justice, Reparation and non-Recurrence; 3) Interactive Dialogue on the Syrian Republic and Special rapporteur on IDPs ; 4) Half-day discussion on Indigenous Peoples; 5) Interactive Dialogue with Special rapporteur on Indigenous Peoples and Expert Mechanism on the Rights of Indigenous Peoples.

KHRC further made a statement on the report of the Special Rapporteur on Truth, Justice, Reparation and Non- Recurrence- calling on the Special Rapporteur to offer technical assistance to the Kenyan government in implementing the TJRC report; to engage in the development of the AU Policy Framework on Transitional Justice in Africa; and to engage the African Commission regarding its on-going study on the establishment of a special mechanism on Transitional Justice.

At the 25th Session in March 2014, KHRC issued statements with respect to the reports of the Office of the High Commissioner on Human Rights (OHCHR), the Independent Expert on the Rights of Minorities and the Special Rapporteur on the situation of Human Rights Defenders.

ii) Key Results Realized:

The Special Rapporteur on Truth, Justice, Reparation and Non- Recurrence responded to the KHRC statement, indicating that he would be speaking to the Kenyan permanent mission to Geneva regarding the implementation of the TJRC report.

Additionally, further concerns have been raised with the UN Independent Expert on the Rights of Minorities and the UN Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people in regard to the on-going land deprivation and evictions of marginalized communities such as the Endorois, Ogiek and Sengwer.

iii) Challenges and Difficulties Experienced:

While KHRC enjoys observer status with the ECOSOC we do not have ECOSOC accreditation status at the United Nations and this has meant that we have to rely on partner organizations to facilitate its engagements within the Human Rights Council such as the delivery of oral statements or access to meetings. KHRC will continue to rely on various partner organizations in the interim but will make an application for its own ECOSOC accreditation in the coming year.

iv) Next Steps/ Further Actions:

KHRC will embark on escalating its engagements with various mandate holders and special procedures in furtherance of its advocacy activities on the matters of transitional justice, electoral governance and constitutionalism. In order to enhance its effectiveness within the Human Rights Council, KHRC will apply for ECOSOC accreditation status.

- ***General Advocacy at regional and international level***

- i. Overview*

With regard to criminal accountability, KHRC as part of different networks and coalitions sent out advocacy letters to the United Nations Security Council (UNSC), the Presidency of the ICC, the African Union, the AU Commission and African Heads of State and Government calling for their support for accountability and ending impunity.

In November 2013, KHRC participated in the 2nd International Criminal Justice Experts Consultative Forum convened by ICJ Kenya alongside the Annual Jurists Conference aimed at re-focusing the international criminal justice debate.

KHRC also convened the different working groups under KPTJ that are instrumental in the development and implementation of strategies for accountability and for securing justice for victims. One such meeting convened in February 2014 developed concrete strategies towards responding to the prevailing socio-political and economic environment at the national, regional and international level.

KHRC further participated in a technical consultation on the African Union Transitional Justice Policy Framework (ATJF) in August 2013 convened to gather a final set of inputs and comments from experts before circulation of the policy amongst relevant AU member state experts.

- ii. Key Results Realized*

The advocacy letters have been effective in maintaining momentum on criminal accountability as well as putting pressure on state actors to adhere to their related regional and international obligations. In one instance, a KPTJ letter to the Presidency of the ICC sparked a reaction from one of the ICC judges hearing the two Kenyan cases that resulted in what was construed as a direct attack of CSOs.

Through the strategy meetings, we have maintained relevant and key partners executing a common plan of action that has proved to be very effective. Undertaking a joint advocacy approach has ensured that we have a more united and stronger continental voice with regard to issues of justice and accountability. The drafting process for the ATJF has been concluded and the final draft has since been forwarded to the AU Council of Ministers for approval.

- iii. Challenges and Difficulties Experienced*

The continental debates on accountability, ending impunity and transitional justice generally are increasingly being hindered by a political leadership class that considers itself as being unduly targeted by independent mechanisms such as the ICC. The ICC debate in particular and efforts to shield certain leaders from prosecution threatens to derail on-going and progressive

discussions on normative and institutional reforms such as the ATJF or the expansion of the jurisdiction of the AfCHPR.

iv. Next Steps/Further Actions

KHRC will continue to coordinate and participate in advocacy initiatives aimed at advancing a regional and international dialogue on accountability, ending impunity and transitional justice generally. In particular, KHRC will continue to monitor the discussions the ICC within AU and participate in discussions on the jurisdiction of the African Court on Human and Peoples' Rights. KHRC will also embark on advocacy activities aimed at popularizing the ATJF at both the regional and national level.

- ***Comparative Studies on Post-Conflict Justice Mechanisms and on the African Human Rights System***

i. Overview

In line with a project aimed at strengthening international human rights based justice mechanisms and jurisprudence in Africa, KHRC in February 2014 commissioned two studies on post-conflict justice mechanisms and the African human rights system respectively. The study on post-conflict justice mechanisms is a comparative analysis with other continental jurisdictions and seeks to examine post-conflict justice mechanisms and processes in Africa to interrogate their efficacy in delivering justice for past human rights violations.

The study on the African human rights system seeks to analyze the experiences of practitioners in utilizing judicial and quasi-judicial mechanisms at the regional and sub-regional level. This is to illuminate emerging jurisprudence, contribute to its development while also focusing on improving the various rules of procedure within the African human Rights System.

ii. Key Results Realized

The commissioned calls for both studies have received numerous applications that are currently under consideration. An initial dissemination of study concept notes with key mandate holders such as the UNHRAC and the ACHPR has seen the studies endorsed as both useful and contemporary.

iii. Challenges and Difficulties Experienced

The applications to both studies were slow in coming in and necessitated an extension of the timelines for submission. The applications received did not have a sufficient regional balance with limited submissions from North and West Africa and this will therefore require a more targeted approach in encouraging practitioners from these regions to apply.

iv. Next Steps/Further Actions

KHRC will conclude the selection process of consultants, review the timelines for undertaking these studies and embark on a targeted call for submissions by practitioners from North and West Africa.

6. Electoral Governance

i) Overview:

KHRC has continued to engage with the electoral governance and accountability processes at national, regional and international levels. The national level initiatives have been undertaken in the context of the Kenyan March 2013 General Elections with a view to ensuring an accountable and human rights-centred governance of electoral processes via three initiatives:

- The compilation of the July 2012-March 2013 campaigns and elections monitoring report titled, *The Democratic Paradox: A Report on Kenya's 2013 General Elections*;
- The monitoring of the post-election processes especially the by-elections that have been conducted following the nullification of various election results through petitions;
- The commissioning of a case digest on court decisions related to Electoral Governance; finally an *Annual audit of the elections management bodies*.

The regional and international level interventions aim to foster a more human rights based and equitable electoral democracy and processes. This has seen increased engagements with the select countries and partners; the African Union and the United Nations mandate holders on equality and electoral governance issues.

ii) Key Results Realized:

- ***National Level Electoral Governance Processes***

The KHRC published and disseminated its final monitoring and observation report entitled *The Democratic Paradox: A Report on Kenya's 2013 General Elections captures*. The title reflects a situation whereby rules of engagement were largely democratic but the various actors fell short of practicing those ideals.

The report was well and widely covered by the mainstream media via different perspectives. See for instance, Ally Jamah, "Groups want election data released" in *Standard*, Wednesday, March 5, 2014-p. 10; Luke Awich and Maureen Ng'ang'a, "IEBC failed Kenyans in polls, says rights body" in *The People*, Wednesday, March 5, 2014, p. 8; John Njagi, "New Report reveals how parties bribed", in *Daily Nation*, Monday, March 10, 2014-p.10.

An article by ICJ Kenya's Executive Director, George Kegoro, entitled: "National debate needed to avert future election goof" in *Saturday Nation*³, March 8, 2014 provides an excellent summary of the report thus: "The report is a comprehensive assessment of the extent to which the fundamental rights and freedoms necessary for the democratic and accountable conduct of the electoral process were applied, protected and promoted by the election management bodies, particularly the Independent Electoral and Boundaries Commission, during the last elections" noting that it fills a policy void that has been created following the retreat by the government and the IEBC from

³ <http://www.nation.co.ke/oped/Opinion/Kenya-Human-Rights-Commission-Report-Elections-Constitution/-/440808/2236184/-/129b0nj/-/index.html>

The report is available on KHRC website and is one of the a popular downloads, listed on the Ni SiSi website as a resource useful in informing Kenyans at every level adding that it starts with us to transform Kenya into a country of which we can all be proud.⁴ The report was also used by KTN in the development of its *Jicho Pevu* documentary entitled “What Really Happened at the Ballot” which was aired on March 13, 2014 (paragraph 6 on page 56 of the report).⁵

The monitoring of the ensuing by-elections in respect of the Siaya County gubernatorial seat, Matungulu, Kibwezi and Nyaribari Chache parliamentary seats as well as the Bungoma and Makueni Senatorial seats has provided an oversight that has ensured that the by-elections were conducted in accordance with the laws but also to assess the degree to which the elections management body had implemented improvement to the conduct of polling and tallying processes.



KHRC Executive Director, Atsango Chesoni(front centre) leads the launch of Democratic Paradox, KHRC election monitoring report

So far, the KHRC has draft reports on the *Case digest and the audit of the Election Management body and other key electoral state actors* It is hoped that the final Case Digest report would provide information on decisions and trends that would help stakeholders to understand

⁴ <http://nisisikenya.com/resources/publications/#.U5an5PmSyRY>.

⁵ Here goes the link to the aforesaid Jicho Pevu documentary :
<https://www.youtube.com/watch?v=cvSKkAQ3hrE>

whether there are developing standards and principles capable of forming the foundation of a sound jurisprudence on matters of law and fact vis-à-vis the electoral processes.

Moreover, the audit of the election management body and key electoral state actors provides a comprehensive critique of the Independent Electoral and Boundaries Commission work in terms of its operational autonomy as envisioned in the COK 2010 as well as its operational capacity during the 2013 electioneering period including the conduct and management of the electoral processes during post 2013 election period. Further the study critically analyses the legislative and political contexts relating to electoral governance in order to assess the strengths and gaps in the existing regime.

Towards and after the March 2013 General Elections, the KHRC in partnership with other state and non-state actors (including the media and different observer groups) has managed to shape public discourse and policies on electoral governance using human rights and good governance frameworks and vide the following strategies: monitoring, research and documentation; legal and institutional reforms; public interest litigation and stakeholder engagements.

- ***Regional and International Interventions on Electoral Governance Processes***

KHRC developed an electoral assessment framework that analyses the pre-polling, polling and post polling phases of the electoral cycle and held country-based partnership building meetings with organizations that have elections coming up such as Malawi, Botswana and South Africa.

KHRC has also built strong relationships regionally and internationally including the East and Horn of Africa Observer Network (E-HORN), the Global Network for Domestic Election Monitors (GNDEM as well as civil society organizations in Latin America working on Electoral and equitable governance.

Our involvement with the regional Mechanisms on Equality and Electoral Governance especially 54th Session of the ACHPR has influenced a number of policy decisions with respect to electoral governance and the rights of the marginalized communities and initiated a partnership that would see an analysis of the SADC models of elections monitoring and observation under the Principles and Guidelines Governing Democratic Elections in 2004.

At the ACHPR a number of papers and recommendations have been submitted for consideration and meetings have been held with targeted commissioners such as Commissioner Soyata Maiga who serves as the Special Rapporteur on Rights of Women and Commissioner Pacifique Manirakiza who is responsible for monitoring Kenya's adherence to the ACHPR. This will build the capacity of these key duty bearers and help them to understand how they can push the agenda for more human rights centered democracy.

We have also been engaging with regional CSOs on democracy and equality work and participated in international policy dialogues on electoral governance and equality issues among others. An African perspective on Human Rights and 'Traditional Values' has been articulated at a UNHRC side event at which the Russian Delegation was present.

More broadly, KHRC understands the strategic points for engagement at the UNHRC and has made contacts so as to pursue issues of interest with regards to strengthening democracy;

ensuring marginalized groups can participate in political governance and are represented. KHRC has also been following developments regarding the study on democracy and the rule of law.

iii) Challenges and Difficulties Experienced:

During the period under review, Courts made major decisions some of which set repugnant precedents with respect to the gender, governance, equality and integrity issues canvassed under this programme. Such include a court decision that declared the 2/3 gender principle and provision with respect to political participation is progressive; and a court decision on the leadership and integrity case requiring CSOs to pay for the cost of suit which contravened the constitutional principles on public interest litigation.

The controversial outcome of the March 2013 General Elections has presented capacity and credibility gaps that affect the IEBC's legitimacy to manage the 2017 General Elections.

iv) Next Steps/ Further Actions:

KHRC will use the findings and recommendations of *Democratic Paradox Report* to inform the requisite reforms around electoral governance. We will conclude with and launch the *Case digest*; the *Comparative study on best practices and the audit of the elections management bodies*. KHRC will continue to implement the human-rights based monitoring of by-elections initiative (with a view to producing and disseminating periodical policy briefs).

Currently, KHRC is keen on engaging the IEBC on its impending proposals to stagger the elections over a number of days as opposed to a singular election day.

We shall also have discussions with IEBC, Gender Commission, political parties and the gender movement in Kenya on the formulation of rules and regulations touching on the 30% constitutional threshold on women participation and representation in political leadership.

At the regional level, KHRC plans to monitor elections in Botswana, Malawi, South Africa among others; and deepen engagements with the AU, UN and other actors involved in equality and electoral governance issues across the globe.

7. Engagement with the ICC process

- ***12th Assembly of State Parties to the Rome Statute in The Hague***

i) Overview:

KHRC participated in the 12th Assembly of State Parties to the Rome Statute in The Hague in November 2013 where it, among other initiatives, spearheaded the preparation of a briefing paper on Kenya that served as the primary advocacy document for civil society members who were attending the ASP. The paper offered up-to-date facts on Kenya and outlined reasons for state parties to decline to endorse the proposed amendments to the Rome Statute. The amendments were aimed at, among other things, offering immunities for sitting heads of states and governments and persons holding high positions of responsibility in government.

KHRC also held bilateral discussions with various state party representatives during the ASP and presented the position of Kenyan CSOs as well as those of victims and effectively dissuaded most state parties against supporting the proposed amendments that would have been detrimental to the fight against impunity.



International Criminal Court and Assembly of States Parties officials during the 12th session of the Assembly of States Parties in The Hague on 20 November 2013. Photo by Katharina Tjart, courtesy of CICC/Flickr.

KHRC successfully organized two events on the sidelines of the Assembly. The first was jointly organized with FIDH under the theme: *Kenya and the ICC: Ensuring Redress for Victims and Upholding the Rule of Law*. It attracted a heavy participation of state delegates including the Attorney-General of Kenya, Prof. Githu Muigai, the Director of Public Prosecutions Keriako Tobiko, among others. This event was successful in bringing issues concerns into the limelight amidst discussions that heavily centered on accused persons and state interests.

The second event was an evening reception/exhibition themed, *"Muffled Voices: Who are the Real Victims in Kenya?"* co-hosted by the KHRC and Journalists for Justice with the support of Open Society Institute of East Africa (OSIEA). The event had no speeches and limited presentations to poems that depicted different victim's voices and photos by *Picha Mtaani* that told the different victim's experiences. The photos were displayed at the World Forum, where the ASP was held until the end of the ASP on 28th November 2013.

KHRC delivered a statement during the main Assembly session on the Special Segment as requested by the African Union: "Indictment of sitting Heads of State and Government and its consequences on peace and stability and reconciliation". KHRC was part of the CSO team that was tasked with reviewing and providing proposals on the various versions of amendments to the Rules of Procedure and Evidence. Bilateral meetings with state parties representatives were

held on the sidelines of the ASP to assuage the discussions on proposed amendments to the Rome Statute and Rules of Procedure and Evidence.

KHRC also participated in the daily CSO strategy meetings coordinated by the Coalition on the International Criminal Court (CICC). Despite huge challenges and sabotage efforts, KHRC and other Kenyan CSOs managed to hold a press conference on the corridors of the World Forum. In addition to this, KHRC was able to give individual interviews with different media houses including the Washington Post. KHRC was able to disseminate two of the reports it has co-authored on PEV- “Elusive Justice⁶” and “Securing Justice⁷” to state representatives and other participants attending the ASP.

- **The ICC Trials**

The trial against Deputy President William Ruto and radio journalist Joshua Sang finally commenced on 8th of September 2013 in The Hague. The trial had been preceded by interesting judicial and diplomatic applications that were aimed at delaying or stopping the trials. The defence team of William Ruto applied for his excusal from attending the trial on account of the position that he holds. The trial chamber granted him partial excusal from some parts of the trial contrary to the Rome Statute provisions.

The Appeals Chamber while ruling on the Prosecutor’s appeal against this decision upheld the Rome Statute requirements that the accused person must be present at trial. However in November 2013, the Assembly of State Parties passed amendments to the Rules of Procedure and Evidence allowing an accused person to be absent from trial and also providing for appearance via video technology. The Deputy President attended the trial at all times as he was required to amid the myriad of efforts at the AU level to stop the cases from proceeding.

The hearing of case two against the President failed to take off as scheduled. This was preceded by averments by the Prosecutor that there had been severe incidents of witness tampering and intimidation, leading to the withdrawal of key prosecution witnesses. The Prosecutor also cited the lack of cooperation from the Government that posed serious challenges in the prosecution of the case. The Prosecutor filed an application seeking a finding by the Trial Chamber that the government had failed to cooperate with her office. The defence on its part sought to have the trial chamber dismiss the case for lack of evidence. The trial is now scheduled to commence on 7th October 2014.

- i) **Key Results Realized:**

KHRC successfully organized two events on the side-lines of the Assembly. The first was jointly organized with FIDH under the theme: *Kenya and the ICC: Ensuring Redress for Victims and Upholding the Rule of Law*. This was held on 23rd November 2013 with heavy participation of state delegates including the Attorney-General of Kenya, Prof. Githu Muigai, the Director of Public Prosecutions among others. This event was successful in bringing issues concerns into the limelight amidst discussions that heavily focused on accused persons and state interests.

⁶ Available at http://www.khrc.or.ke/component/docman/doc_details/45-elusive-justice.html

⁷ Available at http://africog.org/new/wp-content/uploads/Securing_Justice.pdf

Jointly with other organizations, we were able to dissuade states from accepting the AU proposals on amendments to Article 27 of the Rome Statute to give immunity to sitting heads of states. CSOs were able to offer to states representatives alternative information which was critical in this respect. We successfully held side events that were effective in reminding the states parties, that the ICC was established to deliver justice to victims of serious crimes of grave international concern.

ii) Challenges and Difficulties Experienced:

There appeared to some level of sabotage during the ASP with respect to CSO activities. For instance we had to keep guard the NGO publication desk when we discovered that there were some attempts at limiting the information available on Kenya. In addition to this, we delivered copies of the publications to targeted state representatives, thereby ensuring that the information reached the right audience.

The Kenyan CSOs had planned and announced that they would hold a press conference on 22nd November 2013. However, Kenya's Cabinet Secretary for Foreign Affairs, Ambassador Amina Mohammed, called for an impromptu press briefing at the same time and in the same venue as the Kenyan CSO press conference. On realizing this, CSO representatives attended the press briefing and asked the CS questions and thereafter invited the media to a press conference that was hurriedly held along the corridors of the World Forum.

iii) Next Steps/ Further Actions:

Kenya and the AU have intimated and commenced on activities to pursue the amendments to Article 27 of the Rome Statute ahead of the 13th ASP to be held in November 2014. It will therefore be critical to engage with these discussions as they unfold and to develop strategies around the same that would build up on what was done in 2013

8. Complementarity: Options for Justice for Victims of Post-Election Violence

i) Overview:

KHRC has keenly followed the developments around the establishment of the proposed International Criminal Division (ICD) within the High Court of Kenya. In February 2014 KHRC, under the stewardship of PILPG, contributed to a memo to relevant state actors on the ICD and further developed joint strategies and activities towards ensuring that a credible ICD was established.

KHRC disseminated the joint report by KHRC and KPTJ on "Securing Justice" as the main advocacy document on the parameters necessary to be in place for the different options of establishing credible local accountability mechanism.

ii) Key Results Realized:

We shared KHRC/KPTJ's recommendations on viable options for local mechanisms as well as developed a joint CSO memo on the same and formed a strengthened working relationship and partnership with PILPG and other CSOs on the ICD.

iii) Challenges and Difficulties Experienced:

The establishment of the ICD continues to face serious obstacles. There is lack of political goodwill to establish a credible and meaningful local mechanism to ensure justice for the 2007/2008 PEV.

iv) Next Steps/ Further Actions:

KHRC will continue to be an active member of the CSO initiatives and engage in advocacy with the relevant stakeholders and in particular the subcommittee of the Judicial Service Commission. KHRC will also continue to actively participate in the NCAJ and champion the adoption of the recommendations in the report.

9. Public Interest Litigation on behalf of and for victims of Post-Election Violence

i) Overview:

• ***The IDPs Case***

KHRC in collaboration with other CSOs continue to support and ensure the prosecution of High Court Petition Number 273 of 2012 this includes supporting the attendance of the petitioners for the hearing as well as securing psychosocial therapy sessions with the witnesses and some of the petitioners. So far the Court has heard the evidence of six witnesses on loss of property, bodily harm and sexual and gender-based violence (SGBV). The case was postponed to 14th of May 2014 for further hearing of the Petitioners' case when we intend to call expert witnesses.



KHRC staff take testimonies from IDPs in one of the camps in Naivasha in 2009. (FILE photo)

A post-mortem meeting was held at KHRC on 27th March to review the outcome of the hearing and to plan for the next hearing date. In the course of this litigation it became imperative upon the project partners to ensure that there was proper evidence collected to support the claim, vet the IDPs represented in the case by the Petitioners and sensitize them on the developments and next course of the case. This field mission was supported by KHRC in collaboration with ICJ Kenya and was conducted in November and December 2013.

- ***The SGBV Case***

On 25th March 2014, KHRC made an oral application to be enjoined in the SGBV Public Interest Case on behalf of the victims of the PEV, High Court Petition Number 122 of 2013 and was directed by Justice Isaack Lenaola to make a formal application citing reasons why it should be enjoined as interested party.

ii) Key Results Realized:

The hearing of the IDP case was finally commenced in December 2012. The case was further heard on 17 March 2014. The petitioners and witnesses were prepared and briefed ahead of the hearing date. Six witnesses have so far testified in the case on the loss of property and murder, bodily harm and SGBV. We have been able to collect additional evidence to beef up the case. KHRC was enjoined in the SGBV case and is preparing to file its pleadings, based on reports published, with the aim of highlighting the trend of sexual violence as a common feature in electoral violence since the re-introduction of multi-party elections and the failure by the State to act on the recommendations contained in these reports.

iii) Challenges and Difficulties Experienced:

The presiding judge has a number of cases pending before him in addition to having to deal with other administrative matters; this has resulted in the delay of the conclusion of the case.

iv) Next Steps/ Further Actions:

The IDP case is set for hearing for May 2014 for further hearing of the Petitioners' case with particular respect to the evidence from victims representing victims who had suffered SGBV as well as those whose family members were victims of extra judicial executions. A pre-trial meeting will be held by all the partners ahead of the hearing We will seek to secure the attendance of two expert witness.

KHRC will make formal application to be enjoined in the Coalition on Violence Against Women (COVAW) SGBV case as it has a bearing on the current IDP case which also has victims of SGBV who were displaced. In addition the determination in both cases will have a likely impact on the other.

10. Legal Aid Clinics

i) Overview

While legal aid clinics are normally held on Tuesdays and Thursdays, they climax with the Saturday month end sessions. There was a slight increase in the number of clients attended to from a figure of 194 recorded in the 3rd quarter to 222 in the clients 4th quarter.

Due to the December recess there were no legal aid clinics but the number of clients attended to increased by 2% increase in the number when the office re-opened in January.

Most of the cases dealt with in the 4th quarter were labour related. The nature of cases taken up in this quarter has not significantly changed with the bulk of complaints continuing to be labour disputes, criminal and land related cases.

Most of the labour cases were brought by security guards and house helps who have worked for their employers for a substantial period of time without contracts. Upon their termination from employment the employees claim that their employers had withheld their terminal dues.

ii) Key Results Realized:

- Introduction of client register (for first time complainants) and subsequent client register (for complainants who have previously visited the legal aid clinics) has made it easier to access information of clients.
- In total 742 clients attended to.
- Introduction of reference numbers in all correspondences by KHRC has helped in record keeping.

- On the spot guidance by the Programme Officer- Legal Affairs during the clinics has greatly reduced the number of complainants referred to the end month legal aid clinic ensuring timely resolution of disputes.
- The current process of establishment of a filing system is a milestone towards better services to the clients.

SOME SUCCESS STORIES

The KAISUGU CASE: PETITION NO. 1 OF 2013

The KHRC facilitated 64 Petitioners under High Court-Nakuru petition number 1 of 2013 against Kaisugu Ltd as 1st respondent, the Hon Attorney General 2nd respondent, the Minister for Labour as 3rd respondent and a respected partner of KHRC; Kituo Cha Sheria was enjoined as an interested party. The petitioners claimed and prayed for;

- A declaration that the respondent's conduct, acts and or omissions are unlawful, illegal and or unfair and the same violates Article 27, 28, 29, 40, 41 and 43 of the Constitution and the same violates the sections of the Employment Act cited in the statement of claim.*
- A declaration that failure by the 1st Respondent to issue casual workers with written contracts amounts to a violation of Article 41 and 47 of the Constitution.*
- Compensation of petitioners 1 through to 64 on the said violations under Article 23 of the Constitution.*
- An order that the 1st respondent do compute and pay the petitioners 1 through to 64 their dues and leave days' dues for the years worked.*
- An order directing the 1st respondent to issue all its casual workers with written contracts making them permanent after the statutory three months of service.*
- A declaration that the petitioners are entitled to access to information under Article 35 of the constitution of Kenya.*

Upon hearing the evidence cited by the petitioners and the respondents, the court was left with 4 questions for determination in the case are as follows:

- Whether the petitioner's employment converted to permanent service under the Employment Act, 2007.*
- What are the circumstances and reasons for the termination of the petitioners' employment?*
- Whether the petitioners were unfairly terminated from employment.*
- Whether the petitioners are entitled to the remedies as prayed for.*

In answering the questions herein above the court, guided by the constitution of the republic of Kenya perused through several documents of legislation and precedencies but notably section 40 of the employment Act 2007 and concluded as follows:

That the 1st respondent did not comply with the provisions of the section in terminating the petitioners' contracts on account of redundancy and in particular, the 1st respondent:

- a. Did not serve the petitioners with the prescribed redundancy notice;*
- b. Invoked the ballot system of YES-NO instead of applying the objective criteria entailing consideration of seniority in time and to the skill, ability and reliability of each employee of the particular class of employees affected by the redundancy; and*
- c. Did not pay the petitioners the dues as prescribed in the section. Accordingly, the court entered judgment and declared as follows:*
 - 1. The 1st respondent's conduct, acts and omissions are unlawful, illegal and unfair and the same violated Articles 27, 28, 29, 40, 41 and 43 of the Constitution and the same violated section 40 of the Employment Act, 2007;*
 - 2. The 1st to 64th petitioners be paid by the 1st respondent as follows:*
 - a. Twelve months gross salary at rate of last monthly pay for unfair termination and in view of the violations of the fundamental freedoms and rights;*
 - b. one month pay in lieu of the redundancy notice;*
 - c. Payment for days worked prior to the termination and not paid;*
 - d. pay for annual leave days due but not taken as at termination; and*
 - e. Severance pay at 15 days per completed year of service;*
 - f. The petitioners to compute the amount in (b) and serve the computation upon the 1st respondent within 14 days from the date of the judgment for hearing of any objections on a convenient date;*
 - g. A declaration that the petitioners are entitled to access to information from the 1st respondent under Article 35 of the Constitution and as necessary for full realization of this judgment;*
 - h. The 1st respondent to pay the amount in (b) by 1.12.2013 in default to pay interest at court rates till full payment; and*
 - i. The respondent to pay the petitioners' costs of the suit.*

GITHAIGA'S LAND CASE:

KHCR is in the process of filing a petition pitting one family over land in Nyeri County. 3 brothers; Daniel Githaiga, Francis Wanjohi and Michael Mwaniki are fighting over approximately 4 acres of land.

The land title (No. Githi/Muthambi/796) belongs to their father, Peter Mwaniki Githaiga. He passed away in the year 2005. He left behind his 76-year-old wife, as the next kin. He was a father

to five children; 4 sons and a daughter. One of the sons peter Mwaniki Gakio passed away in early 2003.

The petitioner, Daniel Githaiga, started living on the said land in the year 1979 and has lived on it to date. The dispute between petitioner and his two brothers Francis Wanjohi and Michael Mwaniki commenced soon after the death of their father.

Wanjohi also presented to the court that their deceased father had helped from proceeds of a sale of shares with Sundra Investment to acquire two separate pieces of land. KHRC has found out that there is evidence to the contrary; that Daniel's wife took out a loan from Barclays Bank in 1981 to facilitate the acquisition of one of the said piece of land while the second piece of land was purchased by their father in early 70's.

Mr Githaiga has a permanent family home on the disputed land. He cannot afford watching his house being demolished. All efforts to mediate on the matter have proven futile it through demolition as it is intended by his brothers. The elders have prevailed upon the two brothers to take Githaiga's offer to have them settle on his 4 acre so that they leave him in peace; they have refused. An offer of money has also been put on the table; they also refused to take the offer. The elders have concluded that the two brothers are very jelouse of their brother's successful life hence are out to punish him and make him as poor as they are.

KHRC is very interested in pursuing justice for Mr Daniel Githaiga through appeal because the court of first instance did not give him a fair hearing and relied on fraudulent claims presented by his two brothers.

iii) Challenges and Difficulties Experienced:

- Internal challenges including lack of a proper handover and poor filing systems leading to inability to trace documents for complainants has caused setbacks in documentation and case management.
- Lack of cooperation and response from government agencies and in particular the Police and County Labour Office when a complaint is forwarded.
- Lack of employment contracts by employees making it difficult to advice clients.
- Most of the complainants present their complaints to different organizations hence duplicity of effort.

iv) Next Steps/ Further Actions:

- Taking up opportunities in the area of advocacy on rights awareness – especially in regard to employment rights - as well as for building new relationships with partner organizations. Considering the large number of complaints in employment disputes KHRC should enhance partnership contacts within the Ministry of Labour.
- Improve the client information filling system.
- KHRC will consider arranging for a round table meeting attended by the management of security firms, KHRC staff and the ministry of labour to forge the way forward especially in the following areas: employee contracts and minimum wages

11. Security Sector Governance

i) Overview

This project entailed engaging with police reforms, a critical component of Security Sector Reforms (SSR) and strengthening the awareness and capacity for public participation. Moreover, the campaign against cattle rustling remained anchored within the security sector reforms as a unique yet interlinked issue with police reforms agenda.

We also made inputs towards the remaining security sector related bills particularly the NSIS and Coroner Bill; critiqued the national laws on Small Arms and Light Weapons (SALWs) and informed the development of guidelines on disarmament, demobilization and reintegration (DDR).

There were also fact-finding missions on emerging security issues and a plan to conclude the extra-judicial execution case in Marakwet. Participation in the larger global policing initiatives was key to enhanced collaboration and institutional sustainability. Finally, the KHRC continued to build the HURINET's capacity to respond to the security sector reforms processes.

a) Security Sector Institutional and Legal Reforms

ii) Key Results Realized:

Through sustained advocacy on police reforms agenda especially on police vetting exercise as well as monitoring the debate regarding the proposed amendments to the police laws namely National Police Service and National Police Service Commission Acts of 2011, the KHRC and members of the Police Reforms Working group, Kenya (PRWG-K)⁸ significantly contributed towards the development of the *Police vetting tools and guidelines*. These included contributions from over 80 police officers.

The KHRC in collaboration with the National Police Service(NPS) and Kenya National Commission on Human Rights convened community policing forums in Kisii and Kisumu where

Additionally, KHRC shared the tools and guidelines in two separate forums where 27 police officers and 13 members of the CSOs critiqued and reviewed and made critical inputs to the tools. Consequently the final vetting documents developed by the NPSC reflected most of the working group draft tools and guidelines.

Principally the NPSC recognised the need to have the issues of gross human rights violations as a “zero tolerance” factor for vetting. The vetting exercise is underway since December 2013 and by March 2014. So far, five out of the 196 officers (Assistant Commissioners of Police to Deputy Commissioner), have been vetted out for various reasons mostly related to financial probity.

⁸ Other members include-; Independent Medico Legal Unit (IMLU), Release Prisoner Trust (RPP), Usalama Forum, Kenya National Commission on Human Rights (KNCHR), legal Resources Foundation (LRF), International Justice Mission (IJM) Kenya, International Commission on Jurists (ICJ-Kenya), FIDA- Kenya, Transparency International (TI)-Kenya.

The KHRC participated in high level lobby meetings as well as media advocacy events that contributed to operationalization of the NPS Act a process that had significantly delayed. Consequently the National Police Service Act 2011 was gazetted and the Inspector General and the deputies were appointed which fully operationalized the NPSC.

The KHRC and other PRWG members were observers during the interviews of the Director of Criminal Investigations (DCI), Inspector GP and the two deputies, conducted by the NPSC whereby they submitted to the NPSC critical observations documented during the session regarding the unsuitability of some of the interviewed candidates.

Further the KHRC convened a press conference as well as participated in various media engagement actions to disseminate the report calling for interrogation of the concerns by members of the public regarding some of the nominees.

Comprehensive police reforms⁹ remained a key focus area of engagement by the KHRC through organising press conferences, issuing press statement in paid up advertisements, radio and TV talk shows¹⁰. In addition to this the KHRC made oral as well as written submissions towards development of the Kenya Defence Forces (KDF) and National Intelligence Services (NIS) Bills. The KDF Act and NIS Acts of 2012 incorporated some of the contributions made by the KHRC particularly clauses on the element on torture.

Lastly, the KHRC contributed to the slowing down the debate in the Parliamentary Select Committee on Security on the proposed amendments to the police laws (National Police Service and National Police Service Commission Acts 2011), by convening an initial Security Sector Reforms (SSR) meeting resulting in subsequent drafting and submission of a memorandum on the amendments to the Commission on Implementation of the Constitution (CIC).

The proposals, as at the period of reporting, were not tabled in parliament. In a counter strategy against the proposed amendments, the KHRC together with the PRWGK also pushed for the drafting of regulations on police recruitment, transfers and deployment. The regulations are currently under drafting. These issues were among the factors contributing to the drive to amend the Police Laws.

iii) Challenges and Difficulties Experienced:

There is general public fear and lack of public confidence in the state witness protections mechanisms hence significantly affecting public participation in the vetting process. The absence of public participation framework/guidelines compounds this problem further.

⁹ These reforms as enumerated by the Task Force on Police reforms popularly known as the Ransley Report

¹⁰ KHRC was also hosted on Family TV where we continued to agitate for comprehensive police reforms to ensure an accountable, professional and well -motivated police service members, and to speed up police reforms by gazetting the National Police Service Act 2011

The introduction of proposals to amend the Police Laws is viewed by KHRC and other CSOs as a systematic attempt to reverse the gains within the police reforms agenda. The amendments if actualized will reduce the independence of the office of the IGP and the NPSC and reinstate such powers with the executive.

The security sector ails from the absence of a coherent policy which aligns the various fragmented laws and institutions within it.

The increased incidences of armed violence/conflict and especially those targeting the security agencies exposes their vulnerability remains a matter of national concern. Increased acts of banditry, cattle rustling, terrorism, and the resurgence of outlawed militia groups points to capacity constraints within Kenya's security apparatus.

Progress on reform is hampered by acts of impunity such as police officers failing to vacate office after being instructed to do so by the Vetting Panel and the continued unlawful use of force by security agencies.

iv) Next Steps/ Further Actions:

KHRC will work with other stakeholders including the NPSC and the media to sensitize the society on the on-going police vetting exercise in order to enhance public engagement with the exercise. This will also involve working with HURINETs to monitor, document and report on the vetting exercise and other relevant emerging security issues. KHRC will work with organisations providing protection mechanisms for witnesses and members of the public who wish to share crucial information on the police to be vetted with NPSC. Finally, KHRC will also serve as a channel through which the communities can submit information to the NPSC.

b) Campaign Against Cattle Rustling:

i. Key Results Realized:

The KHRC conducted a **research on mapping out security units** in seven locations namely Muranga, Samburu, Kuria, Nairobi, Garissa, Nakuru and Kilifi in 2013. A report is in underway and contains some of the recommendation made for inputs during the NPSC convened validation forum on the regulations on transfer, recruitment and deployments.

The KHRC is also in the process of informing debate on the issue of infiltration of SALWs as it finalizes on the development of a policy brief on SALWs. The brief is informed by a critique undertaken to interrogate with an aim of identifying gaps in the existing national and regional legislations influencing the SALWs issue.

Further the human rights based guidelines to practical disarmament in Kenya being developed will inform both policy and practise of state disarmament operations which are often with human rights violations.

Together with the SSR HURINET thematic team in a press conference, the KHRC published a common on the intended state disarmament exercise/state operation. The position and an open letter to the IGP called on the state to ensure that human rights and due process was employed during the exercise.

The press conference which was highly publicised declared that cattle-rustling is a criminal activity and should be regarded in the same sphere of robbery with violence. This remark has greatly expanded the cattle rustling debate towards recognition of the vice as a criminal activity as defined by the Protocol on Cattle Rustling.

ii) Challenges and Difficulties Experienced:

- Cattle rustling is still not given the state priority as other crimes and hence little and often times uncoordinated even haphazard response is employed by the state.
- The police are also not tactically trained on the unique response strategies whilst responding to insecurity in the areas thus exposing the security personnel to attacks by the sophisticated and coordinated cattle rustlers.
- The state's failure to appreciate community contribution to ending this vice by having structured frameworks of collaboration has also led to the failure or ineffective response to raiding incidences

iii) Next Steps/ Further Actions:

- We will publish the research reports to be titled *Mapping of Security Agencies, The Tana Fact-finding report, Reports on SALWS and DDR*. Also to be published is the just initialized Livestock Value Chain Research. Together these reports will be used as advocacy tools towards reforming the security sector and a reduction of insecurity and conflict particularly in cattle theft prone areas.
- The project will also explore possibilities of instituting a PIL case on behalf/together with the victims and survivors of cattle rustling.
- Finally there will be convening for regional partners to enhance collaboration and networking in areas of common security issues such as cattle rustling, proliferation of SALWs and on civilian oversight on police.

c) Community/ Citizens Organisation on Security Sector Reforms:

ii) Key Results Realized:

KHRC continued to convene reflection, planning and training sessions where over 30 HURINETs working on SSR matters were equipped them with requisite knowledge on on-going security sector reform agenda as well as skills to better advocate for all rights and particularly right to security.

Twenty-five HURINET members and staff were also in this period nominated and attended an evidence based documenting and reporting organised by the GIZ where they were equipped with practical knowledge and skill on evidence based human rights documenting and reporting. Some of the trained HURINET were later involved in imparting the same knowledge to a convening of more than 25 HURINETs during a planning meeting in February 2014.

A Success Story: "HURINETs Engagements with Local Security Issues".

A number of HURINETs have utilized the training/capacity building sessions to advocate for security in their areas of focus. The Baringo HURINET (Baringo Human Right Consortium), for instance, has been on record agitating for the county government to undertake research on the

victims of cattle rustling particularly the displaced person. Kuria (People for Rural Change Trust) and Nyando HURINETs (in Nyakach) have also been responding to emerging security issues and documenting the events and sharing with relevant duty bearers. Kuria HURINET was able to share the reports with other organisations such as Catholic Peace and Justice Commission who later went on to hold peace building meetings in the area.

KHRC also supported communities to develop and share views and positions on the community security initiative dubbed *Nyumba Kumi*. A draft collation of views is planned to be shared with the Task Force on Community Policing and other community security initiatives.

iii) Challenges Experienced

Some of the HURINETs are faced with institutional, transitional and policy challenges and hence they result in overreliance on KHRC for financial and technical support in dealing with their issues at their county level. Women participation in matters security remains a challenge.

iv) Next Steps

- KHRC will work with partners interested in strengthening community participation in security in informing and influencing the development of a security policy.
- It will also continue to provide platforms for the HURINETs to grow their individual as well as institutional capacities. Among other things KHRC will engage the SSR thematic team in monitoring, documenting and reporting on emerging security and related issues.

d) International Networking and Advocacy on Security Sector Reforms

ii) Key Results

At the international level, KHRC participated in the International Network of Civil Liberties Organizations (INCLC) meeting in Buenos Aires and made a brief presentation on ‘Memory and accountability for past crimes’¹¹.

During this meeting, it was agreed that INCLC would plan possible joint actions around issues of policing and social protest. A three-step process was agreed upon: a) Mapping and information-sharing exercise, information sharing by uploading documents to intranet; b) Staff meeting in Montreal, October 15, 2012 to concretize joint action plans and c) Execution of joint action plans.

In October 2013, the KHRC participated in the development of a strategy towards the drafting of the international guidelines on social protests and police action which is on-going. In line with the theme on police brutality, the KHRC contributed a chapter towards the publication entitled *“Take Back the Streets: Repression and criminalization of protest around the world”* was launched in October 2013 in New York.

The Kenyan case was based on the events in Kisumu where the police shot and killed civilians who were protesting against the Supreme Court ruling that declared the Jubilee candidate the presidential winner following the March 2013 general election.

¹¹ The case of the Nyayo Torture Chambers survivors was shared.

The KHRC has also made critical inputs and was among nine INCLO members who signed a letter submitted to the United Nations Human Rights Council Draft resolution on *the promotion and protection of human rights in the context of peaceful protests*.

The resolution was approved without some of the retrogressive amendments that had been proposed by the South Africa government which was to some extent a successful outcome.

iii) Challenges and Difficulties Experienced

The KHRC is experiencing a human resource challenge for this work as the Commission staff has to work on the intense and varied security sector issues nationally and hence may not adequately and actively work on the international actions

iv) Next Steps/ Further Actions

- Participate in the INCLO and other international and regional meetings. This will particularly include engagement with the regional and international human rights instruments to submit reports relating to insecurity in the country.
- The KHRC will also disseminate the INCLO publication; *Take back the streets* to relevant state and non-state actors for learning as well as an advocacy tool.
- The KHRC will continue to engage in the development of the guidelines on social protests as well as convening a forum on security issues in general as well as a focus on issue of the use of force, lethal and non-lethal weapons at national, regional and international level.

12. Constitutionalism and Institutional Reforms

i) Overview:

At the national level, the KHRC's Constitutionalism Programme seeks to join other civil society organizations in monitoring the implementation of the Constitution through the periodic assessment of law and institutional reform processes.

KHRC also purposes to partner with other State actors, independent offices and Constitutional commissions to ensure prudent and effective implementation of the constitution and deepen the culture of constitutionalism in Kenya.

The KHRC's regional Constitutionalism Programme aims *to promote a human rights based constitutional cultures in select countries in Africa*. The programme seeks to contribute to the development of jurisprudence that provides meaningful interpretation of the constitution and constitutional principles.

ii) Key Results Realized:

- **At the National Level**
 - a) *Strategic Litigation*

In efforts to develop jurisprudence on constitutionalism, KHRC participated in and contributed to national advocacy on leadership, integrity and good governance under the Constitution through engagement with other civil society organizations under the stewardship of the CIC

through filing of Constitutional Petition 496 of 2013 against the proposed amendment to Article 260 of the Constitution. Although the Petition was dismissed, Parliament did not proceed to amend Article 260.

Moreover, the KHRC through Okiya Omtatah Okoiti¹² supported the filing of petition no. 227 of 2013 which successfully challenged the constitutionality of the decision of the National Assembly to nullify certain Gazette Notices issued by the Salaries and Numeration Commission (SRC) in respect of the salaries for state offices.

A Success Story: “Positive Legal Actions Against the Impunity of Members of Parliament”.

KHRC participated alongside other civil society partners in [several spirited public campaigns against the impunity of members of parliament \(MPs\)](#). These campaigns culminated in the filing of three constitutional petitions¹³ challenging the constitutionality of the purported nullification of the gazette notice issued by the Salaries and Remuneration Commission on the remuneration various categories of state officers by parliament.

In making its determination, the Court pronounced itself on the issue of separation of powers reiterating constitutional provisions dispersing and safeguarding powers among various constitutional organs. The Court held that according to the Constitution and the SRC, the mandate of the SRC was clearly set out and extended to all state officers who were defined by article 260 of the Constitution as persons holding a state office.

Therefore, the SRC was exercising its constitutional mandate and function with regard to the remuneration of state officers when it issued the Gazette Notice. In moving to quash the Gazette Notice the National Assembly stepped into the arena reserved for the SRC by the Constitution.

The court emphasized that all organs created by the Constitution were of equal importance. They complemented and deferred to each other. Where one organ was of the view that another organ had overstepped its mandate, the aggrieved body should seek a solution as provided by the Constitution.

The court went further to stress that Parliamentarians were expected to operate within the letter and the spirit of the Constitution. Members of Parliament, like all state officers were compelled by the Constitution to adhere to the national values and principles of governance found in Article 10 of the Constitution. Therefore, the resolution by the National Assembly to nullify the gazette notices published by the SRC was unconstitutional.

b) Institutional Reforms

¹² Okiya Omtatah Okoiti is a well-known human rights activist in Kenya

¹³ Okiya Omtatah Okoiti & 3 others v Attorney General & 5 Others [2014] eKLR ((Petition 227 ,281 & 282 consolidated). The KHRC supported the filing of this case vide Ishmael and Co. Advocates.

The KHRC developed a baseline for engagement with the justice sector vide the *State of Justice Sector Report* which is to be finalized and printed in the next operational plan period. This baseline has singled out priority areas for the institution for the next operational year. This report will be disseminated to key duty bearers within in the Justice sector.

KHRC contributed to the development of the Court Users' Committee (CUC) policy guidelines within the NCAJ. These guidelines have provided a structured framework for CUCs nationally, which will ensure greater access to justice at the grassroots level.

- **At the Regional Level**

- a) Sierra Leone***

The KHRC held workshop to build the capacity of 90 key civil society organizations engaged in the constitutional review process in Sierra Leone as well as members of the Sierra Leone Constitutional Review Committee between 9-10th December, 2013 on minimum standards and principles in Constitution making. The Conference sought to critically analyse and reflect on the strengths and gaps within the current Sierra Leone 1991 Constitution and the former Peter Tucker Constitutional Review Commission Recommendations.

On the request of our Sierra Leone counterparts, the KHRC accompanied by former Kenya Committee of Expert Member Bobby Mkangi, made presentations and lead/contributed to plenary discussions on gender equality and women's rights, democracy and elections, separation of powers as well as enhancing public participation in pre and post constitutional review processes.

The key outcomes of this Conference included; civil society organizations mobilization for greater participation in the entire constitutional review process and consensus was built on minimum principles and standards around key contentious governance issues for input in the constitutional review process of Sierra Leone.

The Conference also provided KHRC an opportunity to map key stakeholders in Sierra Leone and establish a network of organizations working on constitutionalism in Africa for future advocacy purposes.

- b) South Sudan***

From 9-12th February, 2014 the KHRC participated in a conference organized by Citizens for Peace and Justice (CPJ), a coalition of South Sudanese civil society organizations in South Sudan and the Diaspora formed in the wake of the crisis in South Sudan. The Conference participants included civil society organizations that were members of the South Sudan Constitutional Review Commission. The purpose of the conference was to chart a way forward for civil society in South Sudan's peace process.

The KHRC participated and contributed to a panel discussion that offered comparative experiences of civil society engagement in peace processes and constitution making from the Kenyan perspective. The KHRC was part of the working group on constitutionalism and elections that sought to develop priorities and a framework for meaningful engagement for civil society in the ongoing (but delayed) constitutional review process of South Sudan.

c) Liberia

Atsango Chesoni, KHRC's Executive Director, and Sofia Rajab, Programme Officer for Constitutional Affairs, were part of a Kenyan delegation that held a series to share best practices from the Kenyan experience in constitution making with the Constitutional Review Committee (CRC) members of Liberia. This was an opportunity to address a number of their concerns/contentious issues that the CRC is tackling including establishing a constitutionally established national human rights institution with a strong mandate of protection and promotion of human rights free from political interference, how to ensure public participation to legitimize the process of constitution making, human rights protection especially that of women and children, financial autonomy of constitutional commissions and independent offices and the aspect of civic education. This engagement has provided a platform for KHRC to work with the Committee during the next operational plan to adopt minimum human rights standards in the constitutional review process in Liberia.

- **Sub-regional level**

The KHRC contributed to the process of developing research titled, *"Towards Compliance to Good Governance and Human Rights Undertakings by EAC Member States and the Need of having Strong Oversight Judicial Body: Case Study of the East African Court of Justice (EACJ)"*. This research will be launched and disseminated within the next operational plan and will be the basis for lobbying for reform of the East African Court of Justice with respect to its human rights mandate.

Furthermore, the KHRC in partnership with the East African Good Governance and Human Rights Platform (EAGGHRP) Secretariat organized a capacity building training for 30 members representing Kenyan civil society of the platform on the human rights and good governance framework in East African Community, as well as key priorities and entry points to advance these issues at the sub-regional level. These engagements have enriched the discourse on human rights priorities to be undertaken in the next operational period.

The KHRC participated as part of the State delegation led by the Ministry of East African Affairs, a high level meeting to consider the Model Political Federation framework. This framework proposes a broad governance architecture which will fundamentally change current constitutional frameworks in the region. This presented an opportunity to advance key constitutional debates in the East African region. This was followed by engagements with the East African Legislative Assembly members to define key priorities for the region.

These engagements provided entry points for advocacy during the next operational period. Moreover, the KHRC engaged in a high-level Public Interest Litigation Strategy Meeting in Uganda from 24-26th November, 2013. This process provided an opportunity on best practices that can be borrowed and utilized in our national and regional strategic litigation efforts.

iii) Challenges and Difficulties Experienced:

Delay in the recruitment of the Programme Officer led to implementation lag. Conceptualization took long (reviews of concept and feedback from New York under the Ford Global Fund) hence delays in rollout on this theme. The conceptualization and mapping of key focus areas for the

new programme officer with the CPR team also took some time. The same was finalized as the operational plan was being completed.

There was a considerable amount of time dedicated to getting in contact with key actors on the subject of constitutionalism in the region. In some regions there was a considerable delay in finding strategic partners who could provide entry points in their country's constitutional review processes.

At the national level, there have been concerted efforts by both the legislative and executive arms of the government to undermine the implementation of the constitution through retrogressive legislative and administrative decisions. This also entails strategies to either arm-twist or frustrate the operations of the constitutional commissions, civil society and other independent actors and voices.

iv) Next Steps/ Further Actions:

To enhance constitutionalism at the **national level**, the KHRC will undertake targeted initiatives aimed at mainstreaming human rights in the legislative and policy frameworks at the national level. This will include developing a pragmatic framework for monitoring the Kenya Government's implementation of the Constitution as well as documenting finds on the same in the form of a working paper series on Constitutional implementation which will be disseminated key state and non-state actors. The KHRC will also seek develop a handbook on human rights mainstreaming in policy and legislation for key State and non-state actors as well as an auditing tool to aid in the assessment of compliance of statues with the Constitution.

The KHRC will prepare policy briefs and memoranda for MPs on issues to be addressed in the implementation of the Constitution, initiate and attend consultative sessions on constitutional implementation with the CIC, KLRC, State Law Office and relevant parliamentary committees. On the constitutional principle on access to justice, the KHRC will contribute to the development of justice sector policies through the National Council on the Administration of Justice.

The KHRC will also seek to contribute to the development of progressive jurisprudence on constitutionalism by developing a public interest litigation strategy in partnership with the Legal Aid Programme and undertake litigation surgeries on key constitutional references and amicus curiae briefs. Other efforts will include the training of judges on constitutional implementation that is intended to result in more purposeful interpretation of the Bill of Rights.

Lastly, the KHRC will participate in the development of a public participation framework in the constitutional implementation process under the stewardship of the Department of Justice and the Constitutional Implementation Commission.

To enhance constitutionalism at the **regional level**, the KHRC aims to develop an expert led regional framework on minimum human rights standards for constitution making. This will be achieved through the development of a regional framework on minimum human rights standards for constitution making, regional and international advocacy on the normative framework on minimum human rights standards in Constitution making and constitutionalism and sharing/learning meetings with strategic partners in countries undergoing constitutional review in Africa, namely: Zimbabwe, Sierra Leone, Senegal, Ghana, Zambia and Tanzania.

13. Mau Mau Reparations

v) Over view:

As a part of the KHRC's Transitional Justice Program, the KHRC, Mau Mau War Veterans Association and Leigh Day Solicitors established the Mau Mau Reparations Project in 2003 with the help of lawyers Paul Muite and Gibson Kamau Kuria, and the family of John Nottingham.

The destitution and national amnesia over the Mau Mau survivors, most of who are over seventy years of age was striking. We were concerned that unless something was done in their lifetime, the country may never honor their struggle on its behalf. It was clear to us that the recovery of the memory and honor of the Mau Mau would have enormous implications for Kenya and Africa.



An elated Mzee Gitu Wakehengi expresses joy on the day the British government issued a statement of regret over the atrocities committed against freedom fighters during the state of emergency by representatives of the colonial government. Looking on is Dr. Christian Turner, British

To the War Veterans, the journey to justice had been long and arduous. For over ten years (since the ban on Mau Mau was lifted in 2003), the KHRC and MMWVA have remained focused and relentless in their fight for justice for Kenyan victims of colonial torture as well as for the rightful recognition of our liberation heroes within Kenya's body politic.

vi) Key results realized:

The successful out of court settlement between the KHRC, MMWA and British Government

The case of Ndiku Mutua & Others - v - The Foreign and Commonwealth Office: The settlement is based on the case of Ndiku Mutua & Others - v - The Foreign and Commonwealth Office Case No: HQ09X02666 of 2012, a test case on torture that was filed in the UK by the law firm, Leigh Day, on 23rd June 2009. There were five claimants in this case: Ndiku Mutua, Jane Muthoni Mara, Wambugu Nyingi, Paulo Nzili and Susan Ciong'ombe Ngondi. Susan Ngondi passed away whilst Ndiku Mutua withdrew for personal reasons.

The British Government challenged the case on two grounds: state succession and limitation. Under the State Succession contention, the British Government argued that it was not liable for atrocities committed by the British colonial regime and, if such liability survives, it was transferred to the Kenyan Republic (via s.26 of *The Constitution of Kenya (Amendment) Act, (Act No 28 of 1964)*). On the issue of limitation the British Government argued that the claims were time barred by virtue of the *Limitation Act (1980)* in that they should have been brought much sooner.

The British Government lost on both these grounds i.e. the court found that the case was properly before the British Courts and that it was not barred by virtue of the fact that the events had occurred several decades ago. Both these decisions are precedent setting. The first ruling

Front left to right: Dan Leader, (of Leigh Day&Co.Lawyers) Atsango Chesoni, (ED of KHRC), Dr. Christian Turner (British High Commissioner to Kenya) and Mr. M'marete of the MMWVA look on as Mzee Gitu makes his speech during event the public announcement of the statement of regret by the British Government.



was delivered on July 2011 and the second in October 2012.

Due to the unprecedented nature of both these rulings they have received immense coverage in both the local and international press. It is important to state that these were decisions on preliminary matters and the case never proceeded to a full hearing on the facts since it has now been settled.

On 6th June 2013, the British Government announced that it had reached an out-of-court settlement with Leigh Day, the Mau Mau War Veterans Association (MMWVA) and KHRC. The settlement has three components:

- A statement of regret made to victims of colonial era torture, by the Foreign Secretary of the UK in the House of Commons on 6th June, 2013;
- Damages awards made to 5,228 individuals who fit the criteria of torture as set out in the test-case claims of Jane Muthoni Mara, Wambugu Nyingi and Paulo Nzili and who personally authorized Leigh Day & Co to act on their behalf; and
- A contribution of GBP 90,000.00 will be made by the British Government towards the construction of a monument in memory of Kenyan victims of colonial era torture.

Second and related to this is the disbursement of payments to over 85% of the claimants in different parts of the country.

Third, the KHRC, MMVA, British High Commission (BHC), Office of the Governor of Nairobi (OGN) and the National Museum of Kenya (NMK) have established a Steering and Stakeholders Committees that have conceptualised and designed the monument project.

The Mau Mau Memorial will commemorate the victims of torture, the men, women and youth, who were among the people, kept in detention for association with the Mau Mau Movement. Memorial design to integrate its three components referred to as: memorial place, memorial narrative and public interaction. The OGN has offered and allocated the Freedom Corner (At Uhuru Park) as the memorial place.

Finally through the sponsoring of the international Mau Mau conference in held at the Karatina University; the Mau Mau war veterans were able to share their experience during the struggle of independence towards Kenya's self-government.

vii) Challenges and Difficulties Experienced:

- There have been numerous misrepresentation of facts by vested interests; some of the Mau Mau war veterans that have been registered by dubious agents which have misled their clients to believe that KHRC has been given their monies by the British Government, which is not true.
- Ongoing legal actions against the MMWVA; for instance the MMWVA elections were put on hold by a legal process pending determination the *bonafide* officials of the MMWVA after some people with vested interests went to court.

viii) Next Steps/ Further Actions:

The KHRC will:

- Hold meetings representatives of the beneficiaries of the Mau Mau case over the administration of the settlement from the case.
- Oversee the construction and launch of the monument.
- Set up a Mau Mau Resource Centre.
- Hold commemorative meetings with other liberation organizations (Mekatilili Festival).
- Organize study tours by the MMWA to South Africa, Zimbabwe and Malaysia.
- Conduct forensic analysis of mass graves of possible Mau Mau combatants (Kyumbi Hills).
- Collaborate with curriculum developers to develop a holistic Mau Mau narrative.

CHAPTER THREE: ECONOMIC AND SOCIAL RIGHTS PROGRAMME

Strategic Objectives/Overall Goal:

Protection of producers', workers', consumers' and host communities' rights.. This strategic objective relates to the work of the ESR thematic area.

Improved accountability in service delivery leads to improved access to economic and socio-cultural rights in select counties. This strategic objective also relates to the work of the ERS thematic area.

Below are the key projects implemented, results achieved, challenges experienced and the next phases of engagement for this programme/theme.

1. Service delivery on human rights access (Supply Side)

i) Overview

Devolution system of governance introduced by the Constitution of Kenya, 2010, is a new concept to majority of Kenyans and the people who are responsible for progressive realization of rights therein. The objective of this intervention is to capacitate duty bearers in 10 counties with skills and competencies to deliver rights that citizens are entitled to under the Bill of Rights in Chapter 4 of the constitution and Article 43 on social rights.

The programme is implemented through a concept on devolution and Human Rights Based Approach (HRBA), and a ten-point human rights-centred governance framework to measure access to various rights that accrue to citizens of Kenya.

ii) Key results realized

- A HRBA and Governance Framework which is based on the 10 points parameters on good governance and human rights principles as entrenched in different sections of the constitution of Kenya 2010.

A criteria for pre-selection and profiling of counties and mapped 10 counties for training based on population and poverty index; diversity -based on ethnic, geographical and livelihoods; political and voting patterns (considering Jubilee, Coalition for Reforms and Democracy, CORD, and Amani Coalitions¹⁴); current regional and former provincial structure, concerns on security and local resource exploitation; considerations for marginalized communities and areas; and, existence of partner Human Rights Networks

¹⁴ Jubilee, CORD and Amani coalitions (composed of different parties) were the three leading contenders in the March 2013 general election.

(HURINETs) . These counties are Baringo, Bungoma, Isiolo, Kiambu, Lamu, Makueni, Migori, Nairobi, Narok and Wajir, for which KHRC has developed the social, economic and political profiles.

- County based validation of the 10 point criteria has been done in five counties namely (Wajir, Migori, Lamu, Nyeri and Nakuru). Both the right-holders and the duty-bearers identified themselves with the issues flagged out in the 10-point criteria. This resulted in these counties accepting to be part of the Annual County Award Scheme that will measure county's delivery of Article 43 rights among other rights.
- The Ten-Point Human Rights-Centred Governance Framework concept has also gained established partnerships with Transitional Authority and The Devolution Forum (where KHRC is a member of the Technical Committee) with an aim of popularizing the concept and also getting other institutions replicating.
- KHRC published "*Functions of Elected State Officers*", which has been popular and useful in disseminating information about devolution. This was borne out of a research on International and Regional Budget Tracking tools by the Open Budget Survey and the African Parliamentary Index (API). A total of 1000 copies have been disseminated to legislators and other key government institutions. The second edition of this book has also been translated into Swahili.
- In August 2013, the KHRC engaged 20 governors at a Governors' Council meeting organized by the Commission for Revenue Allocation (CRA) in which the following resolutions were reached:
 - ✓ KHRC to mobilize other CSOs to support the other 37 counties in which its not able to work to replicate the same in all counties
 - ✓ KHRC to step up public awareness campaign on devolution in a manner that saturates communities with accurate information and reduces the confusion and contests at community level.
 - ✓ KHRC to take leadership in capacity building of CECs on budget making and drafting of bills to be presented to County Assemblies; as well capacity building of MCAs
 - ✓ KHRC be invited to second a member of staff to the Governors' Council which currently has committees on Education & ICT; Finance Commerce & Economic Affairs; Energy Roads and Transport; Legal Affairs & Human Rights; Health Labour and social welfare; and Agriculture, Land and Natural resources.
 - ✓ An understanding with the Meru Governor to partner with his office on KHRC's county work

Further, from these recommendations KHRC has started synergy building with CSOs in Kitale, Pokot, Turkana, Kitui to buy into the concept and support in the implementation of the model as a tool of measuring access to rights under article 43 of the constitution.

- KHRC has mapped the key stakeholders at national and county levels to keep abreast with the numerous developments on devolution (through CRA, Transitional Authority,

Salaries and Remuneration Commission, Auditor General, Ministry of Water Controller of budgets, Institutions of higher learning, Counties and other meetings and documents); thereby enabling KHRC input in ad hoc meetings and press statements to address the above situation.

- KHRC has also in partnership with TISA, TI and UNDP- Amkeni drafted and presented a draft memorandum to the Senate select Committee on The County Governments (Amendment) (No.2) Bill 2013 which seeks to establish a County Development Board in each county on proposed amendments.

iii) Challenges and Difficulties Experienced

- In the first year of implementation of devolution, it has been difficult to meet all the County Assembly members and County Executives. This has been occasioned by a number of capacity enhancement meetings and experiential learning from other countries.
- There have been numerous legislations seeking to amend sections of the constitutions and various Acts touching on devolution thereby making it a challenge to monitor the process of implementation.

iv) Next Steps/ Further Actions:

- Five county validation/ entry meetings, a national launch of the Human Rights-Centred Governance Framework, induction of national panel of judges and an Annual Ward Scheme are scheduled under the new DAP partnership.
- KHRC is also finalizing a draft manual on devolution, HRBA and budget process that will be used to capacitate both the duty bearers and rights holders to ensure that the supply and demand side of the service delivery equation is able to meet their obligations as stipulated in the constitution while duty bearers make demands on provision of rights.
- The Transitional Authority with its partners at the national level together with KHRC are working toward a harmonized framework and a Joint Award Scheme in different categories to be proposed. The objective of this harmonization effort is to ensure a national tool acceptable a cross board which would eventually be adopted for Kenya.

2. Citizens Engagements with Budget Making and Access to ECOSOC rights in select Counties (Demand Side)

i) Overview

Low levels of awareness amongst citizens led to poor participation on matters that have a direct bearing on the lives of the ordinary people. Furthermore poor, vulnerable and marginalized groups are often excluded from mainstream development initiatives leading to a cycle of poverty.

It has also been noted that corruption is likely to devolve at the counties and discrimination based on gender and ethnicity may be perpetuated. This calls for a citizenry that is informed and able to influence resource allocations, priorities and monitor access to rights within counties.

KHRC's work on devolution has also included four PIL cases on the same. While there are numerous grey areas on devolution that courts could help clarify, the critical concerns for KHRC revolve around four key issues; namely i) the place of provincial / county administration in a devolved system of government; ii) integrity; iii) the two thirds gender rule and iv) the restructuring of CDF to accord with devolution.

While other CSOs have challenged the constitutionality of CDF, KHRC has drafted a fresh petition on the same which seek the following specific prayers:

- ✓ Stopping the treasury and the budget controller from releasing funds and approving allocation to CDF respectively.
- ✓ Having the MPs stick to their oversight role rather than implementation which is a function of the county government under 4th schedule of the constitution
- ✓ That CDF be disbursed to counties and not be included in the 2014/2015 budget as this violates the constitution which requires 15 percent of the previous financial year audited account.
- ✓ That most of the bills passed in parliament are through simple majority as most legislators are concerned with managing CDF
- ✓ That numerous devolved funds make it almost impossible for citizens to play their oversight roles
- ✓ This was informed by a one day PIL surgery that KHRC hosted and invited stakeholders from CSOs and legal practitioners to give their input to the draft petition.

In February KHRC convened a three day Budget Making workshop for 25 Nairobi County Based Civil Societies representatives to inform Nairobi City County Medium Term Expenditure Framework 2014/2015.

ii) Key Results Realized:

- **Successful county entry meetings;** County entry meetings in Wajir, Migori, Nyeri, Lamu and Nakuru counties have been instrumental in validating the 10-point Governance Framework and identifying potential candidates for capacity enhancement on social audit and monitoring of county service delivery.

iii) Challenges and Difficulties Experienced

- **PIL on emerging county governance issues:** While there are numerous grey areas on devolution that courts could help clarify it, the critical concerns for KHRC revolve around four key issues; namely i) the place of provincial / county administration in a devolved system of government; ii) integrity; iii) the two thirds gender rule and iv) the restructuring of CDF to accord with devolution.

On the first three, KHRC and other CSOs have gone to court and had a previous ruling on provincial / county administration regressively overturned; lost on the integrity case; and provided technical support for women bumped off the list of nominations to County Assemblies to go to court.

- There are poor levels of awareness on avenues for citizen participation especially on budget making process. This is coupled with lack of access to budgetary documents prior to these meetings, hence inability for meaningful citizen engagement.
- As a result of protracted efforts by the ruling class who gained under centralized governance discrediting devolution a growing number of ordinary citizens are convinced that devolution is responsible for the poor living standards they are facing.

iv) Next Steps/ Further Actions

- County entry/ validation meetings will be held in five more counties namely Isiolo, Bungoma, Nairobi, Kiambu and Tana River.
- Budget making meetings for CSOs to influence the County Medium Term Expenditure Frameworks will be up scaled to the other target nine counties.
- The KHRC's petition is ready for filing with the constitutional division of the high court
- In the next phase, 80 CSOs comprising of HURINETs, FBOs and CBOs in four counties will be trained on budget making and monitoring of rights access and delivery at counties.

3. Compliance on Kenya's international and constitutional ESR obligations

i) Overview

While most duty bearers are clear on the national policies that their work contributes towards achieving, there are low levels of awareness on how these links to the international standards and commitments that Kenya is obligated to fulfil.

Thus this initiative aims at creating an understanding on how national policies contribute to Kenya's international ratings on achievement of the Millennium Development Goals (MDGs), international Corruption Perception Index and World Bank Human Development Report and the need for progressive realization of Economic and Social Rights.

ii) Key Results Realized:

- KHRC did a draft analysis of President Kenyatta's State of the Nation Address as stipulated in Article 132 of the Constitution and that of the various Cabinet Executives and Principal Secretaries on how the government is complying with international obligations and specific ESR issues. The draft analysis gives clear recommendations that the president and various Cabinet Secretaries and Principle Secretaries should be alive to when giving the state of the nation address and line ministries scorecard respectively. This document informed KHRC's State of Human Rights Report 2013/2014.

iii) Challenge and Difficulty Experienced:

- Since the State of the Nation Address was the first under the new constitution, there is a general lack of data to compare progressive realization and monitoring of the process of implementation by the national government and county governments.

iv) Next Steps/ Further Actions

- KHRC plans to analyse the State of the County address by Governors in the 12 counties and use the report as a bench marking and monitoring service delivery document.
- The information so obtained will be used to draft a CSO county parallel report on the state of progressive realization of ESR on an annual basis.
- The subsequent state of the nation and county addresses by the president and the governors will track progress through the 2013/2014 data.
- The baseline survey will further provide data on the status of the counties on access and uptake to various rights within counties.

4. Horticulture Project, a fair deal for small holder vegetable farmers and Pack house workers, Meru County

i) Overview:

The Kenya Horticulture Project, commenced in September 2013 in Meru county with aim of improving the livelihoods of small-scale farmers and Pack house workers engaged by Finlays Horticulture Kenya (the projects business partner) by increasing their influence and participation in supply chain decisions and with policy makers (capitalising on current international, Kenyan and UK policy opportunities).

The aim is to develop a mutually beneficial agreement that incorporates human rights considerations, so that farmers sell their produce in a transparent and fair manner, and pack house workers can experience better working conditions.

The project aims to benefit directly approximately 3,300 farmers and workers and indirectly thousands of farmers and workers will benefit both in Kenya and other countries where farmers earn a living from export agriculture, as learning from this project is disseminated and adopted by retailers, importers, and exporters globally.

ii) Key Results Realized:

- At least 26% of the 90 small holder farmers engaged by FHK participated in basic training session on human rights, highlighting their rights as farmers, their responsibility to the business and to themselves to ensure they produce and supply quality produce;
- In Imenti South and Buuri sub-counties now realized is the extensive awareness and mapping of farmers groups (outlining the current structure of each existing group, their leaders' contacts and their Small Producer Organization, SPO);
- Farmers are able to identify challenges that lead to unpredictable incomes. KHRC initiated dialogue with small holder farmers to appreciate their responsibilities as farmers engaged in export horticulture and their level of contributions to losses suffered due to supply of poor quality produce. The losses are also occasioned due to failure by farmers groups to hold members who supply poor quality produce accountable and the effect of such actions / omissions on the low income from horticulture activities; and the ripple effect of it - loss to all grade shed members who had supplied produce that particular day;

- KHRC engaged small holder farmers to interrogate what would constitute "real" contract farming agreement with FHK and how to cushion farmers against losses, a key factor for farmers to enjoy better terms of trade;
- KHRC completed the identification of needs and capacity gaps for farmer and workers filed through a needs assessment report which details gaps including inexistent dialogue mechanism with FHK, groups too small to be heard and non-functional SPO to afford them bargaining strength with FHK etc., negligible membership into union for workers and corresponding training needs for farmers and workers. In support of the project, the County executive in charge of agriculture noted the need to address poverty and livelihood issues of all stakeholders engaged in the supply chain:- Rights of Farmers to grow quality produce, get a fair price for it and be able to meet their livelihood needs and sustain trade by protecting the soil, water and environment (certification standards); Rights of Traders such as fertilizer sellers, seed companies and Rights of Consumers - particularly not to be poisoned with pesticide residues (certification standards) etc.

iii) Challenges and Difficulties Experienced:

- The project experienced slow progress at commencement of the project due to staffing challenges (especially as regards the labour component of the project), and which can be attributed to minimal progress to achievement of anticipated changes, despite positive reception by beneficiaries and other stakeholder's at county level;
- Some of the planned engagement with workers in month of February - March coincided with a high season when FHK packs for valentines and mother's day, as a result the planned meetings with workers in Mt Kenya Pack house, did not kick off as workers were unavailable for any other engagement. A key lesson learnt of when and when not to schedule meetings with workers.

iv) Next Steps/ Further Actions:

- In subsequent months, KHRC will support establishment / strengthening farmer's institution which can lobby for better terms of trade for farmers, develop advocacy memos to the producer and hold dialogue meetings with the exporter to embark on discussions towards the better terms of trade.

Among others, the farmer's capacity and understanding of what constitutes contract farming will be delivered, to ensure informed engagement. It is aimed the group will utilize proactive mechanisms to market surplus produce due to quotas occasioned by changes in ordering patterns;

- KHRC will be rolling out training schemes for workers and farmers as per identified capacity gaps. Some of the training areas will include human rights / workers' rights, governance, agribusiness, how the value chain operates, ICT and how to track price changes for farmers to ensure they more proactively engage with the company on price reviews, improved workplace communication etc.

- KHRC is commissioned a Human Rights Assessment in April 2014 to be undertaken in the context of existing human rights instruments and standards including the UN Guiding Principles on Business and Human Rights ¹⁵(UNGPBHR), the International Bill of Rights¹⁶, the Constitution of Kenya, trade agreements, certification standards, policies and best practices applicable to horticulture and Multinational Corporations (MNCs).¹⁷

This is a key base activity that will lead to identification of human rights impacts (positive and negatives) and risks of business activities / practices engaged in within the horticulture supply chain. This process is also meant to generate as a key output an in-depth critique of horticulture sector related policies on their adequacy and provide policy and practice recommendations.

5. Corporate Accountability: Grievance mechanisms

i) Overview:

KHRC implemented training for southern CSOs on grievance mechanisms with 11 CSOs and 22 participants from across Africa. The Report on the training provides details about the same.

ii) Key Results Realized:

The training increased awareness on available avenues for both judicial as well as non-judicial mechanisms amongst CSO's within Africa in work involving corporate accountability.

The participating organizations were also able to build networks which are very important for future activities. An indirect output of this activity includes a proposal to form an African Business and Human Rights Watch (AFRIWATCH) to provide a combined force in tackling the issues handled by the different organizations.

In addition, KHRC has already begun engaging directly with the offices of these accountability mechanisms including the OECD and the office of the Independent Review Mechanism at the African Development Bank.

iii) Challenges and Difficulties Experienced:

¹⁵ The UNGPBHR were developed by Professor John Ruggie, Special Representative of the UN Secretary –General for Business and Human Rights during his UN Mandate from 2005 to 2011. They were endorsed by the Human Rights Council in June 2011

¹⁶ International Bill of Human Rights consists of the Universal Declaration on Human Rights (UDHR) and the main instruments through which it has been codified: the International Convention on Civil and Political Rights (ICCPR) and the International Covenant on Economic Social and Cultural Rights (ICESCR)

¹⁷ The corporate responsibility to respect human rights is reflected in the updated **Guidelines for Multinational Enterprises** of the organization for Economic Cooperation and Development (OECD), in the human rights chapter of the **Guidance on Social Responsibility** from the international Organization for Standardization (ISO 26000), and in the revised **Sustainability Framework and Performance Standards** of International Finance Corporation. At the regional front the European Commission's 2011 **Communication on Corporate Social Responsibility** calls on all European businesses to meet their responsibility to respect human rights, as set out in the UN Guiding Principles.

The training did not include many participants from francophone countries despite the fact that these countries experience some of the worst human rights violations by corporations. In addition, time constraints did not allow KHRC and the international experts to delve deeper into these mechanisms despite the keen interest from the participants.

iv) Next Steps/ Further Actions:

KHRC intends to hold a regional strategy meeting with CSOs and other organisations that have lodged complaints of human rights abuses against corporations either using judicial or non-judicial mechanisms.

The aim of the meeting is to equip practitioners with skills to successfully carry out their cases including. In addition, KHRC shall assist a particular community or affected group to lodge a complaint against a multinational corporation using the most suitable non-judicial grievance mechanisms.

6. Formation of a regional coalition on corporate accountability and advocacy on developing national action plans on business and human rights

i) Overview:

KHRC attended a regional business and human rights meeting themed “African Regional Civil society convening on Human Rights & Business” and made a presentation on “Non-judicial Grievance Mechanisms for Corporate Accountability” held on 25-27 November, 2013 in Accra, Ghana. The report on the presentation is attached here.

ii) Key Results Realized:

This meeting brought together African CSOs and led to the creation of Africa Coalition on Corporate Accountability (ACCA). As a coalition, ACCA presented an NGO Statement on NANHRI (attached here) at the 9th Biennial Conference of the Network of African National Human Rights Institutions and the ACCA Declaration (attached here) at the UN Forum on Business and Human Rights held in Geneva on 2nd-4th May.

iii) Challenges and Difficulties Experienced:

- Due to time constraints we had to rush through our presentation on non-judicial grievance mechanisms at the regional CSOs human rights and business meeting . This is despite the fact that many of the participants were eager to discuss the use of non-judicial mechanisms to obtain redress for affected groups.
- During the meeting we discovered that most of these mechanisms are underutilised and some like the African Development’s Bank Independent Review Mechanism (IRM) has not been tested at all.

iv) Next Steps/ Further Actions:

- KHRC will use the coalition as a platform to contribute actively to the discussion on establishing National Action Plans on business and human rights in African states and create awareness on non-judicial grievance mechanisms to access effective remedy for corporate violations.

- KHRC has also begun engaging with the office of the IRM with the aim of building alliances with the Bank and exploring the idea of utilising the IRM as a redress mechanism.

7. Fact finding mission at Unilever Tea Kenya (UTK):

i) Overview:

This mission was the result of coverage by BBC of KHRC's 2009 report on sexual harassment occurring at the tea estates. The objective of the mission was to gather views of UTK workers on the current status of sexual harassment including any current incidences, their nature and magnitude and what the company has done to address such violations, indicating what has worked and what has been done following BBC's report.¹⁸

The mission was also sought to identify victims of sexual harassment and what remedy they prefer for harm suffered, for them to access justice. The KHRC was approached by Leigh Day and Company Advocates to undertake litigation against Unilever UK on the basis of the report aired on BBC.

ii) Key Results Realized:

The mission's findings indicate that women are more targeted than men; younger workers were reported than the older ones to be victims of sexual harassment; and male workers were reported to be more of perpetrators than women. KHRC has also undertaken an analysis on the law and international framework around sexual harassment and corporate liability for actions of its employees. (Analysis attached).

iii) Challenges and Difficulties Experienced:

There were cases where the respondents during the fact finding mission appeared afraid to answer questions touching on sexual harassment, while others seemed not to understand properly the questions that were asked.

In addition, Leigh Day were keen on commencing litigation against Unilever (UK) for sexual harassment of workers at Unilever Tea (Kenya), however KHRC believed that this was not the best strategy to undertake.

iv) Next Steps/ Further Actions:

KHRC intends to hold dialogue meetings with the company whose subject shall be the findings from the mission and assist them to strengthen the mechanisms that they have put in place to curb sexual harassment at the workplace and also undertake trainings and awareness creation on human rights and corporate accountability. KHRC intends to present to Leigh Day an analysis of the fact finding mission including the law and KHRC's position on how to proceed with the matter.

8. Binding Treaty on Corporate Accountability

¹⁸http://www.bbc.co.uk/iplayer/episode/b03q9r9n/This_World_The_Tea_Trail_with_Simon_Reeve/

i) Overview:

KHRC participated at the global Peoples Forum on Business and Human Rights themed “*Developing Collective Strategies towards Binding Regulation and Effective Remedy*” held in Bangkok, Thailand on 5th-7th November 2013.

ii) Key Results Realized:

The forum led to a joint statement endorsed by KHRC calling for an internationally legal binding instrument on business and human rights, transnational corporations and other business enterprises (attached here).

In addition, following participation at the forum, KHRC has been enrolled in ESCR-Net’s Corporate Accountability Working Group Steering Committee which builds collective, transnational strength and capacity to challenge significant cases and systemic patterns of corporate abuse on a global level.

With respect to the binding treaty on business and human right, information on the positions of States Permanent Missions in Geneva regarding a new international instrument to address corporate violations of human rights (attached here) indicates that Kenya is open to the idea that new standards can be developed in this area.

The positive reaction from Kenya was that if companies are “worth their salt” they will not be concerned with things that will ensure that their business activities are not seriously harming the people in the countries they invest in.

iii) Challenges and Difficulties Experienced:

There has been little awareness in Kenya on the need for a binding instrument on business and human rights among various stakeholders including civil society, business and government. This has been a discussion that has been ongoing in the global arena and has not devolved to the national and county level.

iv) Next Steps/ Further Actions:

KHRC will engage the Kenya government and urge them to join in on the call prior to the June session of the UN Human Rights Council. In addition, KHRC is a part of the planning committee of this year’s People’s Forum on Business and Human Rights and shall be participating at the Forum on emerging issues in this area. KHRC in conjunction with ESCR-Net shall be holding the 2015 People’s Forum on business and human rights in Nairobi, Kenya.

9. Lamu Port Advocacy

i) Overview:

On the 31st to 6th of April 2014, KHRC conducted a series of entry meetings in the County of Lamu with CSO’s, FBO’S, MCA’s, women leaders and Teachers. The report on the entry meetings is attached here.

ii) Key Results Realized:

KHRC has supported the affected communities in Lamu through interrogating the Human Rights impacts of the Lamu Port South Sudan Ethiopia Transport (LAPSSET) Corridor Project on the host community of Lamu.

During KHRC's meetings in Lamu, the groups indicated some of their concerns with respect to LAPSSET and their expectations in that regard. This information has been included in the draft Lamu Report. KHRC was also able to build networks with members of the county government and forge partnerships with a number of HURINETs in Lamu.

iii) Challenges and Difficulties Experienced:

The completion of the KHRC Lamu Report took longer than expected therefore it wasn't launched within this reporting period.

iv) Next Steps/ Further Actions:

Finalisation and launch of the report including the development of a policy brief for further advocacy.

10. "Stop EPAs" and Farmers Participation in negotiation of International Trade Agreements

i) Overview:

The Economic Partnership Agreement (EPA) is a multi-lateral trade agreement that creates a trade relationship that limits local industrialization since it promotes a culture where raw materials and unprocessed goods are exported to Europe, while final products of the same are imported back to the EAC. The loss of tariff revenue for the provision of essential services will force the government to raise consumer taxes on basic commodities, including food thus increasing commodity and food prices. The government is bent on concluding and signing the EPA in its current form without proper consultation as required by the constitution

ii) Key Results Realized:

A Positive Court Decision on the EPAs Case

The case, *Kenya Small Scale Farmers Forum and 6 others v Republic of Kenya and another (High Court Petition No. 1174 of 2007)* was a petition instituted by producers and other stakeholders supported by the KHRC. It aimed at stopping the signing of the EPA until contentious issues are resolved and structures put in place for participatory and informed negotiation of the EPA. Stakeholders raised the following issues against EPAs negotiations.

The first contention is that by opening up market access to the EU under the current terms, the EPA will result in the loss of competitiveness for Kenya's industries in the domestic and regional markets to cheap subsidized European goods.

Secondly, that regional integration and economic development will slow down since the agreement emphasizes that any future trade benefits that African countries might give to other major trading economies must also be given to the EU.

Thirdly, that the EPA contains clauses whose effect impede market access for East African goods and services, by introducing stringent and unreasonable conditions relating to the “Rules of Origin,” “Export Taxes” and “Trade Facilitation.”

It is against these issues that the stakeholders/ KHRC’s High Court petition demanded thus;

- That the Kenyan government suspends the negotiations between the EC and the EAC until producers’ concerns are addressed;
- That the Kenyan government guarantees access to information, sensitizes stakeholders and establishes frameworks for structured participation of stakeholders in the negotiations;
- That the Kenyan government puts in place measures that enhance the competitiveness of local producers in the global market and to avoid signing up for an agreement that require the country to open a large proportion of its sensitive market so quickly; and
- That the European Union ceases its campaign of bullying and intimidating EAC States into signing the EPAs and engages the EAC in good faith.

The petitioners anticipated that the court would grant an injunction stopping the government from signing EPA until all these issues are finally resolved. However most of the reliefs sought in the petition focused on the expected impact of the EPAs and the infringement to fundamental rights.

These however are moot and cannot... ..as the Court adopted a narrower issue to wit, the State’s obligation to facilitate public participation in governance. The only relief that commends itself is to direct the respondents to put in place mechanisms to facilitate participation of the stakeholders in the ensuing process.

Then the final orders granted on 30th October, 2013 were:

- We direct the respondents in consultation with the Petitioners within **thirty days** to establish a mechanism of involving stakeholders including the Petitioners in the on-going EPA negotiations.*
- That the respondents publishes information within **thirty days** regarding the negotiations in particular, but not limited to publishing in at least two dailies and other official communication the progress for public awareness and in order to stimulate public debate.*

Consequently, KHRC has petitioned various arms of government, ie, Ministries of EAC, commerce and Tourism, Agriculture, Foreign Affairs and International Trade, senate and the national assembly, to push for public participation of stakeholders on EPAs.

Fredrick Njehu, KHRC’s Programme Advisor, Trade Justice, attended two regional EPA meetings one themed “Foreign Direct Investments (FDIs), the rise of Bilateral treaties (BITSs) and their impact on Sustainable Development in EAC and made a presentation on “Investment policies in Kenya and poverty relations” held on 16-17 December, 2013 in Kampala, Uganda.

He also attended a regional EPA multi-stakeholder workshop and presented “Alternative options for EPAs” as well as presented the “EPA Judgment” in Kigali, Rwanda on 14-15 September, 2013. These regional meetings brought together MPs from EALA, all national parliamentary committees on Trade and Investment, two EU Parliamentarians and CSOs from across Africa.

KHRC was invited to participate in five EPA consultative meetings convened between CSOs, private sector and government through the Ministry of Foreign Affairs and International Trade. KHRC was requested to make a brief submission to the team of technical negotiators and the Permanent Secretary on how to address the outstanding issues in the EPA.

A media article was published by the business daily on “High Court Ruling on EPAs timely”¹⁹ and also was uploaded on the KHRC website.

KHRC was part of the Civil Society Organizations from Africa, the Caribbean, and Europe campaigning on the Economic Partnership Agreements (EPAs), that met in Harare, Zimbabwe from 8-9 October, 2013, to review the EPA negotiations and the campaigns, denounce the continued pursuit of the EPAs.



KHRC Trade Justice Farmers Meeting at Wida Highway Motel, also attended by some HURINET members who work with farmers

iii) Challenges and Difficulties Experienced:

- The major challenge was the legal procedures of changing the three-man bench that was hearing the petition. This not only lagged the process, but invariably disorganized the petitioners.
- There was a deliberate move by the private sector and government to shield the participation of CSOs and farmers until the judgment was issued.
- The dynamics of the EPA negotiations in terms of progress made, issues agreed and outstanding issues of the negotiations has limited KHRC’s participation in recent years. The government did not adhere to the second main directive of publishing progress information in local media for public awareness and stimulating public debate within the 30 days of the ruling.

¹⁹ <http://www.khrc.or.ke/blog/epa-court-ruling-was-timely.html>

iv) Next Steps/ Further Actions:

KHRC will:

- Petition the Kenya National Assembly to introduce a motion in parliament to monitor the implementation of court orders and to push for the deadline of signing EPAs scheduled for 1st October, 2014 till the outstanding issues are addressed by the negotiating parties.
- Conduct a comparative study from other EPA configurations such as West Africa, Southern Africa and Central Africa to cushion East Africa against signing EPAs in their current form while auditing the pending EPA issues and their likely impact on farmers' rights, trade and livelihoods.
- Carry out consultations and advocacy with Smallholder Farmers, East African European based Civil Society Organizations in pushing the European Union, European Union and European Parliament to push for alternative to EPAs.
- Engage the African Union to push for reforms in the trading system by promoting intra-African trade.

11. Trade Justice Advocacy in Sugar Sub-Sector

i) Overview:

The sugar subsector in Kenya has been facing numerous challenges with farmers in this region being among the poorest. This project aims at working with cane farmers to create awareness about their livelihoods and trade as well as build their capacity to engage with the government on pro-poor reforms. The project aims at creating strong farmer institutions with support of KHRC for them to stand up and demand for their rights, engage cane stakeholders, government as well as regional institutions such as COMESA.

ii) Key Results Realized:

- The use of the *"Bitter Sugar"* documentary *produced* in 2012 still being aired in local churches and community halls around the sugar growing zones for purposes of raising awareness and demanding for farmers' rights to be protected.
- In partnership with Sugar Campaign for Change, Kenya Sugarcane Farmers Union (KENSFU), South Nyanza Human Rights Network, smallholder farmers were able to interact with the new agriculture laws, namely Crops Act 2012 and Agriculture, Livestock and Fisheries Act (ALFFA) Act 2012; identified existing gaps and offered recommendations during the community entry meetings held in Migori County in December 2013.
- An opinion piece covering issues raised by farmers in Migori County was published by the Business Daily on 26th January 2014.²⁰
- Stakeholders including Out Grower Institutions, Kenya National Sugar Farmers Union (KENSFU), Kenya Sugar Cane Growers Association (KESGA); Kenya National Sugarcane Growers Union (KENSGU); Sugar Campaign for Change (SUCAM) and community based

²⁰ <http://www.businessdailyafrica.com/Opinion-and-Analysis/Sugarcane-farmers-need-the-Comesa-safeguards/-/539548/2161110/-/lfu9fcz/-/index.html>

HURINETs approached KHRC to help in conducting community sensitization forums and advocacy meetings with smallholder farmers in Kuria, Ndhiwa, Transmara, Homabay on the reforms being instituted by government at national and regional levels (COMESA).

iii) Challenges and Difficulties Experienced:

- The farmers' institutions and associations are in a state of poor coordination, lack requisite engagement skills on issues affecting smallholder sugar farmers. The ad hoc nature of approaching farmers' challenges has exposed them to compromise by the rights holders especially government and sugar millers.
- There are competing farmers' associations and organizations in the sugar growing zones that are uncoordinated and scattered making it hard for farmers to form one strong movement to take up the farmers' challenges to the next level.

iv) Next Steps/ Further Actions:

KHRC will:

- Strengthen farmers unions and institutional to advocate for better prices and terms of trade, conduct dialogue forums with county and national governments, members of Parliament and millers around the cane growing zones.
- Audit the out grower associations and their associations with smallholder farmers.
- Invest in building the capacity of farmers to begin to look at cane production as a serious venture and form of employment. KHRC hopes that this will translate into more interest in understanding how the sugarcane pricing formula is arrived at and what production costs it considers.
- The sugar manifesto developed by KHRC, once published, will be used to engage with County Governors and members of the county assembly as well as through local radio programmes to be utilized to share the brief with farmers and other stakeholders.
- KHRC continues to engage with the policy reforms and will take up every available opportunity to engage with the government as well as disseminate to farmers and stakeholders on the changes

12. Trade Justice Advocacy on Coffee Sub-Sectors

i) Overview:

Trade justice advocacy on Coffee Sub-Sector is aimed at addressing the coffee farmers' rights along the value chain as well as highlights their plight to continually engage policy makers in addressing their plight. It further seeks to build the capacity of farmers to understand trade and agriculture laws as well as how they affect the sub-sector for purposes of pushing for fair prices in the domestic, regional and international markets.

ii) Key Results Realized:

- Coffee farmers in Nyeri were able to understand the contents of the Agriculture, Livestock and Fisheries Act as well as the Crops Act through critiquing and identifying gaps during the farmers' community entry meetings.
- Women leaders and small scale woman farmers in various sub-counties in Nyeri interacted with the coffee value chain through interacting with Crops and ALFA Act during the county entry meetings held in March 2014.
- Interacting with Members of the Nyeri County Assembly to address the issues raised by small scale farmers in terms of legislation and budgetary allocations.

iii) Challenges and Difficulties Experienced:

- There is immense political interference of the sector by leaders in the Central province which has no interest for smallholder coffee farmers.
- The county government of Nyeri in particular agriculture officials have limited or no engagement with smallholder coffee farmers making it difficult to address the challenges facing the sub-sector.

iv) Next Steps/ Further Actions:

We shall:

- Utilize the KHRC-developed Governance Framework to engage the county government to support small scale coffee farmers. This will include scheduling meetings with governors and county executives in Nyeri county to present to them the grievances bedevilling smallholder coffee farmers.
- Produce a coffee documentary to be screened nationwide highlighting the plight of small-scale coffee farmers along the value chain in order to influence government (national and county) to make policies and favourable agriculture laws that are pro-farmers especially those in small-scale production.

13. Effectiveness of Cooperative Movement in Addressing Farmers Trade and Livelihood's in Select Crops

i) Overview:

This project aims at carrying out an audit of cooperative movements among select farmers of rice, tea, coffee and sugarcane. This exercise will assess their effectiveness in addressing and advancing the farmers' interests in order for them to access inputs, markets, fair prices and participate in the policy making processes of the crops they grow.

ii) Key Results Realized:

- KHRC has been approached by Kenya small-scale tea growers association to institute legal proceedings against the government to reclaim the ownership of Kenya Tea Development Association (KTDA).

- KHRC has been approached by Mwea Rice Foundation to push Kenya Irrigation Board and the County government of Kirinyaga to address the land question.

iii) Challenges and Difficulties Experienced:

Cooperative movements in the agriculture sector face critical organizational challenges in relating to smallholder farmers making it difficult to engage meaningfully.

iv) Next Steps/ Further Actions:

- Conduct an audit of select crops (rice, coffee, tea and sugar) to ascertain their effectiveness in advancing trade justice for small scale farmers.
- Conduct advocacy meetings from the report published to push for reforms recommended by the cooperative movement.

CHAPTER FOUR: EQUALITY AND NON-DISCRIMINATION(END)

Overall Goal/ Strategic Objective:

Enhanced representation and participation of targeted marginalised groups²¹ in political governance. This strategic objective relates to the work of the END thematic area.

Below are the key projects implemented, results achieved, challenges experienced and the next phases of engagement for this programme/ theme.

1. Campaign on equal access to citizenship and active suffrage rights for Marginalized groups

i) Overview

In November 2013 KHRC commissioned a research into the implementation of the Kenya Citizenship and Immigration Act, 2011 and the Kenya Citizens and Foreign Nationals Management Service Act, 2011²² in three border counties of Migori, Wajir and Mandera. Specifically, the research was aimed at establishing the nature and extent to which Chapter Three of the CoK 2010, and the Citizenship and Immigration Act are applied equally in the access to citizenship. The research also sought to establish the extent to which the access to and issuance of citizenship documents has changed since 2010 for marginalised communities living in trans-boundary.

ii) Key Results realized

KHRC gathered data which shows differential treatment of a discriminatory nature of government in issuing personal documents to Kenyans in Mandera and Wajir. During the field research KHRC gave input to the County Vetting Committee representative chaired by the County commissioner towards a more transparent vetting process in Mandera that would help get rid corruption and the subjective nature of the vetting process.

KHRC was able to sit with the Mandera County security committee in a security meeting that later resulted in the re-opening of issuance of IDs in Mandera after an almost 18 month's total freeze. KHRC gave on spot legal advice especially to women in the counties of Migori and Wajir on the importance of national identity cards and birth certificates as well as how to apply for them.

iii) Key Challenges:

- KHRC was unable to get some of the data needed for the research in certain areas because government officials felt it was sensitive especially in the wake of terror attacks.

²¹ Historically, women, persons with disabilities, youth, and sexual minorities, regional, and ethnic marginalisation.

²² These two legislation are the enabling legislation for Chapter 3 on Citizenship in Constitution of Kenya

- The research team encountered reluctance by respondents to give data regarding ethnicity and clans due to ethnic tensions in, Mandera and Wajir counties. This was seen as aggravating the existing ethnic tensions due to unequal representation of the various clans in Wajir and Mandera county governments
- Political interests in the acquisition of citizenship documents have harboured efforts to enact legislation and process to help reduce discrimination of marginalised communities

iv) Next steps/Further Actions:

- KHRC plans to establish an active CSO Platform to lobby for the enactment of the Identification and Registration of Persons Bill so as to ensure there is legislative backing for the establishment of the integrated population registration system for the biometric registration.
- KHRC in the next year we will conduct advocacy in the border counties of Wajir and Mandera and build the capacity of both the duty bearers and the right holders with regard to the right to citizenship.

We will also use the KHRC report on inclusive citizenship to call for a uniform process of acquisition of citizenship documents across all counties.

2. Equitable ethno-regional distribution of resources and ethnically diverse representation and participation in political governance

i) Overview

KHRC set out to address issues of equality and non-discrimination within the KHRC framework for human rights centered framework of governance. KHRC was able to pilot the framework in Wajir, Migori, Nyeri and Nakuru. In all the counties political representation of women and person with disabilities were wanting and questionable as they were dependent on the political elites. Another interesting thing that came out was negative ethnicity at a micro level in terms of clans.

ii) Key Results Realized

KHRC drafted a working paper on mechanisms of affirmative action for minority and marginalized groups in Kenya as a way of ensuring diversity at all levels of government. This paper will be validated and publicized in the year 2014-2015. In the process, KHRC was able to identify issues of inequality which informed programming for the next year.

iii) Challenges

- The programme attempts to deal with a new aspect of representation and distribution of resources was at its inception stages and had a slow start because of staff transition.
- Ethnic discrimination in Kenya is very deeply rooted to the extent that it has been normalized; as such it is seldom recognized as discrimination. Resultantly there are very

few people advancing positive ethnicity or opposed to ethnic discrimination apart from when it affects their community.

- KHRC thus hopes to amplify the impact of ethnic discrimination and hopefully rally Kenyans to a sense of National belonging rather than ethnic belonging through a sustained campaign against ethnic discrimination.

iv) Next steps/Further Actions

- KHRC plans to build the capacity of both the duty bearers and the rights holders to better address issues of equality in terms of representation and representation.
- KHRC also plans to pilot equality mainstreaming in Nakuru County as a test County which if successful will be replicated in the other counties.
- KHRC will conduct a baseline on equality and equity to inform the ethnicity component of the END theme which could not be conducted in this operational year.

3. Community reflections

KHRC organized community reflections where each program was able to mirror their program goals against the communities needs and priorities and the community were able to highlight issues they think need to be addressed. Key among them was the implementation of the devolved system of government and issues of equality and non-discrimination as being very pertinent in the community and requiring redress. They highlighted issues of capacity building for women leaders, provision of policy support for persons living with disability, tribalism and nepotism in the county governments and the security sector, threat to life among the Lesbian, Gay, Bi-Sexual, Trans-Gender and Inter-Sex (LGBTI) community among others.

4. Working towards inclusion of marginalized groups (women and PWDs) in political processes nationally

i) Overview

Marginalized groups, as envisioned under Article 100 of the CoK, are groups that have experienced historic marginalization in the country. This marginalization manifests in the inability to secure representation and participation and the inability for them to substantively claim their civil and political rights. After the 2013 general election, it was realized that there was lack of adequate representation of women and persons with disabilities in political structures and political processes.

After the ruling that was delivered by the Supreme Court in 2012, different stakeholders were invited to propose and deliberate on frameworks and methods in which the 2/3 gender

principle²³ can be realized by August 2015. KHRC undertook to participate in joint stakeholders processes in 2013 and 2014 with the aim of pursuing a viable solution to the realization of affirmative action legislation.

Due to the diverse work carried out by KHRC with regard to the inequality in Kenya outlined in the report “*In the spirit of Harambee*”, diverse training of aspiring women and persons with disabilities and the audits conducted during and after the 2013 general election respectively as well as devolution and the work conducted nationally and regionally on elections, KHRC was able to present and contribute three alternative frameworks and methods for application that can be used to create structures that would realize gender parity in the political structures of government.

In December 2013, in an intervention led by the KHRC’s CPR team in Sierra Leone the END thematic program was requested to provide expertise on the gender engagements undertaken before, during and after the Constitutional Review Process in Kenya. The aim of the team provided perspectives on gender issues to different organizations in Sierra Leone who were going through a constitutional review process, not dissimilar to Kenya’s.

ii) Key results

KHRC shared and presented to stakeholders three of the five workable proposals on the realization of the 2/3 gender principle. These proposals included three ways of achieving affirmative action:-

- a) *Constitutional quotas*; this has already been provided for in the Constitution of Kenya which has constitutional provisions reserving seats in national parliament for women.
- b) *Election law quotas*; Provisions are written into national legislation. This too has been provided for in the presentation of party lists that requires a one woman one man representation (zebra formation) to be presented in that order.
- c) *Political party quotas (Administrative)*; Parties adopt internal rules to include a certain percentage of women as candidates for office.

With the challenges that were noted in the actualization of the theories, a steering committee was created to synthesize all the information shared and come up with at least two workable angles. With regard to the team’s engagement in Sierra Leone, KHRC provided a substantive

²³ Article 27 in the bill of rights provides for equality and freedom from discrimination. 27(6) states that “the state shall ‘take legislative and other measures, including affirmative action programmes and policies designed to redress any disadvantage suffered by individuals or groups because of past discrimination’

27 (8) proceeds to require that

‘In addition to the measures contemplated in Article 27(6), the state shall take legislative and other measures to implement the principle that not more than two-thirds of the members of elective or appointive bodies shall be of the same gender .

The supreme court interpreted this to be progressive but must be implemented by August 2015.

background on the achievements of the women's rights movement in Kenya and how the same could be replicated in Sierra Leone.

It also advised the gender team tasked with realization and provision of a gender sensitive provisions of the constitution, the manner in which this could be achieved and worked directly on the wording that would appear in the proposed constitution of Sierra Leone.

iii) Challenges

It was evident that more thought and planning needed to be done in order to arrive at a solution that would be acceptable to the public as well as the various national parties and representatives with regard to the two-third gender principle. Due to the change-over of the staff that was co-coordinating the meeting; it took an inordinately long time to get the process moving forward.

5. Comprehensive Equality and Anti-discrimination Legislation (CADLE) engagements

i) Overview

In 2009, KHRC in partnership with FIDA Kenya and Equal Rights Trust, launched an equality campaign designed to empower disadvantaged groups through combating discrimination and promoting equality with the ultimate objective being the adoption of a comprehensive anti-discrimination law for Kenya.

KHRC and the Equal Rights Trust, published a report titled "*In the Spirit of Harambee*" which outlined the different levels and representations of inequality in Kenya. Together with extensive legal research, this report and a proposed legislative map form the reference for the proposed legislation and finally a draft Equality legislation which could be used as the prototype for the new legislation. These efforts were hinged upon the establishment of the Kenya National Human Rights and Equality Commission (KNHREC) as envisaged under Article 59 of the Constitution (which was never saw the light of day).

The National Gender and Equality Commission (NGEC) re-launched the initiative to develop a legislation that would encompass the legislative equality provisions that were provided for in different numerous legislations. Due to KHRC's initial engagements on this issue, KHRC was approached to provide the initial work that had been done. KHRC shared these documents as well as a wealth of information to the NGEC with the aim of guiding the process of the formulation of this proposed legislation.

ii) Key results

The initial research, legislative map and draft legislations created by KHRC was shared with NGEC and shareholders. Based on this, there has been consensus that the legislation should be adequate to cater for equal protection for all marginalized groups under Article 100 of the

Constitution. A steering committee was created in which KHRC is a part of, to assist in the formulation of the proposed legislation.

iii) Challenges

KHRC was unable to substantively participate in the efforts by NGEAC in the equality legislation development process due to the change of staff at the NGEAC which stalled the process. However, the process was merged with the stakeholder's initiative to develop an affirmative action legislation which would subsume the provisions on substantive equality legislation.

iv) Next steps/Further Actions:

KHRC will continue to actively participate in the process to provide capacity on both the substantive equality legislation and the affirmative action legislation.

6. Country based overview of representation and context mapping of South Africa, Botswana, Namibia and Malawi

i) Overview

In line with our electoral governance initiative to provide a comprehensive long term elections observation programme regionally and internationally, KHRC undertook to develop a contextual understanding of the representation and participation of marginalized groups in target countries that were conducting their elections in 2014. We therefore sought the expertise of a professional who would undertake to investigate and report the representation of women and persons with disabilities and their participation in the upcoming elections in their countries.

ii) Key results

KHRC collated data from the four countries that reflected the representation and participation of these groups in their countries. We gathered data on the state and non-state actors' contributions with regard to civic education and the impact that it has had on the targeted marginalized groups.

The output report substantively reflected the needs of the targeted marginalized groups and would ultimately enable us to identify points of entry in the sharing of good practice as well as the proposals presented in the long term observation project.

iii) Challenges

It was extremely difficult for KHRC to identify a consultant who could undertake the research in a substantive manner leading to the delay in the commissioning of the report.

iv) Next steps/Further Actions:

We will publish the report on the representation and participation of targeted marginalized groups as well as make preparation to launch the e-hub, which is designed to be an online

website that offers access to the information gathered from the different targeted countries that we will be working in.

7. National Partners Meeting to Prepare for Kenya's Reporting before the African Commission on Human and People's Rights (ACHPR)

i) Overview

Kenya was scheduled to report on the status of human rights in the country and its compliance with its human rights obligations under the African Charter on Human and People's Rights (the Banjul Charter) in October 2013. Stakeholders in the civil society sector came up with the initiative to submit a joint alternative report to the African Commission for consideration during Kenya's review. This joint initiative was convened by CRADLE, The Children's Foundation, and had a number of civil society organizations participating in the provision of information and preparation of the alternative report.

ii) Key Results Realized

KHRC coordinated the final meeting where the final edits to the report were made and all the ideas from stakeholders consolidated for the final report to be presented to the African Commission.

iii) Challenges

We were unable to submit the report as the Kenya session was postponed since Kenya had not submitted its State report in time for review in the October 2013 session.

iv) Next steps/Further Actions

Follow up the shadow report and its submission to the ACHPR.

8. Engagement in the African Commission

i) Overview

The KHRC's Equality and Non-Discrimination (END) team was represented at the African Commission's 53rd Session in October in Banjul Gambia and contributed to the deliberations and adoption of resolutions at different forums on women, persons with disability and sexual minorities.

There were various opportunities to engage on women issues with regards to elections and electoral practices. With regards to sexual minorities, KHRC was part of the robust discussions on the engagement on the adoption of a protocol dealing with discrimination, protection and security for the LGBTI community in Africa at the 54th ACHPR Session to be held in Angola in April 2014. KHRC also contributed to the discussions on possible mitigations on the prohibitive

legislation such as the Same Sex Marriage Prohibition Act in Nigeria that was passed in January 2014 and the Anti-Homosexuality Act in Uganda that was passed in March 2014.

ii) Key results realized

KHRC contributed to the NGO statement on women particularly on the poor representation and violence against women who choose to participate in electoral processes. This statement was read to the Commissioners of the African Commission for their consideration

KHRC participation in the discussions on the LGBTI situation in Africa. The deliberations between different organizations led to the drafting of a statement that was adopted by the floor of the Commission and eventually, a recognition of the plight of the LGBTI community on the subsequent 55th African Commission session in Angola

9. Participation at the 25th session of the United Nations Human Rights Council in Geneva

i) Overview

The KHRC made preparations to attend the 25th session of the HRC in Geneva from the 3rd – 28th of March 2013. The purpose was to participate in the Clustered Interactive Dialogue with: Special Rapporteur on minority issues and discusses the growing concerns in Africa on the lack of recognition of sexual minorities. We were also to participate and present our views on the political representation of persons with disabilities during the annual discussion of the HR of persons with disabilities.

ii) Challenges

KHRC as an organization was unable to substantively participate as were unable to get accreditation to attend the different sessions.

iii) Next Steps and Further Actions

- Apply for observer status at the Human Rights Council to facilitate participation in the sessions.
- Seek further partnership with organizations who may be able to support the travel of more than one person to attend the HRC session to create a larger group of LGBTI persons with capacity on interventions at international platforms.

10. Participation in International Network of Civil Liberties Organisations (INCLIO) Conference on Religious Freedom and Equal treatment

i) Overview

In October 2013, KHRC participated at the INCLO conference on Religious Freedom and Equal treatment that was held in New York. The purpose of the intervention was for the launch of the first INCLO publication “*Take Back the Streets: Repression and Criminalisation of Protest Around the World*,” a collection of nine case studies showing patterns of police crackdown and abuse against peaceful assembly, accompanied by concrete recommendations to expand free speech.

We also participated in dialogues on different issues such as equal treatment, Extra Judicial Executions during mass protests. KHRC had the opportunity to present a paper on religious freedom and equal treatment at the Brooklyn Law School with scholars from around the world for the Law School Centenary celebrations.

KHRC was also invited to participate in the ARCUS Foundation round table meeting with other international donors while in New York. The purpose of the meeting was to identify other areas where developmental partners and donors can lend their support to national organizations that work on LGBTI issues. KHRC made presentations on the situation in Kenya and other areas of interventions that were necessary to facilitate efforts in Kenya and generally in Africa as a whole.

KHRC also had the opportunity to meet with the New York Bar Association (NYBA) who were interested in partnering with KHRC on a case that KHRC was enjoining on intersex issues. There were also substantive discussions on other areas of collaboration. NYBA introduced the Morrison & Forester Law Firm who, in partnership with KHRC facilitated a brief on the intersex litigation that was going on around the world to aid in KHRC’s case.

ii) Key Results Realized

KHRC presented a paper on Religious Freedom and Equal Treatment during the conference which enumerated the disparity in issues that affect Africa in comparison to other continents, outlining Africa’s uniqueness. This information was published on the Brooklyn Law Review website to add to their resource material.

During the ARCUS round table, we made many important linkages with developmental partners leading to an interest in them wanting to fund domestic work around LGBTI initiatives.

The New York Bar Association, in partnership with Morison and Forester, a law firm in New York who undertake pro bono work, prepared a legal brief for KHRC that was used to inform the amicus intervention that KHRC entered in the case of “*Baby A Vs KNH and others*”.²⁴

iii) Challenges

- Due to challenges with the counsel representing KHRC in the amicus curie application, we were unable to secure the brief on time.

²⁴ Baby A is trying to get a birth certificate. Baby A’s medical documents have a “?” where the question of sex is asked. Government offices say they can’t give a birth certificate without being able to mark the child’s sex. Yet a birth certificate is an important document that Baby A should be given.

- We were not able to substantively engage the donors on other areas of intervention on KHRC key work due to time constraints. The meeting with the developmental partners was only a day long.

iv) Next Steps and Further Actions

KHRC will work on position papers to participate in up-coming regional and international engagements in 2014-2015. Some of the steps include seeking for observer status as an organization to enable us to attend the international fora without reservation.

We are also seeking to have more substantive follow-up engagements with developmental partners to form strategic linkages for interventions on issues such as sexual minorities.

11.Strengthening of GALCK (Gay and Lesbian Coalition of Kenya)

i) Overview

Since the 1st of January 2013, GALCK had been undergoing transitional management. After the transitioning team report, GALCK was placed under the management of the GALCK Reloaded Taskforce (GRT). This became the official channel of communication.

In November 2013, KHRC had a number of meetings with the GRT with regard to the strategies that they planned to employ in order to re-launch the organization. We discussed the program and invited different stakeholders such as the East Africa Sexual Health Rights Initiative (EASHRI-UHAI) and the National Coalition for Human Rights Defenders (NCHRDs).

The purpose of the meetings was to identify potential areas of engagement with the LGBTI community, provide direction on the regional and international issues and their effect on the Kenyan LGBTI community and provide joint interventions for allied partners especially with regards the regional and international interventions and the internship/mentorship program.

It was agreed that interns would have comprehensive guidance for six months at KHRC and then proceed to NCHRDs for six months. They would also be competitively considered for the Pan African LGBTI training at UHAI for regional and international interventions in different platforms.

ii) Key results

The meetings yielded a work plan for KHRC and GALCK to coordinate activities and initiate programs that would support the LGBTI community agenda. We took on two LGBTI interns who learnt substantively under all the program officers in the department with the aim of making them fully capacitated on all issues that we work on equality and non-discrimination.

iii) Challenges

- Despite the re-launch of GALCK, our partner organization, it is still difficult to access all the member LGBTI organizations individually.
- LGBTI organizations were preoccupied with the security challenges in Kenya due to the passing on the Anti-Homosexuality Act in Uganda, thus making it difficult to facilitate meetings with the organizations and their members. The Pan ILGA conference had many organizations preoccupied with various activities and therefore left little time for engagement

12. Participation in IDAHO

i) Overview

The International Day against Homophobia (IDAHO) is an event that happens every year on the 17th of May. It is a day that brings together all members of the LGBTI community. It is used to raise awareness on the rights that community should have as well as the discrimination that they face to date.

Every year, the different member groups of GALCK and other interested parties come together to co-facilitate activities that are targeted at different initiatives around raising awareness on human rights issues facing the community.

ii) Challenges

- This has sometimes been problematic as different organizations have different capacities and challenges with regards to the raising of funds and general cohesion on the objectives of the day.
- Due to these challenges, partner organizations such as KHRC are unable to fully participate in the activities and mobilization for the same due to late co-ordination efforts from the community.

iii) Next Steps and Further Actions

KHRC will discuss with different organizations in January on strategic activities to be carried out during IDAHO to ensure adequate preparation time for the IDAHO events.

13.Support linkages for LGBTI solidarity and shared learning initiative

i) Overview

This initiative was introduced as we realized that there was a capacity gap when it came to representation of sexual and gender minorities at regional and international platforms. We therefore started an initiative to support LGBTI interns to attend the regional and international meetings where sexual and gender minority issues are discussed.

Under this initiative, we also designed a mentorship program where the LGBTI interns, upon completion of their program with KHRC, would then be placed for a six-month internship at UHAI to learn more directly on programming and grant making and finally a six-month internship at the NCHRD to learn more about protection and working as a human rights defender.

ii) Key results

We supported one LGBTI intern to attend the UN Human Rights Council Sessions in Geneva. The purpose of his attendance was to understand the working of the human rights mechanisms and particularly the Human Rights Council as well as have a deeper understanding of the interventions that can be made and that are usually made on these platforms.

iii) Challenges

We were unable to get observer status as an organization and subsequently he was unable to attend the meeting.

iv) Next Steps and Further Actions:

KHRC will:

- Apply for observer status at the Human Rights Council to facilitate participation in the sessions.
- Seek further partnership with organizations who may be able to support the travel of more than one person to attend the HRC session to create a larger group of LGBTI persons with capacity on interventions at international platforms.

14.Litigation Collective Initiative

i) Overview

KHRC periodically hosts an LGBTI litigation collective whose purpose is to identify and strategize on interventions for on-going cases that affect the LGBTI community, it also identifies, new partners and other important areas of interventions for the community.

KHRC also held a litigation surgery to discuss litigating on LGBTI issues in Kenya. This was organized in partnership with the CPR team. An external independent consultant, who is a leading expert in the issue, was invited to facilitate the surgery that was held for two days in Naivasha and involved participation from litigating counsel, human rights advocates and interested parties in the on-going intersex case in Kenya.

ii) Key results

The KHRC critically analyzed the strengths and weaknesses of the case which resulted in a discussion that led to the adoption of a common strategy on how to progress and strengthen the case. The interested parties and organizations that joined the case as amicus decided to wait

until all the pertinent information was availed by the plaintiffs as the information that was presented was not conclusive and needed further elaboration

ii) Key challenges

There was a challenge in getting legal counsel who was capacitated to act on behalf of the organization. This was eventually settled when an internal program officer and advocate capacitated enough to handle the matter came on board to manage the interventions by KHRC

iii) Next Steps and Further Actions

KHRC will:

- Follow up on the intersex case where KHRC is currently amicus, to determine the viability of further engagement on this matter.
- Determine other interventions that target practicing advocates in Kenya to encourage more participation and willingness to engage in cases that involve the LGBTI community.
- Follow up on-going cases that have been filed in court to determine the viability of interventions by KHRC in the matters.

15. Study on views of Christian (Anglican, Catholic, Presbyterian, Seventh Day Adventists, Pentecostal, Lutherans, Methodists, and Orthodox) and Islamic views on SOGI

i) Overview

KHRC noted with concern the lack of support for sexual and gender minorities who professed different faiths. It was also noted the negative impact of the religious leadership when they spoke out against the LGBTI community. This led to an increase of spates of violence against the community members.

As we wanted to target religious leaders for sensitization, we decided that it was important to find out the views of the religious leaders in order to ascertain the extent of sensitization needed and identify target groups. We commissioned a survey to attain the data and information that we needed.

ii) Key results

The study canvassed many represented Christian faiths and Islam. It presented not only their views but the doctrines that either supported or invalidated their views. It also provided data on how many religious leaders were tolerant and those who were not. This helped us identify key target religious leaders.

The report analyzed the data and also helped us identify potential hotspots where violence against the LGBTI community was likely to be felt due to harsher and more discriminatory religious views.

iii) Challenges

It was difficult to get the respondents for the study and subsequently the study took longer than anticipated.

iv) Next Steps and Further Actions

- We shall publish the report in the next quarter.
- We shall also design programming to target religious leaders and sensitize them on human rights and the detriment of negative representation on the LGBTI community.

CHAPTER FIVE: INSTITUTIONAL DEVELOPMENT AND SUSTAINABILITY (IDS) PROGRAMME

Overall Goal/ Strategic Objective:

KHRC is financially sustainable, well-resourced and delivers on its mandate

Below are the key projects implemented, results achieved, challenges experienced and the next phases of engagement for this programme/ theme.

1. Human Resource Function

i) Overview

The human resource function plays a critical role in that it supports the commission in delivering on its strategic objective by strengthening the internal HR systems; builds staff capacity and ensure staff have the right skills and competencies to deliver on the commitments agreed upon with our donors. It also plays a crucial role in creating strategic partnerships with non-traditional actors.

ii) Results Realized

- a) **Human Resource Policies:** The commission revised the HR policies in order to ensure that they were compliant with the current Labour laws and legislation. In light of this, the policy also addressed issues that had been overtaken by events in the last few years. It also updated and inculcated new developments that were affecting staff at the commission.
- b) **Staff Recruitments:** With the increased funding that the commission has received from various donors, the staff capacity has increased significantly. In this financial year we have recruited additional 13 staff members, to support various thematic areas in Institutional Development, Civil and Political Rights, Economic and Social Rights as well as Equality and Non Discrimination.
- c) **Staff Training:** Eight staff members went for training both locally and abroad. This is just slightly below the 50% goal that was targeted for this financial year. These trainings were for strengthening of individual professional expertise as well as group training that would support the commission's goals and objectives.

For example six staff members attended the training on USAID Rules and Regulations held at the Safari Park Hotel aimed at enhancing their knowledge on USAID grants and funding. Individual staff in the Resource Centre and Human Resource departments attended training in Electronic Records Management and Work Profiling and Competency Design respectively both in Nairobi and South Africa.

- d) **Job Evaluation:** The commission embarked on a competitive pre-qualification exercise and selected KPMG to conduct the job evaluation exercise. The exercise is 90% complete

and the findings of this assignment once completed, will be implemented in the next financial year.

- e) **Internship Project:** The commission has a vibrant Internship programme for students who have completed or those in the process of completing their university degrees. The programme serves to expose students in Human Rights issues in our various thematic areas including Human Resource and Administration. This year the commission has recruited 24 interns to support in different areas within the commission.

In addition to this, our programme saw an opportunity to expand its boundaries, while the Executive Management was in Brazil in January 2013 attending a Ford Global Meeting. We have partnered with Legal Resources Centre in South Africa, another funded NGO of Ford Global International, in order to promote an international internship experience.

- f) **Volunteer Programme:** This programme serves to attract advanced professionals in their areas of study who want to share their expertise with the commission as well as learn from the commission in their areas of specialization. In this year KHRC only managed to support two volunteers who came from Australia. They were serving in the Civil & Political rights programme handling Legal Aid and Transitional Justice issues and in the Equality and Non-discrimination thematic areas.

- g) **Establishment of strategic partnerships with non-traditional actors:**

This was realized via the following initiatives:

- Partnership with such academic institutions as the Strathmore University Law School, Riara University Law School, University of Nairobi and Kimanthi Universities among others on issues of mutual interest.
- Supporting free and fair elections of the Mbunge la Mwananchi social movement. Supporting the Youth Congress to development its three year strategic plan.

iii) Key Challenges

- **Creation of a Child Care facility:** KHRC has the intention of setting up a Child Care facility otherwise referred to as crèche, to support KHRC mothers who have children under 1 year old. This however did not happen as planned and has been pushed to the next financial year
- **Implement a new Performance Management System:** The commission also engaged in a competitive pre-qualification exercise. However this assignment was not completed in its entirety right from the inception stage. It will therefore be completed in the coming financial year.
- Lastly KHRC did not accommodate a number of volunteers because it did not have sitting space within the commission as a result of the increase in numbers of staff members.



Staff engage in a plotting exercise during a staff teambuilding retreat

iv) Next steps and Further Action

- Job evaluation the challenges faced by the human resource function was the length of time it took to complete an assignment. This was because most of the deliverables stated above needed the time and input of all staff members who were not readily available because they were either out of town or out of the country addressing and attending to crucial programmatic areas. This as a result contributed to the delay in churning out certain exercises. This constraint was faced mostly when the HR policies and the Job Evaluation exercises were being conducted.
- In regard to group staff trainings did not quite succeed staff members were also not available at the same time which hampered group training. For example the Training on Policy and Legislative drafting by TCA which was budgeted for did not take place because of the unavailability of programme staff. The lesson learned from this exercise is that the human resource department can create a Training calendar which will be shared by staff at the beginning of each financial year to ensure key trainings are attended by all. This will also lead to programme staff planning for it as they plan their programme activities to ensure their availability
- Thirdly, the increase of new staff members has posed a challenge to the commission in terms of office space. This is however being looked into by management and is being

addressed as a matter of urgency in the coming financial year. This aspect of lack of space has also hampered the creation of a child care facility within the commission.

- In respect to the internship programme, we have had challenges implementing the International Exchange Programme with Legal Resources Foundation. This is because the contract and the letter of engagement with LRC have not been finalized which has slowed down the programme. This is however being looked into and should be fast tracked by the human resource department in the next financial year.
- The need to also sustain continuous engagements with our Human Rights Networks (HURINETs) as we expand our partnership with the non-traditional partners



Staff engage in a plotting exercise during a staff teambuilding retreat

v) Key Challenges

- **Creation of a Child Care facility:** KHRC has the intention of setting up a Child Care facility otherwise referred to as crèche, to support KHRC mothers who have children under 1 year old. This however did not happen as planned and has been pushed to the next financial year
- **Implement a new Performance Management System:** The commission also engaged in a competitive pre-qualification exercise. However this assignment was not completed in its entirety right from the inception stage. It will therefore be completed in the coming financial year.

- Lastly KHRC did not accommodate a number of volunteers because it did not have sitting space within the commission as a result of the increase in numbers of staff members.

vi) Next steps and Further Action

- Job evaluation the challenges faced by the human resource function was the length of time it took to complete an assignment. This was because most of the deliverables stated above needed the time and input of all staff members who were not readily available because they were either out of town or out of the country addressing and attending to crucial programmatic areas. This as a result contributed to the delay in churning out certain exercises. This constraint was faced mostly when the HR polices and the Job Evaluation exercises were being conducted.
- In regard to group staff trainings did not quite succeed staff members were also not available at the same time which hampered group training. For example the Training on Policy and Legislative drafting by TCA which was budgeted for did not take place because of the unavailability of programme staff. The lesson learned from this exercise is that the human resource department can create a Training calendar which will be shared by staff at the beginning of each financial year to ensure key trainings are attended by all. This will also lead to programme staff planning for it as they plan their programme activities to ensure their availability
- Thirdly, the increase of new staff members has posed a challenge to the commission in terms of office space. This is however being looked into by management and is being addressed as a matter of urgency in the coming financial year. This aspect of lack of space has also hampered the creation of a child care facility within the commission.
- In respect to the internship programme, we have had challenges implementing the International Exchange Programme with Legal Resources Foundation. This is because the contract and the letter of engagement with LRC have not been finalized which has slowed down the programme. This is however being looked into and should be fast tracked by the human resource department in the next financial year.
- The need to also sustain continuous engagements with our Human Rights Networks (HURINETs) as we expand our partnership with the non-traditional partners

2. Financial Sustainability, Resource Mobilization and Donor Liaison

i) Overview:

The KHRC's Management went through the Financial Sustainability training which was supported and hosted by the Ford Foundation for its partners during the week beginning June, 24, 2013.

The purpose of the training was to enhance the financial sustainability of Kenya based civil society organizations in order to strengthen their ability to realize strategic goals in the pursuit of their mission.

Moreover, we enhanced resource mobilization, reporting and other forms of liaison and engagements with our development partners.

ii) Key Results Realized:

- Our sustained engagements with our development partners and this has seen an increment of financial resource base from Ksh. 250m during the 2012/ 2014 to Ksh. 350m during the 2013/ 2014 Operational Plan. This includes a number of multi-year grants.
- The Ford Foundation funded project, *“Towards a Human Rights-Based Constitutional and Democratic Culture” project (October 2012 to July 2014)* under the Global Human Rights Initiative Fund has provided the KHRC with requisite impetus and platforms to engage with key regional and international issues as well as the first opportunity for the Commission to deal with pertinent institutional development issues. This has also seen the expansion of our programme to cover county, national, regional and international levels.
- We have also developed and are now implementing the Reserves Policy within our Financial and Procedures Manual. So far, we have accumulated Ksh. 34.5m in our reserves from different resources²⁵.

iii) Challenges and Difficulties Experienced:

- Shifts in donor priorities and basket-funding. It is on that basis that we are keen to ensure a successful implementation of our financial sustainability project and strategies.
- Funding for capital projects is difficult to secure. In most cases, it is difficult to find donors who are willing to support reserves, capital projects, administrative and full cost personnel costs.
- Transfer to a new financial system led to delays in some financial reports for donors

iv) Next Steps/ Further Actions:

- We will concretise the development and implementation of the financial sustainability strategy papers-especially the capital campaign plan, the resource mobilization plans, the donor scoping and prospecting plan, the cash and reserves investment plans among others.
- Based on the Financial Sustainability training the management team underwent, we designed a comprehensive work plan that we are currently implementing and will lead to the following success indicators:
 - Regular practice of donor prospecting informs resource mobilization efforts;

²⁵ These form a major source of income for the Capital Campaign, Cash and Reserve Investment and Resource Mobilization plans and outputs below.

- Growth in the number of funders, distribution of income across funding sectors and multi-year grants; financial health indicators are used to set financial goals that help drive resource mobilization efforts and are regularly being monitored;
- Organization develops a plan and takes steps to build a reserve fund, make investments or create other revenue streams, resulting in the strengthening of financial reserves;
- Organization applies budgeting strategies that accurately capture costs and sees results in the recovery of costs;
- Excellent and inspired on-going communications with prospective and existing funders;
- Improved efficiencies as a result of a resource mobilization function that includes internal coordination and division of tasks, document management and tracking of contractual commitments;
- Growing numbers of staff and board feel confident and demonstrate active engagement in resource mobilization related activities and are able to communicate about the organization in a unified way.

3. Strategic Planning and Operational Planning

i) Overview:

In December 2013, the KHRC held a board and partners meeting reviewed the Interim 2012/ 2017 Strategic and adopted it as a final Strategic Plan for 2014/ 2014.

Between April and June 2013, the KHRC for the first time developed a two year operational plan, covering April 2013 to March 2015.

ii) Key Results Realized:

The development and launch of the Strategic Plan and its April 2014 launch has provided clear strategic, programmatic and operational directions for the KHRC. It provides the key thematic areas, strategic objectives/ outcomes, indicators, SWOT analysis and other areas and issues for strategic engagements between 2014/ 2018

The Operational Plan provides a long term framework for the development and implementation of KHRC's interventions, within the context of the Strategic Plan.

iii) Challenges and Difficulties Experienced:

- Shifts in contextual priorities owing to the fluid social, political, economic and technical environments at all levels in the society.
- Political volatility characterized by the tendencies to threaten human rights defenders, shrink civic space and limits the enjoyment of civic liberties.

iv) Next Steps/ Further Actions:

- Review the Operational Plan to ensure that it is in tandem with the strategic plan

- Continuous contextual analysis and scenarios building
- Ensure protection of human rights defenders.

4. Monitoring and Evaluation, Financial and Other Institutional Systems

i) Overview

This entails the development and implementation of the M&E manual and Tools, acquisition of the new financial system and office assets.

ii) Key Results Realized:

- Organizationally agreed integrated Planning, Learning, Monitoring and Evaluation manual.
- Improved reporting on and implementation of the planned interventions.
- Improved institutional accountability through the acquisition and application of the Serenic® Navigator financial system-one of the modern software used in financial management.
- Upgraded office equipment that has improved efficiency and efficiency in operational and programmatic administration e.g. new and modern office seats; Camcorders; dicta phones, telephone headsets; modern TV sets (connected with internets for teleconferences) to mention but a few.

iii) Challenges and Difficulties Experienced:

- Transition from the Excel to Serenic® System was characterized by technical hiccups that caused delays.
- Many demands on internal and external reports, especially those from donors (mainly due to the quarterly report requirements).
- Sometimes disparate communications and information systems.
- Staff capacity is needed in the organisational PLMR framework and tools.

iv) Next Steps/ Further Actions:

- Build the capacity of staff on the use of the new financial system.
- Update and implement the donor reporting schedule to ensure better sequencing and better reporting.
- Streamline and ease the internal programmatic reporting and accountability process. Along with this the Planning, Learning, Monitoring and Evaluation manualonce institutionalised we plan for staff capacity building.
- Dispose of the old equipment.
- Harmonize and synchronize the disparate communication systems.

5. Resource Centre

i) Overview:

The Resource Centre has disseminated KHRC research publications both in print and non-print formats to the public. This has been possible through physical distribution, the KHRC's institutional repository as well as the use of the KHRC website. The latest publications disseminated include "*The Democratic Paradox: A report on Kenya's 2013 General Election*", "*The Internet Legislative and Policy Environment in Kenya*", "*One year in Office for Uhuru Kenyatta and William Ruto*" (in conjunction with FIDH), "*Functions and Responsibilities of Elected State Officers*", and "*The KHRC Annual Report 2012-2013*".

ii) Key Results Realized:

During the period under review, the Resource Centre achieved the following:

- Fostered the distribution of the KHRC's latest publications and other institutional publications to the HURINETs, partner organisations and the general public.
- Enhanced its links with the relevant resource centres globally.
- Acquired 523 relevant publications both in print and non-print formats mainly through donations from partner organizations and purchases.

The most popular publications acquired include, *How the Jubilee Government has performed since it rose to power last March* by The Nairobi Law Monthly, *In the Eye of The Storm – The Kasarani Fiasco has weakened Raila's grip on ODM. The four hurdles he must Surmount Ahead of 2017* by the Nairobi Law Monthly, *Key Gains and Challenges: A gender audit of Kenya's 2013 election process* by FIDA.

The most popular e-resources acquired include, the World Bank library, JSTOR, OECD, sage, Hein Online and LawAfrica databases.

In terms of the opportunities grasped, the Resource Centre registered the KHRC's Institutional Repository in the Directory of Open Access Repositories (OpenDOAR) during a workshop at the Kenya Library and Information Services Consortium workshop held in February 2014 to increase its visibility globally.

iii) Challenges and Difficulties Experienced:

The Resource Centre continues to experience the challenge of space. It has been very difficult to store the new acquisitions and more so having to store processed information materials in cartons thereby hindering access to such information resources.

iv) Next Steps/ Further Actions:

The Resource Centre currently uses the Institutional Repository (IR) as a publicity link for all the KHRC publications globally. It also uses the Online Public Access Catalogue (OPAC) that further publicise the information resources and services available to the public.

- In the next quarter, the Resource Centre intends to update the IR with currently published KHRC reports and also to establish links with other relevant human rights resource centres globally. Some of the resource centres already linked to the KHRC Resource Centre include;

The International Justice Resource Centre, University of Minnesota Human Rights Library and Human Rights Watch through the global General Human Rights Library.

- The KHRC Resource Centre also intends to concentrate more on legal deposits as required by copy right laws in Kenya for any publications produced in the country. This will result in more publicity given that all of KHRC's publications will be listed in the country's national bibliography.
- KHRC is still working on acquiring more space for the resource centre; and more so, the Programme Officer in charge of the resource centre is working on a collection development policy that will streamline the collection development practices of the KHRC resource centre to curb the challenge of space.

6. Media and Communications

i) Overview:

KHRC has invested in technology, materials and time to improve on its communication, which is a major component of its work and part of the Institutional Development and Sustainability (IDS).

In the 2013-2014 year, the communications function was carried out with the broad objective of achieving visibility at an organizational level and articulation of the issues KHRC works on. This entailed two basic components of (a) information systems and (b) communication and advocacy systems.

The first expected outcome was KHRC being able to establish efficient and effective information systems. The second expected outcome was a recognized KHRC brand resulting from an effective communication, advocacy and information strategy.

a) Establishing an Efficient and Effective Communication System

i) Overview

During the reporting period, KHRC implemented a number of communication systems which included a financial communication system, a digital library (both reported elsewhere), intranet and extranet and bulk SMS. The digital library and the short code number have been integrated with the KHRC website to facilitate their publicity and easy access by those who visit the website.

Training was conducted for staff, including new staff, to enable them to utilize the intranet and the SMS system. The SMS system was also revamped with a new short code 22345. While the intranet and extranet are primarily meant for internal information sharing, the short code is meant for the public to utilize to make it easier for them to report violations and other governance issues of concern to them. The idea is to take advantage of the ubiquity of the mobile phones to enhance human rights violations monitoring.

ii) Key Results Realized:

The SMS short code has now made it easier for the public to make initial violations reports which are then followed up in-depth by a phone-call or face-to-face visit. Most of the reports collected in 2013-14 period were on land issues, sexual and gender-based violence and workers' rights.

iii) Challenges and Difficulties Experienced:

- KHRC needs a dedicated staff member for this area. The SMS short code system which receives reports of human rights abuses requires greater publicity. KHRC's outgoing SMS system and intranet have technical problems. Staff also need capacity building in these new systems.
The both the intranet and the SMS short code are still largely underutilised as it takes a while for people to adapt to new systems.
- In addition, the SMS short code will be fully utilized once it is launched and publicised. Currently it is being publicized through the KHRC social media platforms and the KHRC website. However its publicity may require funding for advertising through mainstream media for the offline audience which still make up to 60% of Kenya's population.

iv) Next Steps/ Further Actions:

- To resolve the challenge of under-utilization of the intranet a second training had been scheduled in the latter part of the year, but due to time constraints, it was not possible to conduct the training. This training will be done under a service level agreement with the service provider.
- The SMS training (and intranet) for staff will be incorporated as part of the mass staff trainings to overcome the challenge of getting staff together.

b) Institutional Communication Strategy and Advocacy

i) Overview:

The initial communication strategy draft developed in December 2012 is being revised, in conformity with the Spitfire framework (used for the Ford Global communication strategy), to be focused on advocacy as well. Overall, this work is on hold until a communication audit is done which can inform the communication strategy and subsequently the branding.

ii) Key Results Realized:

- With the new Strategic Plan now in place, new publicity materials with corresponding messaging have been developed and some of them produced. These include new institutional banners, a new institutional brochure and folders.

- The bi-lateral meetings with various media practitioners including editors and reporters and a number of key strategic media events resulted in a better media presence.
- Some of the notable coverage included the launch of reports, such as the announcements of the British Government regret to the Mau Mau War Veterans' Association members and other strategic press conferences on issues of importance to the public, such as security and land (Embombut Forest evictions), boosted KHRC's media presence.
- In the second half of the year there was increased media engagement with high visibility issues of concern such as security matters and police reforms being covered.

iii) Challenges and Difficulties Experienced:

- With the branding not done as had been anticipated there is a challenge of running the risk of producing materials that will quickly become obsolete because of possible changes in agreed standardization of corporate identity.
- In the first half of the year there was a curious lull on KHRC's media presence is causing a worrying trend in visibility of KHRC as the press releases are low level media engagements and this should be improved. The media monitoring reports received so far are a testimony to this.
- KHRC continues to suffer poor information sharing among staff, thus despite all the good work we are doing, we are not telling our stories well enough. One of the reasons maybe that despite there being an intranet for information sharing, there still is a gap in putting the stories together.

iv) Next Steps/ Further Actions:

- To work within the branding process to get the corporate communication materials developed based on the completion and agreeing of the KHRC Communication strategy. The communication audit to be carried out will be based on the communication goal of the new strategic plan in order to deliver on the Organizational identity (Vision; Mission; Values; Branding; Messaging; Strong Leadership).
- The KHRC website re-design was also affected by the postponement of the branding exercise, however this work will be carried over to the new operational plan and implemented in line with the new Strategic Plan to make it have the language capability of communicating to both local (Swahili speaking) and international audiences.
- There will be need for a concerted effort of media involvement to give publicity to issues that we work on and that resonate with public concern. Also KHRC will continue building relationships with key editors and reporters to help them understand the both the long term and emerging human rights concerns.

e) An integrated and institutionalised social media advocacy approach

i) Key Results Realized:

- All of the KHRC's social media platforms are now standardized under the banner of "thekhrc" and integrated with the website. These platforms have been useful to engage and advocate on issues by highlighting issues and publicizing them e.g. the Mau Mau reparations in June; various press releases; activities that the KHRC is involved in as well as interacting with people reporting violations and needing assistance.
- The KHRC ICT4D team also visited three HURINETs for capacity strengthening in the use of ICTs for citizen participation in governance processes, engagement and monitoring and exposing human rights violations. Out of that some of the HURINETs have improved, with the Kwale HURINET showing exemplary results. They submitted a story of change article that has been captured in the August edition of the ICT4Democracy in East Africa newsletter.

ii) Challenges and Difficulties Experienced:

- While KHRC has deployed a number of social media platforms, it became evident that to have a good social media presence, there needs to be a good social media strategy and the capacity to roll this out. In response to this, KHRC has received funding for one year from SIDA to enable it hire a full-time social media assistant to drive this agenda.
- Further, due to a large digital divide in the knowledge gap, most HURINETs have struggled to harness the use of ICTs in their work. This requires a lot of capacity building through training so that they can use social media to effectively carry out their work. The social media assistant will be able to take this responsibility and give it the attention it deserves.
- In December 2013, the Government of Kenya rolled back gains in the constitution by enacting the Kenya Information and Communication Amendment Bill 2013 and the Media Council of Kenya Bill 2013 into law. Together these two laws limit freedom expression both offline and online. As such human rights defenders are reluctant to use social media for advocacy because of increased surveillance and very punitive penalties imposed on those found flaunting the law. What is not clear is what amounts to hate speech or irresponsible behavior that the government is concerned about and how that is different from genuine freedom of expression where there are facts.
- On the other hand, vulnerable groups such as the LGBTI community continue to be targeted by dangerous speech and harassment which amounts to cyber bullying but nothing is done about it. At the time of publishing, from the The Internet Legislative and Policy Environment in Kenya,²⁶ an internet environment mapping report, it is clear that Kenya does not have a

²⁶The Internet Legislative and Policy Environment in Kenya, (KHRC 2013)

http://www.khrc.or.ke/resources/publications/doc_download/67-the-internet-legislative-and-policy-environment-in-kenya.html

comprehensive cybersecurity strategy or policy in place and from the Cabinet Secretary, Dr. Fred Matiang'i²⁷, the government will develop one based on "best practices" elsewhere.

- While this is welcome, it is hoped that the process will allow for meaningful public participation through a multi-stakeholder approach which includes the civil society because an opaque process is likely to sneak in policies that do not respect human rights online and threaten the online operations of an organisation of ours through unnecessary restrictions.
- The government has also adopted a practice of employing propagandist bloggers such as Dennis Itumbi, who counter everything the civil society is raising. This adds to the need of a sharper and coordinated approach to social media advocacy.
- It also emerged that some HURINET leaders have mismanaged the equipment resulting in lack of access to the members and therefore a way forward should be found for the success of the project.
- KHRC's efforts to build capacity of HURINETs in use of ICTs in human rights hasn't born the desired fruit as most of the HURINETs face challenges with electricity supply and internet connectivity.

iii) Next Steps/ Further Actions:

- Internally, while the Media and Communications department is overall in charge of the KHRC's social media platforms, due to the immediate nature of social media the department cannot single-handedly effectively represent KHRC online. Therefore, staff will be inducted individually to get their buy-in and ensure a vibrant social media engagement on issues they are working on.
- To continue capacity building on-location through site visits to the HURINETs. Also planned to begin in Quarter 3 is a refresher training for the HURINETs on ICTs including the SMS, and extranet.

f) Mizizi Ya Haki newspaper strengthened as an alternative advocacy mouthpiece

i) Key Results Realized:

In the quest to improve the quality of articles produced and pictures by the HURINETs a journalism training capturing the current operating environment of CSOs was conducted. The training also incorporated reflection with the HURINETs over the strategic direction of *Mizizi*.

The outcome of this was a long list of complaints from the HURINETs with most around the fact that they wanted to be facilitated, beyond the regional editorial meetings, to collect articles for *Mizizi*.

²⁷ Dr. Fred Matiang'i answering a question on the same at the Freedom of Information Symposium held in September 2013, at the Windsor Golf Club Hotel, under the ambit of the Freedom of Information Network led by ICJ-Kenya and Transparency International- Kenya.

ii) Challenges and Difficulties Experienced:

Adjustments to the new financial and policy systems and unavailability of nearly half of the HURINET leaders have led to very long delays in implementing the production of *Mizizi Ya Haki* newspaper. It had been envisaged that there would be three editions of *Mizizi* produced. However only one was produced with the current modus operandi of participation of the HURINETs from planning to production stage.

iii) Next Steps/ Further Actions:

There will be a need for a review of how to work with HURINETs effectively especially when their leaders join various positions in government.

g) Freedom of Information/ Expression Advocacy

i) Overview:

KHRC's work in this area has two components which are; 1) access to information, and 2) freedom of expression. The latter includes media freedom and internet freedom, as the internet increasingly becomes central to communication. Thus the work in this area focuses on informational rights and freedoms with attention given to the legislative and policy frameworks that dictate governance processes and practices.

Also KHRC has been partnering with other more experienced CSOs globally for capacity building for better advocacy. The result was a roll-out out of the policy advocacy plan in Quarter 3 and 4 to address the issues of internet freedom, human rights and democracy with the relevant national, regional and international stakeholders in the quest to address the issue of access and the inequalities therein.

ii) Key Results Realized:

- KHRC's work in internet policy has gained recognition. In 2013, KHRC sponsored the Kenya Internet Governance Forum. KHRC participated in the planning process to ensure advocacy on legislative issues that relate to the internet such as the quest for a freedom of information law and a data protection law in Kenya.
- In addition, KHRC attended and participated in a number regional and international ICT policy and legislation engagement meetings in which KHRC either made submissions or provided training raising the profile of KHRC as rising voice of the Global South civil society in ICT advocacy. These include:
 - ✓ Training on internet policy advocacy where the issues of US Government surveillance were discussed. The training and meeting informs the Global Internet Freedom Advocacy work.
 - ✓ IST-Africa: IST-a strategic collaboration between IIMC (Ireland) and Ministries and National Councils responsible for Information Society, ICT and/or STI (Science, Technology & Innovation) Adoption, Policy and Research in 18 African Countries. KHRC made a presentation on the role of ICTs in fighting impunity
 - ✓ The African Internet Governance Forum mentioned earlier

- ✓ KHRC hosted Internet and Human Rights forums attended by members of the civil society, journalists and some state actors in the ICT sector which began to raise the issue of human rights online.
- ✓ Freedom of Information Symposium giving a final input in the Freedom of Information (now Access to Information) Bill before it is introduced in Parliament.
- KHRC raised the issue of respect for human rights online and the need to anchor them within the information legislative and policy framework; in addition to the lack of a cyber-security framework in Kenya.
- While it is preposterous to claim a result in this area, KHRC was pleased to be one of few mainstream CSOs to make formal submissions to the Kenya Ministry of ICT's Cyber Security National Strategy in March 2014. The Communications Authority of Kenya (CAK), which is the regulating body, has indicated an interest in working with KHRC in this area.

iii) Challenges and Difficulties Experienced:

- Through the field visits we documented gaps in the internet infrastructure that cause inequalities and hinder access to the internet in the rural communities where access to information is needed the most. While the government prides itself in a robust ICT infrastructure, those in the rural communities are disadvantaged with lack of electricity and lack of network coverage and risk further exclusion in the digital age. This also brings to question the practicability of the government's intention to roll out the laptop project to schools all over the country if there are inequalities in access to the internet where only reach neighbourhoods enjoy super internet speed.
- Two new laws which limit freedom expression were enacted. These are the Media Council of Kenya Act 2013 (limits press freedom) and the Kenya Information and Communication Act 2013 (limits freedom of expression by both the media and individuals on social media). This rolled back the gains in the constitution that guarantee these rights and freedoms.
- Increased surveillance and the introduction of very high penalties have made human rights defenders and journalists reluctant to communicate advocacy messages online and offline.
- KHRC needs a dedicated staff member for this area. The SMS short code system which receives reports of human rights abuses requires greater publicity. KHRC's outgoing SMS system and intranet have technical problems. Staff also need capacity building in these new systems. KHRC's community based partners face challenges with electricity supply and internet connectivity.



Three members of Kinango HURINET, Kwale County working on a practical session in applying ICT skills learned during a visit by KHRC. The team had to drive 20 minutes to a restaurant by the highway, away from their office, because it is the only place they can access internet signal due to poor ICT infrastructure, a common problem in many rural and semi-urban areas.

iv) Next Steps/ Further Actions:

- Informed by the findings of a mapping report that KHRC produced during the period under review, KHRC believes that the current draft Access to Information bill and Data Protection Bill should be reviewed to address the unique opportunities and challenges that the internet presents with regard to informational rights and freedoms. These include the right to privacy, freedom of expression, freedom of assembly and association online in light of massive surveillance especially of human rights defenders. KHRC will work with other CSOs to review the draft bills and work toward having them passed.
- KHRC will work with the state and non-state actors to address the issue of access to the internet for those who live in marginalized areas that are under served.

7. Human Rights Monitoring

a) Documenting and Responding to Human Rights Violations and Abuses

i) Overview:

The main objective was to ensure increased documentation and responses to emerging human rights and governance issues so as to ensure the compliance of the state to its national, regional and international human rights and governance obligations.

ii) Key Results Realized:

- The KHRC with some inputs from other human rights organizations initiated a process of developing a human rights and accountability scorecard for the national government. A draft report/ policy brief capturing the gains, gaps and recommendations on human rights and governance issues (three and half years after the promulgation of the Constitution of Kenya in August 2010; two and half year of the Grand Coalition and one year of the Jubilee regime) exists.
- The KHRC and the International Federation on Human Rights (FIDH) published a joint briefing report in April 2014 entitled: *One Year in Office for Uhuru Kenyatta and William Ruto* that demonstrates that despite the commitments made by the Jubilee Coalition during its electoral campaign, which were echoed by President Uhuru Kenyatta in his inaugural speech when he reaffirmed his willingness to guarantee the protection of *“the rights of all citizens [...], this first year in office has been marked by worrisome cases of infringements of fundamental rights and freedoms and by rampant impunity.*
- KHRC in partnership with other human rights organizations continued to inform public policies and decisions on emerging human rights and governance issues through periodical media engagements²⁸, policy papers and public protests both at the County and National levels.
- As part of the commemoration of the International Human Rights Day (IHRD) in December 10, 2013, KHRC in partnership with the KNCHR, United Nations Development Programmes (UNDP) among other partners organized a ‘live panel discussion on the progress and status of human rights in Kenya’. The live panel discussion was aired live on citizen television a leading national television station.
- Another remarkable achievement was our partnership with the Kenya National Commission on Human Rights (KNCHR), the Independent Medico-Legal Unit (IMLU) and the National Coalition of Human Rights Defenders (NCHRDs) following the killing of Hassan Guyo, a Human Rights Defender by the security agents in Moyale, Kenya on August 2013.

²⁸ For instance through press statements, conferences, talk show programmes, live debates among others. Details about thematic and issue based press statements are available vide KHRC website: <http://www.khrc.or.ke/media-centre/press-releases.html?start=4>; site visited on May 29, 2014.

We responded by issuing a joint statement and tasking the KNCHR on August 16, 2014 to dispatch this as a memorandum to the relevant duty bearers. Rachael Omamo, the Cabinet Secretary responsible for the Defence Ministry rebutted on February 17, 2014 indicating that the Kenya Defence Forces troops were not responsible for the killing and should accordingly be absolved of the blame. However, the Director of Public Prosecutions (DPP) in a letter dated February 25, 2014 directed the officer in charge of the Meru office to ensure that the inquest proceedings in Marsabit is commenced and prosecuted by the Prosecution Council.

Moreover, human rights organizations (both the state and civil society) are working towards creating a joint platform and legal working group that will provide a timely response and effectively coordinate interventions in respect of emerging human rights and governance situations in Kenya.

- In addition to this, KHRC has negotiated a partnership agreement with the Human Rights Watch (HRW) that would see joint actions and responses to gross human rights violations.
- Finally, KHRC been included into the secretariat of the just founded Kenyan Coalition on the Death Penalty. A memorandum to guide and streamline the coalition's operations of has been developed and agreed upon

iii) Challenges and Difficulties Experienced:

- First, is the increased culture of impunity and disregard to the rule of law especially by the state actors. This situation is creating a more fertile ground for more systemic human rights violations and fewer opportunities for accountability among the alleged perpetrators.
- Second, is the lack of effective coordination and response mechanisms among the state and civil society organizations. However and as indicated above, we are working towards addressing this.
- Third are the efforts by the government to threaten and intimidate human rights defenders, control the civil society and frustrate the operations of the constitutional commissions and other independent voices and agencies in the society

iv) Next Steps/ Further Actions:

- Conclude and disseminate the draft the human rights and governance score card. Also continue disseminating the FIDH/ KHRC briefing paper on the performance of the Jubilee government.
- Concretise on the above mentioned-joint response, coordination and legal actions mechanisms among the human rights organizations in Kenya.
- Watch brief and support witnesses to participate in the Hassan Guyo's court inquest that is scheduled to sit either in Meru or Marsabit.
- Resist any effort by the government to undermine the operations of the independent institutions-both the state and non-state in the society.

- Implement the KHRC/ WRW Memorandum of Understanding and support the operationalization of the Death Penalty Coalition.

b) Civil Society Regulatory Framework

i) Overview:

The main purpose of this initiative was to support the creation and implementation of an effective framework for regulating the operations of the civil society in Kenya especially through the Civil Society Reference Group (CSO Reference Group).

ii) Key Results Realized:

In partnership with the Kenya Community Development Foundation (KCDF) and CSO Reference Group KHRC supported the drafting of rules and regulations which if adopted by the government would inform implementation of the Public Benefits Organizations Act (PBO Act).

As part of the CSOs Reference Group (especially the media and policy/ legal working groups) supported media and advocacy efforts that have curtailed the efforts of the government to impose repugnant amendments to the PBO Act in November 2013²⁹.

iii) Challenges and Difficulties Experienced:

- Failure by the state to gazette the PBO Act which would have operationalized the legal framework for the streamlining the PBO/ civil society sector.
- Attempts by the government to impose restrictions to the funding for CSOs through the Miscellaneous Amendment No. 18 of 2013 (published on October 30, 2013).
- There are efforts by the state to re-introduce the amendments and initiate administrative actions so as to muzzle all the independent voices and institutions in Kenya.

²⁹ The proposed amendments were made to limit external funding for CSOs to 15% and restrict the disbursements of the same through the yet to be created Public Benefits Federation (PBF).



November 2013 protests against the stifling proposed amendments to the PBO Act 2013

iv) Next Steps/ Further Actions:

- Lobby the government to adopt our draft rules and regulations and operationalize the PBO Act.
- Campaign against the re-introduction of retrogressive amendments to the PBO Act.
- Create service charters and other accountability mechanisms for the PBO/ CSO sector.
- Ensure public awareness and support on matters related to the PBO Act.

KENYA HUMAN RIGHTS COMMISSION

ANNUAL REPORT AND FINANCIAL STATEMENTS

FOR THE YEAR ENDED 31 MARCH 2014



Table of contents	Page No
Organisation information	1
Directors' report	2
Statement of directors' responsibilities	3
Report of the independent auditor	4 – 5
Financial statements:	
Statement of comprehensive income	6
Statement of financial position	7
Statement of changes in fund balance	8
Statement of cash flows	9
Notes to the financial statements	10 – 31

REGISTERED OFFICE

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

PRINCIPAL PLACE OF BUSINESS

Valley Arcade Gitanga Road
P.O 41079, 00100
NAIROBI

INDEPENDENT AUDITOR

PricewaterhouseCoopers
Certified Public Accountants
P.O Box 43693, 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 K'Owade & Ng'ang'a Advocates
4th Floor TAJ Towers
Upper Hill Road
P.O Box 47122, 00100
NAIROBI

The directors submit their report together with the audited financial statements for the year ended 31 March 2014, which disclose the state of affairs of the Kenya Human Rights Commission.

PRINCIPAL ACTIVITIES

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

RESULTS

The surplus for the year of Shs 92,641,236 (2013: Surplus of Shs 7,858,546) has been added to the general fund.

DIRECTORS

The directors who held office during the year and to the date of this report were:

Makau Wa Mutua (Chair)
Betty Murungi (Vice Chair)
Atsango Chesoni (Executive Director)
Mwambi Mwasaru (Resigned 1 January 2014)
Mumina Konso (Resigned 1 January 2014)
Karuti Kanyinga
Davinder Lamba
Tade Aina (Resigned 1 January 2014)
Maina Kiai (Appointed 3 December 2014)

AUDITOR

The Organisation's auditor, PricewaterhouseCoopers, continues in office.

By order of the Board

Davinder Lamba
for

Professor Makau Wa Mutua
Chair of the Board of Directors

4th November 2014

The Non-Governmental Organisations (NGO) 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 surplus or deficit for that year. It also requires the directors to ensure that the organisation keep proper accounting records that 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 responsibility for the preparation and fair presentation of financial statements that are free from material misstatements whether due to fraud or error. They also accept responsibility for:

- (i) Designing, implementing and maintaining internal control as they determine necessary to enable the preparation of financial statements that are free from material misstatements, whether due to fraud or error;
- (ii) Selecting and applying appropriate accounting policies; and
- (iii) Making accounting estimates and judgments that are reasonable in the circumstances.

The directors are of the opinion that the financial statements give a true and fair view of the financial position of the organisation as at 31 March 2014 and of the organisation financial performance and cash flows for the year then ended in accordance with International Financial Reporting Standards and the requirements of the NGO Act.

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

Approved by the Board of Directors on 4th November 2014 and signed on its behalf by:

Davinder Lambh
Director

Atyay D. Cheloi
Director



REPORT OF THE INDEPENDENT AUDITOR TO THE DIRECTORS OF KENYA HUMAN RIGHTS COMMISSION

Report on the financial statements

We have audited the accompanying financial statements of Kenya Human Rights Commission (the "Organisation"), as set out on pages 6 to 31. These financial statements comprise the statement of financial position at 31 March 2014, and the statement of comprehensive income, statement of changes in fund balance and statement of cash flows for the year then ended, and a summary of significant accounting policies and other explanatory notes.

Directors' responsibility for the financial statements

The directors are responsible for the preparation and fair presentation of these financial statements in accordance with International Financial Reporting Standards and with the requirements of the NGO Act, and for such internal control, as the directors determine necessary to enable the preparation of financial statements that are free from material misstatements, whether due to fraud or error.

Auditor's responsibility

Our responsibility is to express an opinion on the 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 our audit to obtain reasonable assurance that the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the 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 the directors, 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 opinion.

Opinion

In our opinion the accompanying financial statements give a true and fair view of the state of the organisation's financial affairs at 31 March 2014 and of its surplus and cash flows for the year then ended in accordance with International Financial Reporting Standards and the NGO Act.

PricewaterhouseCoopers CPA. PwC Tower, Waiyaki Way/Chiromo Road, Westlands
P O Box 43963 – 00100 Nairobi, Kenya
T: +254 (20)285 5000 F: +254 (20)285 5001 www.pwc.com/ke



REPORT OF THE INDEPENDENT AUDITOR TO THE DIRECTORS OF KENYA HUMAN RIGHTS COMMISSION (CONTINUED)

The engagement leader responsible for the audit resulting in this independent auditor's report is **CPA Stephen Ochieng' Norbert's – P/1819**

PricewaterhouseCoopers

Certified Public Accountants
Nairobi.

6 Nov. 2014

Statement of comprehensive income

	Notes	Year ended 31 March	
		2014 Shs	2013 Shs Restated
INCOME			
Grant income	5	295,565,007	235,140,679
Amortisation of capital grant	14	2,509,357	4,102,527
Other income	6	11,941,505	3,946,815
Total income		310,015,869	243,190,021
EXPENSES			
Projects costs			
Civil and political rights		42,779,564	17,864,350
Economic and social rights		22,297,242	71,098,514
Institutional development and sustainability		33,124,112	24,925,361
Equality and non-discrimination		13,167,292	16,062,841
Sub grantees costs		19,650,000	30,102,018
Administration costs		13,201,527	12,994,654
Staff costs	7	71,099,674	59,170,353
Depreciation	8	4,385,255	3,720,442
Amortisation	9	907,318	907,318
Total expenses		220,611,984	236,845,851
Net operating income		89,403,885	6,344,170
Finance income	10	3,237,351	1,514,376
Surplus for the year		92,641,236	7,858,546
Other comprehensive income		-	-
Total comprehensive income for the year		-	-

The notes on pages 10 to 31 are an integral part of these financial statements

Statement of financial position

	Notes	31 March 2014 Shs	31 March 2013 Shs Restated
ASSETS			
Non-current assets			
Property and equipment	8	5,203,264	6,814,400
Intangible assets	9	907,318	1,814,636
		6,110,582	8,629,036
Current assets			
Debtors and other receivables	11	2,766,350	3,411,447
Cash and bank balances	12	76,042,025	138,630,060
Grants receivable	13	66,423,138	9,118,976
		145,231,513	151,160,483
TOTAL ASSETS		151,342,095	159,789,519
FUND BALANCE AND LIABILITIES			
General fund balance		43,729,890	21,513,890
KHRC premises fund		10,375,643	10,375,643
Restricted fund		70,425,236	6,434,791
		124,530,769	38,324,324
Current liabilities			
Deferred income	13	4,525,780	88,592,675
Capital grants	14	6,073,429	7,891,066
Payables	15	16,212,117	24,981,454
		26,811,326	121,465,195
TOTAL FUND BALANCES AND LIABILITIES		151,342,095	159,789,519

The notes on pages 10 to 31 are an integral part of these financial statements

The financial statements on pages 6 to 31 were approved for issue by the Board of Directors on 4th November 2014 and signed on its behalf by:

Davidson Lamuk
for

Prof. Makau Wa Mutua
 Chair of the Board of Directors

Atsango Chesoni

Ms. Atsango Chesoni
 Executive Director

Statement of changes in fund balance

	General fund Shs	KHRC premises fund Shs	Restricted fund Shs	Total Shs
Year ended 31 March 2013				
At start of year	20,090,135	10,375,643	1,958,452	32,424,230
Surplus for the year	7,858,546	-	-	7,858,546
Transfer to restricted income	(6,434,791)	-	6,434,791	-
Funds utilised	-	-	(1,958,452)	(1,958,452)
At end of year	<u>21,513,890</u>	<u>10,375,643</u>	<u>6,434,791</u>	<u>38,324,324</u>
Year ended 31 March 2014				
At start of year	21,513,890	10,375,643	6,434,791	38,324,324
Surplus for the year	92,641,236	-	-	92,641,236
Transfer to restricted income	(70,425,236)	-	70,425,236	-
Funds utilised	-	-	(6,434,791)	(6,434,791)
At end of year	<u>43,729,890</u>	<u>10,375,643</u>	<u>70,425,236</u>	<u>124,530,769</u>

The notes on pages 10 to 31 are an integral part of these financial statements.

Statement of cash flows

	Notes	Year ended 31 March	
		2014 Shs	2013 Shs
Cash flows from operating activities			
Surplus for the year		92,641,236	7,858,546
Adjustment for:			
Depreciation		4,385,255	3,720,442
Amortisation		907,318	907,318
Restricted income from prior year		(6,434,791)	(1,958,452)
		<u>91,499,018</u>	<u>10,527,854</u>
Movement in working capital			
Debtors and other receivables		645,097	(2,582,380)
Grant receivable		(57,304,162)	6,326,762
Deferred income		(84,066,895)	65,467,296
Payables		(8,769,337)	5,387,845
Capital grants		(1,817,637)	4,156,553
		<u>(151,312,934)</u>	<u>78,756,076</u>
Net cash (used in)/from operating activities			
Cash flow from investing activities			
Purchase of property and equipment	8	(2,774,119)	(5,537,127)
Purchase of intangible assets	9	-	(2,721,954)
		<u>(2,774,119)</u>	<u>(8,259,081)</u>
Net cash used in investing activities			
Net movement in cash and cash equivalents		(62,588,035)	81,024,849
Cash and cash equivalents at beginning of year		138,630,060	57,605,211
		<u>76,042,025</u>	<u>138,630,060</u>
Cash and cash equivalents at end of year	12		

The notes on pages 10 to 31 are an integral part of these financial statements.

Notes

1 General Information

The Kenya Human Rights Commission is an organisation incorporated in Kenya under the Non-Governmental Organisation (NGO) Act, and is domiciled in Kenya. The address of its registered office is:

Kenya Human Rights Commission
Valley Arcade, Gitanga road
P.O Box 41079
Nairobi
Kenya

2 Summary of significant accounting policies

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

(a) Basis of preparation

The financial statements of Kenya Human Rights Commission have been prepared in accordance with International Financial Reporting Standards (IFRS) and IFRS Interpretations Committee (IFRS IC) applicable to organisations reporting under IFRS. The measurement basis applied is the historical cost basis, except where otherwise stated in the accounting policies below. The financial statements are presented in Kenya Shillings (Shs).

The preparation of financial statements in conformity with IFRS requires the use of certain critical accounting estimates. It also requires the Directors to exercise judgement in the process of applying the accounting policies. The areas involving a higher degree of judgement or complexity, or areas where assumptions and estimates are significant to the financial statements are disclosed in note 3.

Changes in accounting policy and disclosures

(i) New and amended standards adopted by the Organisation

There are no IFRSs or IFRIC interpretations that are effective for the first time for the financial year beginning on or after 1 April 2013 that would be expected to have a material impact on the organisation.

Amendment to IAS 1, 'Financial statement presentation' regarding other comprehensive income. The main change resulting from these amendments is a requirement for entities to group items presented in 'other comprehensive income' (OCI) on the basis of whether they are potentially reclassifiable to profit or loss subsequently (reclassification adjustments).

IFRS 13, 'Fair value measurement', aims to improve consistency and reduce complexity by providing a precise definition of fair value and a single source of fair value measurement and disclosure requirements for use across IFRSs. The requirements, which are largely aligned between IFRSs and US GAAP, do not extend the use of fair value accounting but provide guidance on how it should be applied where its use is already required or permitted by other standards within IFRSs or USGAAP

IFRS 12, 'Disclosures of interests in other entities', includes the disclosure requirements for all forms of interests in other entities, including joint arrangements, associates, special purpose vehicles and other off balance sheet vehicles. This standard is expected to have no impact on the organisation's reporting.

Notes (continued)

2 Summary of significant accounting policies (continued)

(a) Basis of preparation (continued)

(ii) New standards and interpretations that are not yet effective and have not been early adopted

A number of new standards and amendments to standards and interpretations are effective for annual periods beginning after 1 January 2013, and have not been applied in preparing these financial statements. None of these is expected to have a significant effect on the financial statements of the organisation, except the following set out below:

IFRS 9, 'Financial instruments', addresses the classification, measurement and recognition of financial assets and financial liabilities. IFRS 9 was issued in November 2009 and October 2010. It replaces the parts of IAS 39 that relate to the classification and measurement of financial instruments. IFRS 9 requires financial assets to be classified into two measurement categories: those measured as at fair value and those measured at amortised cost. The determination is made at initial recognition. The classification depends on the entity's business model for managing its financial instruments and the contractual cash flow characteristics of the instrument. For financial liabilities, the standard retains most of the IAS 39 requirements. The main change is that, in cases where the fair value option is taken for financial liabilities, the part of a fair value change due to an entity's own credit risk is recorded in other comprehensive income rather than the income statement, unless this creates an accounting mismatch. The Directors are yet to assess IFRS 9's full impact and intends to adopt IFRS 9 no later than the accounting period beginning on or after 1 January 2015. The Directors will also consider the impact of the remaining phases of IFRS 9 when completed by the IASB.

There are no other IFRSs or IFRIC interpretations that are not yet effective that would be expected to have a material impact on the Organisation.

(b) Revenue recognition

The organisation recognises revenue when the amount of revenue can be reliably measured, it is probable that future economic benefits will flow to the entity and when specific criteria have been met for each of the organisation's activities as described below. The organisation bases its estimates on historical results, taking into consideration the type of donor, the type of transaction and the specifics of each arrangement.

Where grants are received for a specific purpose, income is recognised in the statement of comprehensive income as the specific purpose is realised. This treatment complies with matching of income to expenditure concept. Any unexpended grants are accounted for as deferred income under current and non-current liabilities. All other grants are accounted for on receipt.

Revenue from trading activities by the organisation is recognised on an accrual basis. Revenue comprises the fair value of the consideration received or receivable for the sale of goods and services in the ordinary course of the organisation's activities. Revenue is shown net of value-added tax (VAT), returns, rebates and discounts and after eliminating sales within the organisation.

Revenue is recognised as follows:

- (i) Sales of goods are recognised in the period in which the organisation has delivered products to the customer, the customer has full discretion over the channel and price to sell the products, and there is no unfulfilled obligation that could affect the customer's acceptance of the products. Delivery does not occur until the products have been accepted by the customer.
- (ii) Interest income is recognised using the effective interest method.

Notes (continued)

2 Summary of significant accounting policies (continued)

Grants

Grants are recognised at their fair value where there is a reasonable assurance that the grant will be received and the organisation will comply with all attached conditions.

(i) Revenue grants

Grants received for a specific purpose are initially recognised as deferred income under current liabilities and subsequently recognised in the statement of comprehensive income as the specific purpose is realised. All other grants are recognised in the statement of comprehensive income when received.

Interest income earned on grants received for specific purposes is initially recognised as deferred income and subsequently transferred to the statement of comprehensive income as the specific purpose is realised.

(ii) Capital grants

Grants relating to property, plant and equipment are included in non-current liabilities as capital grants and are credited to the statement of comprehensive income on a straight-line basis over the expected lives of the related assets.

(c) Foreign currency translation

(i) Functional and presentation currency

Items included in the financial statements of the organisation are measured using the currency of the primary economic environment in which the entity operates ('the functional currency'). The financial statements are presented in Kenya Shillings ("Shs") which is the organisation's functional currency.

(ii) Transactions and balances

Foreign currency transactions are translated into the functional currency of the respective entity using the exchange rates prevailing at the dates of the transactions. Foreign exchange gains and losses resulting from the settlement of such transactions and from the translation at year-end exchange rates of monetary assets and liabilities denominated in foreign currencies are recognised in profit or loss.

Foreign exchange gains and losses that relate to cash and cash equivalents are presented in profit or loss within 'finance income or cost'. All other foreign gains and losses are presented in profit or loss within 'other income' or 'other expenses'.

(d) Property and equipment

Property, plant and equipment are stated at historical cost less depreciation. Historical cost includes expenditure that is directly attributable to the acquisition of the items.

Subsequent costs are included in the asset's carrying amount or recognised as a separate asset, as appropriate, only when it is probable that future economic benefits associated with the item will flow to the organisation and the cost of the item can be measured reliably. The carrying amount of the replaced part is derecognised. All other repairs and maintenance are charged to the statement of comprehensive income during the financial period in which they are incurred.

Notes (continued)

2 Summary of significant accounting policies (continued)

(d) Property and equipment (continued)

Depreciation on assets is calculated using the straight-line method to allocate their cost to their residual values over their estimated useful lives, as follows:

Furniture and fittings	8 years
Prefabs	5 years
Equipment	5 years
Motor vehicles	4 years
Computers	3 years

The assets' residual values and useful lives are reviewed, and adjusted if appropriate, at the end of each reporting period.

Property, plant and equipment 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).

Gains and losses on disposal of property, plant and equipment are determined by reference to their carrying amounts and are taken into account in determining operating surplus.

(e) Intangible assets

Costs associated with maintaining computer software programmes are recognised as an expense as incurred. Development costs that are directly attributable to the design and testing of identifiable and unique software products controlled by the organisation are recognised as intangible assets when the following criteria are met:

- it is technically feasible to complete the software product so that it will be available for use;
- management intends to complete the software product and use or sell it;
- there is an ability to use or sell the software product;
- it can be demonstrated how the software product will generate probable future economic benefits;
- adequate technical, financial and other resources to complete the development and to use or sell the software product are available; and
- the expenditure attributable to the software product during its development can be reliably measured.

Directly attributable costs that are capitalised as part of the software product include the software development employee costs and an appropriate portion of relevant overheads.

Other development expenditures that do not meet these criteria are recognised as an expense as incurred. Development costs previously recognised as an expense are not recognised as an asset in a subsequent period.

Computer software development costs recognised as assets are amortised over their estimated useful lives, which does not exceed three years.

Acquired computer software licences are capitalised on the basis of the costs incurred to acquire and bring to use the specific software. These costs are amortised on the basis of the expected useful lives. Software has a maximum expected useful life of 3 years.

Notes (continued)

2 Summary of significant accounting policies (continued)

(f) Leases

Leases in which a significant portion of the risks and rewards of ownership are retained by the lessor are classified as operating leases. Payments made under operating leases (net of any incentives received from the lessor) are charged to surplus or deficit on a straight-line basis over the period of the lease.

(g) Financial assets

(i) Classification

All financial assets of the organisation are classified as loans and receivables, based on the purpose for which the financial assets were acquired. The directors determine the classification of the financial assets at initial recognition.

(ii) Recognition and measurement

Regular purchases and sales of financial assets are recognised on the trade-date – the date on which the organisation commits to purchase or sell the asset. Receivables are subsequently carried at amortised cost using the effective interest method.

(iii) Offsetting financial instruments

Financial assets and liabilities are offset and the net amount reported in the statement of financial position when there is a legally enforceable right to offset the recognised amounts and there is an intention to settle on a net basis or realise the asset and settle the liability simultaneously.

(iv) Impairment

The organisation assesses at the end of each reporting period whether there is objective evidence that a financial asset or group of financial assets is impaired. A financial asset or a group of financial assets is impaired and impairment losses are incurred only if there is objective evidence of impairment as a result of one or more events that occurred after the initial recognition of the asset (a 'loss event') and that loss event (or events) has an impact on the estimated future cash flows of the financial asset or group of financial assets that can be reliably estimated.

Evidence of impairment may include indications that the debtors or a group of debtors is experiencing significant financial difficulty, default or delinquency in interest or principal payments, the probability that they will enter bankruptcy or other financial reorganisation, and where observable data indicate that there is a measurable decrease in the estimated future cash flows, such as changes in arrears or economic conditions that correlate with defaults.

The amount of the loss is measured as the difference between the asset's carrying amount and the present value of estimated future cash flows (excluding future credit losses that have not been incurred) discounted at the financial asset's original effective interest rate. The carrying amount of the asset is reduced and the amount of the loss is recognised in surplus or deficit. If a loan has a variable interest rate, the discount rate for measuring any impairment loss is the current effective interest rate determined under the contract.

If, in a subsequent period, the amount of the impairment loss decreases and the decrease can be related objectively to an event occurring after the impairment was recognised (such as an improvement in the debtor's credit rating), the reversal of the previously recognised impairment loss is recognised in surplus or deficit.

Notes (continued)

2 Summary of significant accounting policies (continued)

(h) Receivables

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

(i) Cash and cash equivalents

Cash and cash equivalents includes cash in hand, deposits held at call with banks, other short term highly liquid investments with original maturities of three months or less, and bank overdrafts.

(j) Employee benefits

Retirement benefit obligations

The organisation and all its employees contribute to the National Social Security Fund (NSSF) which is a defined contribution plan. The organisation also operates a defined contribution staff retirement benefit scheme for its employees on confirmed employment contracts.

A defined contribution plan is a pension plan under which the organisation pays fixed contributions into a separate entity. The organisation has no legal or constructive obligations to pay further contributions if the fund does not hold sufficient assets to pay all employees the benefits relating to employee service in the current and prior periods.

The organisation's contributions to the defined contribution schemes are recognised as an employee benefit expense when they fall due. The Company has no further payment obligations once the contributions have been paid.

(k) Payables

Payables are obligations to pay for goods or services that have been acquired in the ordinary course of business from suppliers. Accounts payable are classified as current liabilities if payment is due within one year or less (or in the normal operating cycle of the business if longer). If not, they are presented as non-current liabilities.

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

(l) Provisions

Provisions are recognised when: the organisation has a present legal or constructive obligation as a result of past events; it is probable that an outflow of resources will be required to settle the obligation; and the amount has been reliably estimated. Provisions are not recognised for future operating losses.

Provisions are measured at the present value of the expenditures expected to be required to settle the obligation using a pre-tax rate that reflects current market assessments of the time value of money and the risks specific to the obligation. The increase in the provision due to passage of time is recognised as interest expense.

(m) Comparatives

An intangible asset (computer software) which had been expensed in the prior period was capitalised during the current year. The comparative figures have been restated to conform to current year presentation.

Notes (continued)

3 Critical accounting estimates and judgments

Estimates and judgements are continually evaluated and are based on historical experience and other factors, including experience of future events that are believed to be reasonable under the circumstances.

(i) critical accounting estimates and assumptions

The organisation makes estimates and assumptions concerning the future. The resulting accounting estimates will, by definition, seldom equal the related actual results. The estimates and assumptions that have a significant risk of causing a material adjustment to the carrying amounts of assets and liabilities within the next financial year are addressed below.

Useful lives of property and equipment

The Organisation's management makes estimates in determining the depreciation rates for property, plant and equipment. The rates used are set out in the accounting policy Note 2 (d).

4 Financial risk management objectives and policies

The organisation's activities expose it to a variety of financial risks: market risk (including foreign exchange risk and interest rate risk), credit risk and liquidity risk.

The organisation's overall risk management programme focuses on the unpredictability of financial markets and seeks to minimise potential adverse effects on its financial performance. The organisation does not hedge any of its risk exposures.

Financial risk management is carried out by the finance department under guidance of the Board of Directors.

Market risk

(i) Foreign exchange risk

The organisation receives grants and is exposed to foreign exchange risk arising from various currency exposures, primarily with respect to the US Dollar, Great Britain Pound and Euro. Foreign exchange risk arises from future commercial transactions, and recognised assets and liabilities.

Management's policy to manage foreign exchange risk is to hold foreign currency bank accounts which act as a natural hedge.

Notes (continued)

4 Financial risk management objectives and policies (continued)

Market risk (continued)

(i) Foreign exchange risk (continued)

The table below summarises the effect on surplus had the Kenya Shilling weakened/strengthened by 10% (2013:10%) against each currencies held, with all variables held constant.

Year 2014

	US \$	Euro	GBP
Effect of surplus/ (deficit) increase	681,774	1,977,884	2,534,204

Year 2013

	US \$	Euro	GBP
Effect of surplus /(deficit)	1,835,636	476,853	74,082

(ii) Price risk

The organisation does not hold any financial instrument subject to price risk.

(iii) Cash flow and fair value interest rate risk.

The organisation does not hold any financial instrument subject to cash flow and fair value interest rate risks.

Credit risk

Credit risk arises from cash and cash equivalents and deposits with banks and financial institutions as well as credit exposures to customers, including outstanding receivables and committed transactions. Management is responsible for managing and analysing credit risk for each new client before standard payment and delivery terms are offered. The organisation does not have any significant concentrations of credit risk.

For banks and financial institutions, only reputable well established financial institutions are accepted. For receivables, the senior accountant assesses the credit quality of the customer, taking into account its financial position, past experience and other factors. The organisation does not grade the credit quality of receivables. Individual risk limits are set based on internal ratings in accordance with limits set by the Board. The utilisation of credit limits is regularly monitored.

No credit limits were exceeded during the reporting period, and management does not expect any losses from non-performance by these counterparties.

Notes (continued)

4 Financial risk management objectives and policies (continued)

Credit risk (continued)

The amount that best represents the organisation's maximum exposure to credit risk at 31 March 2014 is made up as follows:

	2014 Shs	2013 Shs
Cash at bank and short term bank deposits	74,393,758	138,111,580
Debtors and other receivables	65,626,174	12,175,423
	140,019,932	150,287,003

The maximum exposure to credit risk at the reporting date is the carrying value of each class of financial assets.

There were no receivables which were past due but not impaired.

Liquidity risk

Liquidity risk is the risk that the organisation will not be able to meet its financial obligations as they fall due. Prudent liquidity risk management includes maintaining sufficient cash balances, and the availability of funding from an adequate amount of committed credit facilities.

Management perform cash flow forecasting and monitor rolling forecasts of the organisation's liquidity requirements to ensure it has sufficient cash to meet its operational needs.

The organisation's approach when managing liquidity is to ensure, as far as possible, that it will always have sufficient liquidity to meet its liabilities when due, without incurring unacceptable losses or risking damage to the organisation's reputation. The organisation relies on grants to fund working capital requirements.

The table below analyses the organisation's financial liabilities that will be settled on a net basis into relevant maturity groupings based on the remaining period at the statement of financial position date to the contractual maturity date. The amounts disclosed in the table below are the contractual undiscounted cash flows.

Notes (continued)

4 Financial risk management objectives and policies (continued)

Liquidity risk (continued)

	Less than 1 year Shs	Between 1 and 2 years Shs	Between 2 and 5 years Shs	Over 5 years Shs
At 31 March 2014				
Payables	16,765,688	-	-	-
Non-current deferred income	3,230,981	1,294,800	-	-
At 31 March 2013				
Payables	24,981,453	-	-	-
Non-current deferred income	83,065,498	2,229,934	3,297,243	-

Capital risk management

The organisation's objectives when managing capital is to safeguard the organisation's ability to continue as a going concern.

The organisation places emphasis on proper planning during the annual budget preparation process, cash flow monitoring and monthly tracking of actual operating results against budget.

Financial instruments by category

No financial assets are carried at fair value hence no fair value hierarchy disclosures are required.

Notes (continued)

5 Grant income

	2014	2013
	Shs	Shs
United Nations Voluntary fund for victims of Torture (UNVFVT)	1,739,093	1,600,395
Office of the High Commissioner for Human Rights (OCHCHR)	434,935	4,347,069
United Nations Development Programme (UNDP) – Amkeni 1	-	3,374,491
United Nations Development Programme (UNDP) – Amkeni 2	3,199,025	3,134,725
Christian Aid	5,876,042	7,787,625
C- Aid citizenship	2,493,013	-
Canadian International Development Agency (CIDA)	123,324	2,494,567
Danish International Development Agency (DANIDA) through DAP Programme	16,859,532	13,608,742
Finnish Aid	-	9,747,198
Ford	8,569,000	25,663,205
Ford Global	71,943,952	11,055,218
Misereor	701,102	3,688,661
Department for International Development (DFID)	-	2
Norwegian embassy	130,307,054	115,630,771
Swedish International Development Agency (SIDA)	263,314	21,069,017
Spider	5,428,763	2,206,903
Swiss Aid	-	5,137,667
Centre for the Study of Violence and Reconciliation (CSVr)	13,645,815	-
Trocaire	2,202,839	3,114,348
United Nations Women	31,428	4,927,694
Uhai	(2)	978,351
SOMO-EPA	(62,800)	217,300
Stichting Onderzoek Multinationale Ondernemingen (SOMO)	2,559,630	2,169,988
Helen Bader Foundation (HBF)	82,000	1,445,955
Comic relief through Traidcraft	11,239,444	-
Open Society Initiative of East Africa (OSIEA)	803,022	(133)
Global Partners Digital (GPD)	2,000,417	-
Leighday	15,816,785	-
	<hr/>	<hr/>
Total grant income (Note 13)	296,256,727	243,399,759
Less: Amount utilised for capital acquisition (Note 14)	(691,720)	(8,259,080)
	<hr/>	<hr/>
	295,565,007	235,140,679
	<hr/>	<hr/>

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

Notes (continued)

6 Other income

	2014	2013
	Shs	Shs
Sale of publications	11,600	59,017
Project hosting fees	-	2,616,700
Foreign exchange gain/(loss)	4,909,217	(664,545)
Bank interest	344,136	623,787
Reversal of accruals - general	6,361,552	503,596
Miscellaneous income	8,000	808,260
Income from Africog	240,000	-
Income from Friedrich Ebert Stiftung (FES)	67,000	-
	<u>11,941,505</u>	<u>3,946,815</u>

7 Staff costs

	2014	2013
	Shs	Shs
Salaries & allowances	51,651,683	52,193,913
Retirement benefit costs		
-Defined contribution scheme	4,801,004	2,720,501
-National social security fund	101,200	100,800
Others	14,545,787	4,155,139
	<u>71,099,674</u>	<u>59,170,353</u>

Notes (continued)

8 Property and equipment

	Prefabs	Furniture and fittings	Office equipment	Motor vehicles and motorcycles	Computers	Total
	Shs	Shs	Shs	Shs	Shs	Shs
Year ended 31 March 2014						
Cost						
At 1 April 2013	2,424,716	3,440,061	10,400,682	5,700,000	14,956,965	36,922,424
Additions	-	313,640	424,740	220,000	1,815,739	2,774,119
At 31 March 2014	2,424,716	3,753,701	10,825,422	5,920,000	16,772,704	39,696,543
Depreciation						
At 1 April 2013	2,424,716	2,585,358	8,298,231	4,427,500	12,372,219	30,108,024
Charge for the year	-	217,431	815,752	1,072,500	2,279,572	4,385,255
At 31 March 2014	2,424,716	2,802,789	9,113,983	5,500,000	14,651,791	34,493,279
Net book amount	-	950,912	1,711,439	420,000	2,120,913	5,203,264

Notes (continued)

8 Property and equipment (continued)

	Prefabs Shs	Furniture and fittings Shs	Office equipment Shs	Motor vehicles and motorcycles Shs	Computers Shs	Total Shs
Year ended 31 March 2013						
Cost						
At 1 April 2012	2,424,716	2,700,182	8,483,330	7,380,600	12,077,069	33,065,897
Additions	-	739,879	1,917,352	(1,680,600)	2,879,896	5,537,127
Disposal	-	-	-	-	-	(1,680,600)
At 31 March 2013	2,424,716	3,440,061	10,400,682	5,700,000	14,956,965	36,922,424
Depreciation						
At 1 April 2012	2,424,716	2,405,693	7,567,431	5,090,600	10,579,742	28,068,182
Charge for the year	-	179,665	730,800	1,017,500	1,792,477	3,720,442
Disposal	-	-	-	(1,680,600)	-	(1,680,600)
At 31 March 2013	2,424,716	2,585,358	8,298,231	4,427,500	12,372,219	30,108,024
Net book amount	-	854,703	2,102,451	1,272,500	2,584,746	6,814,400

Notes (continued)

9 Intangible assets

	2014 Shs	2013 Shs
Cost		
At start of year	2,721,954	-
Additions	-	2,721,954
At end of year	2,721,954	2,721,954
Amortisation		
At start of year	907,318	-
Amortisation for the period	907,318	907,318
At end of year	1,814,636	907,318
	907,318	1,814,636

10 Finance income

Finance income relates to interest income from short term fixed deposits.

	2014 Shs	2013 Shs
Interest income	3,237,351	1,514,376

11 Debtors

Staff advances	2,910,840	1,469,113
Less: provision for impairment	(553,941)	(256,810)
Net staff advances	2,356,899	1,212,303

Other debtors	-	664,711
Prepaid expenses	409,451	1,479,982
Interest receivable	-	54,451

Total debtors and other receivables **2,766,350** **3,411,447**

Movement in impairment provisions

At start of year	256,810	256,810
Additions	297,131	-

At end of year **553,941** **256,810**

Notes (continued)

11 Debtors (continued)

The carrying amounts of the above debtors and receivables approximate their fair values.

12 Cash and cash equivalents

Cash and cash equivalents included in the statement of cash flows comprise the following statement of financial position amounts:

	2014 Shs	2013 Shs
Bank and cash balances	47,507,419	69,004,111
Fixed deposit	28,534,606	69,107,469
Unaccounted travel advances	-	518,480
	<u>76,042,025</u>	<u>138,630,060</u>

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

	2014 Shs	2013 Shs
Kenya Shillings	22,519,186	114,764,343
US Dollar	33,701,550	18,356,364
Euro	19,778,866	4,768,532
UK Pound	42,423	740,821
	<u>76,042,025</u>	<u>138,630,060</u>

Kenya Human Rights Commission
Financial Statements
For the year ended 31 March 2014

Notes (continued)

13 Restricted fund

Grant income and receipts are analysed as follows:

Revenue grants

Year ended 31 March 2014

	Bal as at 1st April 2013	Receipts	Transfer from deferred income	Grant receivable	Transfer to deferred income	Refunds	Income receivable for 2013 which had already been recognised in the prior year	Grant income	Foreign exchange gain	Interest Rec'd	Transfer to general funds	Capital grant	Expended	Bal as at 31 March 2014
	Shs	Shs	Shs	Shs	Shs	Shs	Shs	Shs	Shs	Shs	Shs	Shs	Shs	Shs
	a	b	c	d	e	f	g	Z=a+b+c+d-e- f-g	h	i	j	k	l	X=Z+h+i-j-k
UNVFVT			1,739,093					1,739,093					1,736,875	2,218
OCHCHR		1,729,735			1,294,800			434,935	133,018	8,506				576,459
UNDP-Ankeni2		2,106,250	1,092,775					3,199,025	193,594	25,630			7,916,109	(4,717,084)
Christian Aid			9,177,053			3,301,011		5,876,042					5,876,042	219,224
C- Aid								2,493,013					1,785,123	707,890
Citizenship		2,493,013												
Cida	123,324							123,324						123,324
DAP		17,517,950	1,137,159				1,795,577	16,859,532		44			10,509,602	6,349,974
Finnish														
Ford		8,569,000						8,569,000	665,356		8,569,000			665,356
Ford global			71,943,952					71,943,952		35,575			51,251,589	20,727,938
Misereor			701,102					701,102		18,748			2,812,203	(2,092,353)
Norwegian		78,600,000		51,707,054				130,307,054	(5,154)	144,782			93,557,844	36,888,838
Sida	5,896,467					5,633,153		263,314		4,433				267,747
Spider		5,222,613	1,756,613		1,550,463			5,428,763	397,171				5,124,196	701,738

Kenya Human Rights Commission
Financial Statements
For the year ended 31 March 2014

	Bal as at 1st April 2013	Receipts	Transfer from deferred income	Grant receivable	Transfer to deferred income	Refunds	Income receivable for 2013 which had already been recognised in the prior year	Grant income	Foreign exchange gain	Interest Rec'd	Transfer to general funds	Capital grant	Expended	Bal as at 31 March 2014
	Shs	Shs	Shs	Shs	Shs	Shs	Shs	Shs	Shs	Shs	Shs	Shs	Shs	Shs
	a	b	c	d	e	f	g	Z=a+b+c+d-e- f-g	h	i	j	k	l	X=Z+h+i-j-k
CSVR														
Trocaire		10,896,250		7,887,232			5,137,667	13,645,815	1,675,906	2,163			11,644,881	3,679,003
UN-Women		3,677,956	205,400	-	1,680,517		202,944	2,202,839	1,071,575	1,653			3,276,063	3
UHAI	(2)	234,372						31,428		53,349			194,379	(109,602)
Somo-EPA								(2)		44,362				(2)
Somo-Flower		2,803,574		276,044			62,800	(62,800)	776,396				1,990,806	(18,438)
HBF	415,001					333,001	519,988	2,559,630					82,000	1,345,220
Traidcraft		4,686,636		6,552,808				11,239,444				691,720	7,013,492	3,534,232
Leighday		15,816,785						15,816,785	(228,504)	4,726	13,647,000		1,807,662	138,345
OSIEA		1,363,494	839,528				1,400,000	803,022	77,047				1	880,068
GPD		2,000,417						2,000,417	152,812	167			1,598,258	555,138
	6,434,791	157,718,045	88,592,675	66,423,138	4,525,780	9,267,165	9,118,976	296,256,727	4,909,217	344,138	22,216,000	691,720	208,177,126	70,425,236

Kenya Human Rights Commission
Financial Statements
For the year ended 31 March 2014

Notes (continued)

13 Restricted fund (continued)

Grant income and receipts are analysed as follows:-

Revenue grants

Year ended 31 March 2013

DONOR	Balance as at 1 April 12		Receipts		Transfer From deferred Income		Grant Receivables		Transfer to deferred Income		Reverse d Accruals		Transfer to General Funds		Grant Income		Foreign Exchange gain		Interest Rec'd		Capital Grant		Expended		Bal as at 31Mar 2013	
	Shs	a	Shs	b	Shs	c	Shs	d	Shs	e	Shs	f	Shs	g	Shs	z	Shs	h	Shs	i	Shs	j	Shs	k	Shs	Shs
UNVFVT			3,339,488						1,739,093						1,600,395				15,329					1,615,724		123,324
OCHCHR			4,347,069												4,347,069									4,347,069		
UNDP-AMKENI1	150		2,497,500		876,841										3,374,491									3,374,491		
UNDP-AMKENI2			4,212,500												3,134,725									3,134,725		
CHRISTIAN AID	672,425		16,940,588						9,177,053				672,425		7,787,625			195,745		21,202		130,500		7,874,072		
CIDA	356,626		2,400,382									10,000	272,441		2,494,567							8,000		2,363,243		
DAP			11,058,099		1,892,225		1,795,577		1,137,159						13,608,742							730,700		12,878,042		
FINNISH			9,719,198								28,000				9,747,198							435,546		9,311,652		
FORD			25,649,145								14,060				25,663,205					41,259		814,579		24,889,885		
FORD GLOBAL			82,999,170						71,943,952						11,055,218					48,320				11,055,218		
MISEREOR	1,411		4,122,132		266,220				701,102				108,522		3,688,661									3,736,981		
ERT (DFID)	108,524																									
Norwegian	11,261		115,619,510												115,630,771					258,924		6,078,005		112,274,719		
Sida	1,458		7,386,661		13,637,049						43,849				21,069,017									15,431,474		5,896,467
Spider					3,963,516										2,206,903							61,750		2,145,153		
Swiss							5,137,667								5,137,667									5,137,667		
Trocaire	814,384		2,575,000						205,400				69,636		3,114,348					-				3,041,024		
UN-Women			4,724,750				202,944								4,927,694					32,428				4,960,122		

Kenya Human Rights Commission
 Financial Statements
 For the year ended 31 March 2014

UHAI	978,351					978,351			978,352	-1
Somo-EPA	154,500	62,800				217,300			217,300	
Somo-Flower		1,650,000	519,988			2,169,988			2,169,988	
HBF	1,445,955					1,445,955			1,030,954	415,001
OSIEA	(7,787)	839,528	1,400,000	839,528	7,654	(133)	133		-	
	1,958,452	300,169,998	23,125,379	9,118,976	88,592,675	142,653	1,123,024	243,399,759	122,421	417,595
									8,259,080	231,967,857
										6,434,791

Notes (continued)

14 Capital grants

	2014	2013
	Shs	Restated Shs
Cost		
At start of year	46,760,066	38,500,986
Additions	691,720	8,259,080
At end of year	47,451,786	46,760,066
Amortisation		
At start of year	38,869,000	34,766,473
Transfer to income	2,509,357	4,102,527
At end of year	41,378,357	38,869,000
	6,073,429	7,891,066

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.

15 Payables

	2014	2013
	Shs	Shs
Accrued expenses	10,140,517	17,826,838
KHRC projects	-	4,472,116
Other creditors	6,071,600	2,682,500
At end of year	16,212,117	24,981,454

The carrying amounts of the above payables approximate their fair value.

16 Commitments

Operating lease commitments

The Organisation leases its premise under an operating lease. The lease term is for 5 years. The future lease payments due to the rental premise is as follows:

	2014	2013
	Shs	Shs
Falling due within one year	2,600,000	2,600,000
Falling due between one and five years	9,980,000	12,580,000
	12,580,000	15,180,000

Notes (continued)

17 Related party transactions

(i) Key management compensation

Key management include directors and senior management. The compensation paid/payable to key management for employee services is shown below:

	2014 Shs	2013 Shs
Salaries	17,968,409	17,061,160
Post-employment benefits	1,689,986	2,064,444
	<hr/>	<hr/>
At end of year	19,658,395	19,125,604
	<hr/>	<hr/>

The directors do not get compensated for their services as directors.

18 Taxation

The directors have made an application for tax exemption to the Kenya Revenue Authority in view of the nature of the organisation's activities. Consequently, no provision for taxes has been made in these financial statements.

19 Employees

The number of employees at the end of the year was 28 (2013: 21)

20 Incorporation

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

21 Currency

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

--- 000 ---