


# KENYA NATIONAL COMMISSION ON HUMAN RIGHTS

Annual Report and Financial Statements  
2021-2022

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 05 DEC 2023	DAY: TUES
TABLED BY: BY: INZOFU MWALE	Hon NAOMI WAQO, MP Deputy Majority Whip Inzofu mwale



Kenya National Commission on Human Rights





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This Report was published by:

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**Printed in Kenya by:**

**Cover Design and Layout:**

Mathew Bwire Oduki  
STUDIO INFERNO CO LTD  
studioinferno.info@gmail.com

KNCHR would appreciate receiving a copy of any materials in which information from this report is used.

**ISBN: 978-9914-740-12-7**



# Statement from the Chairperson



The Kenya National Commission on Human Rights is delighted to present its Annual Report for the financial year 2021/2022. This report chronicles the endeavours of the Commission during this period and puts forth recommendations for advancing human rights and fundamental freedoms within our Republic. The Commission is privileged to have the opportunity to fulfil its mandate of promoting and safeguarding the observance of human rights and constitutionalism.

Operating as a National Human Rights Institution, KNCHR collaborated with both State and non-State actors to instil a culture of respecting human rights and fundamental freedoms within our nation. This was essential to ensure compliance with the Constitution of Kenya and international human rights principles and standards. The Commission commends the State for ratifying crucial human rights treaties and submitting reports to the UN treaty body mechanisms. This has imposed a reporting obligation on Kenya, encouraging the implementation and domestication of various international instruments. KNCHR is optimistic that Kenya will also ratify the outstanding human rights conventions and optional protocols.

The Constitution's Fourth Schedule allocates responsibilities, including functions under the mandate of County governments, which contribute to the realization of Economic, Social, and Cultural rights. The Commission acknowledges that human rights are indivisible and interconnected. Thus, the Commission will continue to work closely with County governments, ensuring they adopt a human rights-based approach in their development agenda and service delivery to the people. Kenya's Constitution places human rights at the forefront of good governance.

To complement the robust provisions of the Constitution, Kenya has now adopted the National Human Rights Policy and Action Plan, providing a solid conceptual framework to progress human rights realization in our country.

The Commission recognizes the indispensable role played by a strong and vibrant civil society and human rights defenders within an enabling environment. Therefore, KNCHR continues to encourage and support the growth of the civil society sector and the civic space.

Article 19 of the Constitution highlights that recognizing and safeguarding human rights and fundamental freedoms is vital to preserving the dignity of individuals and communities. Failure to uphold these rights negatively impacts dignity, hinders the promotion of social justice, and obstructs the realization of human potential. While the Constitution calls for progressive realization of human rights, the Commission calls for exertion more efforts to translate policies into action, particularly in prioritizing the protection and promotion of human rights and fundamental freedoms.

As a Commission, we stand ready to apply our expertise in Alternative Dispute Resolution to address the source of conflicts and hinder the enjoyment of the various rights as enshrined in the constitution. Proactively engaging County Governments and political leadership to utilize alternative means of dispute resolution will help prevent future standoffs especially among communities.

Lastly, the Commission calls on Government ministries, departments and agencies to establish effective linkages with the Kenya National Commission on Human Rights as the key institution influencing policy, legislation, and public accountability on human rights matters. KNCHR further urges the Government to adequately resource the Commission, enabling it to efficiently and effectively fulfil its human rights mandate. The Commission expresses its gratitude to the Government and all strategic partners for their support during the financial period 2021/2022.



**Roseline D. A. Odede, HSC**

Chairperson

Kenya National Commission on Human Rights

# Statement from the Secretary / Chief Executive Officer



Throughout the financial year 2021/2022, the Commission centered its efforts on four strategic objectives:

1. Cultivating and deepening a culture of human rights and Fundamental Freedoms among the public.
2. Establishing and ensuring adherence to human rights principles and standards in both public and private institutions.
3. Securing appropriate redress, accountability for human rights violations, and upholding the rule of law.
4. Improving the efficiency, effectiveness, and sustainability of the National Commission.

During the financial year 2021/2022, the Commission delved heavily on its core functions, that is, to receive complaints and conduct investigations in a fair and diligent manner. This involved processing complaints, conducting preliminary investigations on eligible cases, and carrying out field investigations into alleged human rights violations to provide redress through investigation reports. Additionally, the KNCHR was involved in public interest litigation, acting as *amicus curiae* in the prosecution of petitions and participating in cases related to the environment and land.

The Commission received various petitions and complaints, with the majority focusing on Economic, Social, and Cultural rights (ECOSOC). These complaints covered issues related to labor rights, civil and political rights, particularly the right to access justice, as well as cases pertaining to group rights.

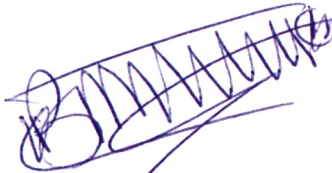
The Commission also played a role in reviewing Bills and Policies to ensure their alignment with the Constitution. During this reporting period, the KNCHR provided advisories to relevant policymakers and focal points on various legislations and policies. County legislations were also reviewed, with a particular emphasis on the right to water as encapsulated under Article 43.

As part of its mission to empower citizens to assert their rights, the Commission equally worked to raise public awareness about the rights and obligations granted by the Constitution.



However, despite the constitutional mandate requiring a country-wide presence, the Commission continued to utilize its current established six offices in Nairobi, Kisumu, Kitale, Mombasa, Wajir and Nyahururu. To address this disparity and reach all Kenyans, especially those in marginalized rural areas, the Commission organized human rights and legal aid clinics, public education programmes and observed key thematic human rights days. Additionally, public forums were held, involving human rights defenders, duty bearers, and members of the public.

In conclusion, the Commission urges everyone to “Stand up for someone’s rights, and in the spirit of its motto: *“Haki Kwa Wote Kila Wakati”* (Human Rights for all, at all times) while committing to empowering the public with knowledge of human rights and fulfilling its responsibilities and accountabilities. KNCHR remains dedicated to increasing public understanding of their rights and obligations as enshrined in the Constitution of Kenya. The Commission acknowledges the support of the Government, specifically the Office of the Attorney General, and all key partners, and looks forward to enhancing and expanding collaboration in the next financial year.



**Dr. Bernard Mogesa, PhD, CPM**

Commission Secretary /Chief Executive Officer  
Kenya National Commission on Human Rights



# Executive Summary

The Report defines the Kenya National Commission on Human Rights (KNCHR or 'the National Commission') as espoused by Constitutional under Article 59 (1) and Chapter 15 of the Constitution of Kenya (CoK) and subsequently operationalized through an Act of Parliament, the Kenya National Commission on Human Rights Act No. 14 of 2011.

The National Commission is accredited by the **Global Alliance of National Human Rights Institutions (GANHRI)** as an **"A" Status** NHRI and is fully compliant as adopted by the UN Human Rights Commission Resolution 1992/54 of 1992 and the UN General Assembly Resolution 48/134 of 1993. The National Commission enjoys an affiliate status with the African Commission on Human and Peoples' Rights (ACHPR) since 2004.

The report also highlights on the requirement for the National Commission to comply with the Constitution of Kenya as well as relevant statutes such as the Public Finance Management Act 2012, The Public Procurement & Asset Disposal Act 2015, the Employment Act 2007, and the Occupational Safety & Health Act 2007 and the Leadership & Integrity Act, of 2012 and the Public Officers Ethics Act, of 2003. The report is also complying with Section 53 of the KNCHR Act which obligates the National Commission to provide a detailed report of activities and recommendations on policy, legal and administrative structures to address specific concerns identified by the Commission.

The Report highlights the mandate of the commission as per its enabling statute of Law and additional mandate/roles under several directives by law to provide advisories to the State on matters Human rights. It is important to note that the **Prevention of Torture Act** as stipulated in the Act No 12 of 2017, section 12 of the Act provides for the functions of the Commission as follows:

- (a) Investigation of alleged violations of the Act upon receipt of a complaint or on its own initiative;
- (b) Promoting the right to freedom from torture and cruel, inhuman and degrading treatment and punishment pursuant to the provisions of the Constitution and this Act;
- (c) Call for information from a public entity or private body to facilitate monitoring of compliance with the provisions of this Act;

The Report highlights extensively on Section 8 (g) of the enabling Act the Commission continued building the capacity of State and non-State actors on thematic human rights issues. The state of human rights awareness in Kenya presented a complex picture, characterized by both advancements in certain areas and persistent challenges in others. On the whole, there was a noticeable increase in the understanding of human rights issues among the general public in.

The Commission addressed challenges, including low uptake and utilization of justice mechanisms, including ADR, and widespread cases of human rights violations in both private and public spheres, along with disregard for the Constitution and the rule of law.

To overcome these obstacles, several key strategies were adopted. They included: optimizing complaints receipt, processing, and investigations, engaging in strategic public interest litigation, and advocating for a Human Rights-Based Approach (HRBA) in the administration of justice and appropriate justice systems and mechanisms. Through these concerted efforts, the Commission aimed to promote justice, uphold human rights, and foster accountability within our society.

To efficiently operationalize the mandate, the National Commission recognized the significance of maximizing its resources and internal procedures guided by the overall strategic Objective. These included; improving accessibility and expanding its national presence, more effectively mobilizing resources, cultivating a performance-oriented culture and strengthening human resources, reviewing and implementing standards and processes, improving visibility and brand recognition, leveraging information and communication technology, improving financial planning and management, strengthening planning, monitoring, evaluation, and knowledge management, and optimizing supply.

During the reporting Period, the Commission encountered several challenges such as *decreased and inadequate funding*; the National Commission being a constitutional body was the inadequately funded being unable to fully deliver on its core mandate, especially the Programmatic work as established by law; *Inadequate work amenities and tools as required by labour laws* where the Commission continues to experience inadequate facilitation for basic work amenities and tools such as vehicles, work spaces, ICT equipment, and WASH facilities as provided for in Occupational Safety and Health Act (OSHA) and Work Injury Benefits Act (WIBA). *Inadequate staff capacity*: The National Commission faced staffing challenges and operated at 25% capacity – that is, 114 staff members out of the authorized staff establishment of 461. This inadequacy persisted despite the increasing demand for Commission's services at the grass root level countrywide.

The Commission experienced slow response/s from some public and private institutions making it difficult for the Commission to conduct its work efficiently especially in the resolution of complaints. Equally, there was non-responsiveness from some duty bearers to act on key recommendations brought to their purview by KNCHR.

In view of the Report highlights key such enhanced budgetary allocation to enable the commission to recruit and also devolve its functions to all the 47 Counties in Kenya, Restoration of the Internship programme to enable the commission to nature upcoming champions on policy and legislative process regarding Human rights; penalised all those who obstruct Justice as well as increase the efforts towards public awareness and training on Human Rights among others.

The Commission enhanced its partnership network through regular meeting and Signing of Memorandum of Understandings to foster human rights in Kenya.





# List of Abbreviations and Acronyms

<b>CRPD</b>	Convention on the Rights of Persons with Disabilities
<b>CUC</b>	The Court Users Committee
<b>DOJ</b>	Department of Justice
<b>GANHRI</b>	Global Alliance of National Human Rights Institutions
<b>HRBA</b>	Human Rights-Based Approaches
<b>IPICC</b>	Intersex Persons Implementation and Coordination Committee
<b>KeNHA</b>	The Kenya National Highways Authority
<b>KFS</b>	Kenya Forest Service
<b>KNBS</b>	Kenya National Bureau of Statistics
<b>MCAPs</b>	Model County Action Plans
<b>NANHRI</b>	Network of African National Human Rights Institutions
<b>NAP</b>	BHR: National Action Plan on Business and Human Rights
<b>NCAJ</b>	National Council on Administration of Justice
<b>NEMA</b>	National Environmental Management Authority
<b>NVPG</b>	National Values and Principles of Governance
<b>PAPs</b>	Project Affected Persons
<b>SGBV</b>	Sexual and Gender-Based Violence
<b>SOPs</b>	Standard Operating Procedures
<b>TOTs</b>	Trainer of Trainers
<b>UNGPs</b>	United Nations Guiding Principles on Business and Human Rights

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## CHAPTER ONE

# Introduction

The Kenya National Commission on Human Rights (KNCHR or 'the National Commission') is a Constitutional Commission established under Article 59 (1) and Chapter 15 of the Constitution of Kenya (CoK) and subsequently operationalized through an Act of Parliament, the Kenya National Commission on Human Rights Act No. 14 of 2011.

The National Commission is an Independent National Human Rights Institution (NHRI) guided by the 1993 United Nations-approved principles on the establishment and functioning of independent National Human Rights Institutions referred to as the Paris Principles. The National Commission is accredited by the **Global Alliance of National Human Rights Institutions (GANHRI)** as an **"A" Status NHRI** and is fully compliant as adopted by the UN Human Rights Commission Resolution 1992/54 of 1992 and the UN General Assembly Resolution 48/134 of 1993. The National Commission enjoys an affiliate status with the African Commission on Human and Peoples' Rights (ACHPR) since 2004.

The National Commission complies with the Constitution of Kenya as well as relevant statutes such as the Public Finance Management Act 2012, The Public Procurement & Asset Disposal Act 2015, the Employment Act 2007, and the Occupational Safety & Health Act 2007. In addition, KNCHR is committed to high standards of ethics and complies with relevant statutes such as; the Leadership & Integrity Act, of 2012 and the Public Officers Ethics Act, of 2003.

In view of the foregoing, this report complies with Section 53 of the KNCHR Act which obligates the National Commission to provide a detailed report of activities and recommendations on policy, legal and administrative structures to address specific concerns identified by the Commission.

### 1.1 Mandate of the National Commission

The National Commission's mandate as provided for in Article 59(2) and Article 249 of the CoK and operationalized by the KNCHR Act 2011 is broadly interpreted as follows:

1. To promote human rights, fundamental freedoms, Constitutionalism and
2. To protect and secure the observance of human rights and fundamental freedoms in all spheres of life.

The functions of the National Commission as set out in Articles 59(2) and 252, Constitution 2010 are to: -

- (a) Promote respect for human rights and develop a culture of human rights in the Republic;
- (b) Promote the protection and observance of human rights in public and private institutions;
- (c) Monitor, investigate and report on the observance of human rights in all spheres of life in the Republic;
- (d) Receive and investigate complaints about alleged abuses of human rights and take steps to secure appropriate redress where human rights have been violated;
- (e) On its own initiative or on the basis of complaints received, investigate or research matter in respect of human rights, and make recommendations to improve the functioning of State and non-State organs;
- (f) Act as the principal organ of the State in ensuring compliance with obligations under international and regional treaties and conventions relating to human rights;
- (g) Formulate, implement and oversee programmes intended to raise public awareness of the rights and obligations of a citizen under the Constitution;
- (h) Work in close liaison with the National Gender and Equality Commission and the Commission on Administrative Justice to ensure efficiency, effectiveness and complementarity in their activities and to establish mechanism for referrals and collaboration;
- (i) Perform such other functions as the Commission may consider necessary for the promotion and protection of human rights and
- (j) Perform such other functions as may be prescribed by the Constitution and any other written law.

## 1.2 Additional mandate

The KNCHR has been also given an additional mandate under the **Prevention of Torture Act** as stipulated in the Act No 12 of 2017. Section 12 of the Act provides for the functions of the Commission as follows:

- (d) Investigation of alleged violations of the Act upon receipt of a complaint or on its own initiative;
- (e) Promoting the right to freedom from torture and cruel, inhuman and degrading treatment and punishment pursuant to the provisions of the Constitution and this Act;
- (f) Call for information from a public entity or private body to facilitate monitoring of compliance with the provisions of this Act;

- (g) Monitor the compliance by the State with international treaty obligations relating to torture and cruel, inhuman and degrading treatment and punishment;
- (h) Recommend effective measures for prevention of torture and cruel, inhuman and degrading treatment and punishment;
- (i) Create awareness among the public on their right to freedom from torture and cruel, inhuman and degrading treatment or punishment, by means of continuing civic awareness programs, symposia, publications and other means as may be determined by the Commission;
- (j) receive reports from public entities with respect to the implementation of this Act, assess and act on the reports with a view to assessing the violation of the right to freedom from torture and cruel, inhuman and degrading treatment and punishment;
- (k) work with enforcement agencies towards the promotion of compliance with international best practices on prevention of torture and cruel, inhuman and degrading treatment and punishment;
- (l) liaise with public entities on the implementation of the right to freedom from torture and cruel, inhuman and degrading treatment or punishment by public and private agencies; and
- (m) Perform other functions as may be determined by the Cabinet Secretary in consultation with the National Assembly.
- (n) Submit an annual report to the National Assembly.

### 1.3 Additional roles of The Commission

Apart from the functions clearly outlined in Section 7 of the KNCHR Act 2011, the following roles were added as part of the Commission's responsibilities:

S/ NO	ACT OF PARLIAMENT /GAZETTE NOTICE	ACT NUMBER	PROVISION/SECTION OF THE LAW
1.	Persons Deprived of Liberty Act	Act Number 23 of 2014	<ul style="list-style-type: none"> <li>• Section 27 (8) provides for the right of a person deprived of liberty to lodge confidential complaint on rights violations within custody.</li> <li>• Section 29 (1) &amp; (2) establishes the Consultative Committee on Persons Deprived of Liberty and mandates the committee to deliberate and resolve matters relating to persons deprived of liberty.</li> <li>• Section 29 (3) (g) lists KNCHR as a member of the Committee</li> </ul>

S/ NO	ACT OF PARLIAMENT /GAZETTE NOTICE	ACT NUMBER	PROVISION/SECTION OF THE LAW
2.	Counter-Trafficking in Persons Act	Act No 8 of 2010	<p>Section 19 creates the Counter-Trafficking in Persons Advisory Committee in which KNCHR is a member. The Committee under section 20 advises the Cabinet Secretary on:</p> <ul style="list-style-type: none"> <li>(a) formulation of a comprehensive and integrated program to prevent and suppress the trafficking in persons;</li> <li>(b) coordination of policies and programmes of the agencies to effectively address the issues and problems attendant to trafficking in persons;</li> <li>(c) coordination of the dissemination of information on the law and the issues relating to trafficking in persons through concerned agencies and non-governmental organizations;</li> <li>(d) formulation of programmes for the reintegration of both locally and internationally trafficked persons;</li> <li>(e) monitoring and evaluation of the progress of Kenya with respect to prevention, protection and prosecution efforts relating to trafficking in persons;</li> <li>(f) consultation and advocacy with Government departments and agencies and non-governmental organizations, to advance the purposes of this Act;</li> <li>(g) compilation and documentation of data and information on cases of trafficking in persons for purposes of policy formulation and program direction;</li> <li>(h) development of mechanisms to ensure the timely, coordinated, and effective response to cases of trafficking in persons;</li> <li>(i) measures to enhance cooperative efforts and mutual assistance between Kenya and other countries through bilateral and multilateral arrangements to prevent and suppress international trafficking in persons measures necessary to rehabilitate victims of trafficking in persons;</li> <li>(j) mechanisms to screen persons entering or leaving Kenya to determine if they are victims of trafficking in persons;</li> <li>(k) public information campaigns against trafficking in persons;</li> <li>(l) establishment of and support community-based initiatives that address trafficking in persons;</li> <li>(m) implementation of effective pre-employment orientation seminars and pre-departure counselling programmes to applicants for overseas employment;</li> </ul>

S/ NO	ACT OF PARLIAMENT /GAZETTE NOTICE	ACT NUMBER	PROVISION/SECTION OF THE LAW
3.	Independent Policing Oversight Authority Act	Cap 88 Laws of Kenya	Section 9 (1) (c) provides that the Chairperson of the Commission shall be an <i>ex-officio</i> member of the Board
4.	Legal Aid Act	Act Number 6 of 2016	Section 5 establishes the National Legal Aid Service where the Commission sits as a board member (section 9(1) (h))
5.	Office of the Director of Public Prosecutions	Act No 2 of 2013	Section 16 of the Act establishes the Advisory Board to the Office of the Director of Public Prosecutions and provides that the Chairperson of KNCHR as being a member. The principle function of the board is to advise the ODPP on recruitment and appointment of members of staff; promotion; discipline and any other matter that may be referred to the board by the ODPP.
6.	Power of Mercy	Act No21 of 2011	KNCHR sits in the selection panel of the Members to the Committee as provided for under section 9 of the POMAC Act.
7.	Taskforce on review of the laws relating to the exercise of the Power of Mercy	Gazette Notice No 7382	Taskforce appointed by the Attorney General to review the Laws relating to the exercise of the Power of Mercy under Article 133 of the Constitution. KNCHR is a member of this taskforce.
8.	Judicial Service Act	Act No 1 of 2011	Section 34 establishes the National Council on the Administration of Justice with the mandate to ensure a co-ordinated, efficient, effective and consultative approach in the administration of justice and reform of the justice system. The KNCHR sits as a member of the Council.
9.	NCAJ Standing Committee on the Administration of Justice for Children	Gazette Notice No. 8777	Judicial Service Act, No. 1 of 2011 Committee's main mandate is to coordinate the administration of justice for children
10.	NCAJ Standing Committee on Court Users Committee	Gazette Notice No. 8779 Judicial Service Act, No. 1 of 2011	Committee's main mandate is to coordinate the work of Court Users Committees across the country



S/ NO	ACT OF PARLIAMENT /GAZETTE NOTICE	ACT NUMBER	PROVISION/SECTION OF THE LAW
11.	National Council on Administration of Justice Committee on Criminal Justice Reforms	Gazette Notice No. 87778	<p>The Committee's terms of reference are:</p> <ul style="list-style-type: none"> <li>(a) Establish and design mechanisms to ensure that Kenya's criminal justice system operates in a manner consistent and compliant with the provisions of the Constitution, 2010.</li> <li>(b) Identify legal, institutional, administrative and financial barriers that impede the efficient functioning of the criminal justice system.</li> <li>(c) Identify areas of inter-agency collaboration and cooperation that would make the criminal justice system effective in serving members of the public.</li> <li>(d) Identify and review laws and policies that criminalize petty offences and make recommendations on their declassification and reclassification.</li> <li>(e) Review Kenya's penal laws.</li> <li>(f) In consultation with the NCAJ agencies, develop, operationalize and oversee the execution of a comprehensive implementation framework/strategy/plan of the CJS Audit Report.</li> <li>(g) Undertake any study or survey to deepen and expand understanding on Kenya's criminal justice system.</li> <li>(h) Conduct sensitization sessions among relevant stakeholders and the public on the contents of the audit report and engage them on the criminal justice reform initiative.</li> <li>(i) Engage other relevant state and/or non-state agencies in realizing the desired results of the audit findings implementation.</li> </ul>

S/ NO	ACT OF PARLIAMENT /GAZETTE NOTICE	ACT NUMBER	PROVISION/SECTION OF THE LAW
12.	NCAJ Committee on review of Laws and Policies relating to sexual offences and gender-based violence	Gazette Notice No. 9302	<p>Terms of Reference of the Committee</p> <ul style="list-style-type: none"> <li>(a) Review of the Sexual Offences Act (SOA) and other laws on sexual and gender-based violence (SGBV);</li> <li>(b) Review of the Sexual Offences Act (SOA) and other laws on sexual and gender-based violence (SGBV);</li> <li>(c) Review and oversee the implementation of policies, guidelines, rules, and strategies related to the efficient administration of justice for the SGBV;</li> <li>(d) Engage all relevant actors in the development of laws, policies, guidelines, and strategies on sexual offenses and gender-based violence;</li> <li>(e) Develop rules on victim protection under SGBV for the efficient administration of justice;</li> <li>(f) Identify areas of inter-agency collaboration and co-operation that would make lead to efficient operationalization of the Sexual Offences Act, policies, and guidelines for effective service to the public;</li> <li>(g) Monitor the prevalence of SGBV and the effectiveness of the control measures and advice the Council;</li> <li>(h) Disseminate information to relevant institutions through the Council for action, including the public; and</li> <li>(i) Oversee and standardize the sensitization and training programmes related to the SOA and other laws on SGBV, and the sexual offences policies and guidelines.</li> </ul>
13.	Witness Protection Agency	Act No 16 of 2006	<p>Section 3 (P) creates the Witness Protection Advisory Board and provides for KNCHR as a member of the board. The Board mandate is to advise the agency on the exercise of its functions and in particular:</p> <ul style="list-style-type: none"> <li>(a) Advise on the formulation of witness protection policies In accordance with the current law and international best practices</li> <li>(b) Have general oversight over the administration of the Agency.</li> </ul>
14.	Intersex Persons Implementation Co-ordination Committee (IPICC)	Gazette Notice No. 7264	The Attorney General aids the government in executing recommendations from the Taskforce report on Intersex Persons in Kenya. IPICC, led by KNCHR's Chairperson, and a Vice Chairperson from the Attorney General's office, oversees this initiative, with the Secretariat at KNCHR.

S/ NO	ACT OF PARLIAMENT /GAZETTE NOTICE	ACT NUMBER	PROVISION/SECTION OF THE LAW
15.	National Monitoring Agency of the Convention on the Rights of Persons with Disabilities	Article 33 of the CRPD	On 9th June 2017, the Attorney General re-designated the Commission as the monitoring agency for the Convention on the Rights of Persons with Disabilities. This nomination is vital for monitoring and advising the state on its obligations under the Convention and the Kenyan Constitution.
16.	Taskforce on Traditional, Informal, and Other Mechanisms used to Access Justice in Kenya	Gazette Notice No 1339 date 4th March 2016	<ul style="list-style-type: none"> <li>(a) Convene stakeholders and practitioners in Alternative Justice System in order to map out and understand the prevalence of use of Alternative Justice System, its intersection with the Judicial System and the progress made in infusing it with national and constitutional values;</li> <li>(b) Undertake a situational analysis of any existing reports, manuals, guidelines, practice notes, legal provisions on mainstreaming Alternative Justice System;</li> <li>(c) In conjunction with the Judiciary Training Institute to pilot and bench-mark existing models of Court-Annexed Alternative Justice System, to capacitate them, observing them and document their functioning to glean best practices to be used to develop potential national model;</li> <li>(d) Work with any seconded Consultants to synthesize secondary and primary data collected to address the objectives of the policy formulation exercise;</li> <li>(e) Consolidate best practices from selected traditional justice systems of selected communities;</li> <li>(f) Highlight challenges and effects of inter-linkage between traditional justice systems and the formal justice system;</li> <li>(g) Consult with key stakeholders and recommend a linkage between traditional and informal Justice Systems and the formal justice systems;</li> <li>(h) Study best practices, formulate the policy on mainstreaming alternative techniques for reducing case backlog and produce a draft;</li> <li>(i) Develop a strategic plan to implement the policy;</li> <li>(j) Present the draft documents to key stakeholders within the justice sector through meetings and workshops and incorporate comments as necessary; and</li> <li>(k) Develop a National Model for Court-annexed traditional justice resolution mechanism for possible adoption.</li> </ul>

S/ NO	ACT OF PARLIAMENT /GAZETTE NOTICE	ACT NUMBER	PROVISION/SECTION OF THE LAW
17.	Board of Directors of the Kenya Board of Mental Health	Gazette Notice No. 8818	<p>Section 4(2) of the Mental Health Act. Under section 5 of the Act, the role of the Board are as follows:</p> <ul style="list-style-type: none"> <li>• advise the National government and county governments on the levels of access to mental health care services in Kenya and the most appropriate strategies and programmes for the care of persons with mental illness and the effective delivery of mental health care services at the national and county levels of government;</li> <li>• set standards for the establishment of mental health units;</li> <li>• approve the establishment of mental health units within a national referral hospital</li> <li>• inspect mental health units and mental health facilities to ensure that they meet the prescribed standards</li> <li>• to develop guidelines on emergency treatment of persons with mental illness the procedures to be adhered to during emergency treatment;</li> <li>• to collaborate with the Cabinet Secretary responsible for education in developing and integrating in the education syllabus instructions relating to mental health, including instructions on prevention, treatment, rehabilitation and general information on mental health related illness</li> <li>• to prepare reports on prevalence of mental illness in the country and in particular to articulate in the reports an analysis of the specific types of mental illness recorded in every county.</li> <li>• to perform such other functions as may be conferred upon it by or under this or other written law.</li> </ul>
18.	Focal point on indigenous peoples rights	Provide gazette notice	
19.	Focal point on Children	Children's act	Advisory – Check the act

S/ NO	ACT OF PARLIAMENT /GAZETTE NOTICE	ACT NUMBER	PROVISION/SECTION OF THE LAW
20.	Inter-Agency Coordinating Committee (IAAC) Coordination Committee of the WHO QualityRights Initiative <sup>1</sup>	--	IAAC was formed after consultations between the State Department for Social Protection and disabled peoples' organizations (DPOs) to implement the disability agenda in Kenya. Its objectives include promoting multi-sectoral collaboration for disability inclusion in mainstream policies and sharing experiences and best practices in the sector.  KNCHR co-chairs the sub-committee on legal/policy/research and data with CBM. It's a WHO QualityRights Coordination Committee member and part of two sub-committees. KNCHR collaborates with the Ministry of Health on mental health services, aligning with the CRPD, while the Ministry of Labor and Social Protection handles IACC communications.
21.	Kenya National Bureau of Statistics (KNBS) and Disability Statistics Committee  Inter-Agency Coordinating Committee (IAAC)	--	The Commission is also a member of a number of Statistical Committees, including the Technical Working Committee on Disability Data. This Committee's objectives include coming up with disability disaggregated data to inform planning and programmes for persons with disabilities in Kenya.  KNCHR, along with Christian Blind Mission (CBM), co-chairs the sub-committee on legal/policy/research and data within IAAC. The Ministry of Labor and Social Protection handles communication regarding meetings of the entire IAAC. KNCHR's role involves facilitating the implementation of the disability agenda, promoting multi-sectoral collaboration for inclusion in development, and providing a platform for sharing experiences and information in the sector.
22.	Global Labor Programme-Labor Markets Governance Advisory Committee-KNBS and Disability Statistics Committee	--	Sightsavers and partner NGOs launched the Global Labor Program - Inclusive Futures to promote inclusive work opportunities in Kenya. The program builds skills and collaborates with agriculture and retail businesses to enhance inclusion of people with disabilities and protect labor rights.
23.	Global Labor Programme-Labor Markets Governance Advisory Committee	--	The Commission participates in the "Governance" domain of the Global Labor Program - Inclusive Futures, collaborating with United Disabled Persons - Kenya (UDPK) and the Central Organisation of Trade Unions - Kenya (COTU-K) to improve the legal and institutional frameworks governing work opportunities for people with disabilities.

<sup>1</sup> <https://www.health.go.ke/kenya-adopts-qualityrights-mental-health-initiative/#:~:text=Nairobi%20November%2018%2C%202019%20%E2%80%93%20The,for%20people%20with%20mental%20disorders>.

## 1.4 Guiding Principles

In fulfilling its mandate, the National Commission acts in accordance with the values and principles set out in the Constitution and the Laws of Kenya and observes and respects:

- (a) The diversity of the people of Kenya;
- (b) Impartiality and gender equity;
- (c) All treaties and conventions which have been ratified in Kenya and in particular the fact that human rights are; *indivisible, interdependent, interrelated, and of equal importance for the dignity of all human beings*, and
- (d) The rules of natural justice.

Implementation of the National Commission's mandate is pursued through various strategies including but not limited to: *processing complaints, conducting investigations, securing redress and accountability, undertaking audits, research, advisories, lobbying, advocacy, conducting human rights education and training, monitoring, and partnership building.*

## 1.5 Affiliation to international and regional networks

The Commission is affiliated to the *Global Alliance of National Human Rights Institutions* (GANHRI), an international, independent body established to promote the establishment and strengthening of NHRIs in conformity with the *Paris Principles*; and KNCHR enjoys 'A' *Status accreditation.*

The National Commission is also an active and key full member of the 44 States' regional human rights umbrella body namely; *the Network of African National Human Rights Institutions* (NANHRI). The National Commission hosts the NANHRI Secretariat at its head office in Nairobi. NANHRI encourages and supports the establishment of strong and independent African NHRIs in compliance with *Paris Principles* through national, sub-regional, regional and international cooperation. It strives to ensure that African NHRIs effectively undertake their mandate of human rights monitoring, protection, promotion, and advocacy towards a continent characterized by human rights culture and justice for all.

The Commission remains a full member and host of the NANHRI and has committed to continue offering institutional support to the Network to enable it to undertake its mission of strengthening NHRIs in Africa.

## 1.6 Collaboration with Constitutional Commissions and Independent Offices

Article 59 of the Constitution of Kenya, provides for the establishment of the Kenya National Human Rights and Equality Commission (KNHREC). However, the operationalization of Article 59(4) of the National Assembly as constituted; then split KNHREC into three Commissions, namely the Kenya National Commission on Human Rights (KNCHR), the Commission on

Administrative Justice (CAJ), and the National Gender and Equality Commission (NGEC). The National Commission collaborates closely with other Article 59 Commissions given their shared mandate on the protection and promotion of human rights. This is done through the Integrated Public Complaints and Referral Mechanism (IPCRM) which provides for the receipt and onward referrals of public complaints to participating institutions.

The National Commission also works closely with other Constitutional Commissions and Independent Offices (CCIOs), specifically through targeted strategic meetings, engagements and institutional participation in the annual conferences.

## 1.7 Leadership and Management

Section 9 of the KNCHR Act provides that the Commission will comprise a Chairperson and four Members of the Commission. The Chairperson, in conjunction with the Commission Members supervise and direct the oversight work of the Commission. The Commission has a Secretariat which is the implementing organ. The Secretariat is composed of the Secretary to the Commission, who is appointed by Commissioners and serves as the Chief Executive Officer and the Accounting Officer. The Commission Secretary, is in discharge of the management duties, responsibilities and accountabilities, and is assisted by five (5) Directorates namely; Complaints and Investigations, Research, Advocacy and Outreach, Legal Services, Regional Services and Corporate Services.



ROSELINE DA ODEDE HSC,  
CHAIRPERSON



DR. RAYMOND NYERIS,  
VICE-CHAIRPERSON



HON. SARA BONAYA,  
COMMISSIONER



DR. DENNIS WAMALWA,  
COMMISSIONER



PROF. MARION MUTUGI EBS,  
COMMISSIONER



DR. BERNARD MOGESA PhD,  
CPM COMMISSION SECRETARY/  
CEO

## 1.8 Strategic Framework

The National Commission 2018-2023 Strategic Plan articulates the National Commission's strategic direction for the next five years toward its mandate IN the promotion, fulfilment, and protection of human rights and fundamental freedoms. As the fifth strategic document, this plan builds on the successful implementation of the previous four strategic plans.

During the performance period of this Strategic Plan, the National Commission implemented four (4) strategic objectives that were crucial in realizing increased enjoyment of human rights and fundamental freedoms by all. These strategic objectives are as follows:

**Strategic objective 1:** *To promote and deepen a culture of human rights and Fundamental Freedoms among the public;*

**Strategic objective 2:** *To entrench and secure observance of human rights principles and standards by all public and private institutions;*

**Strategic objective 3:** *To secure appropriate redress, accountability for human rights violations, and respect for the rule of law; and*

**Strategic objective 4:** *To enhance the efficiency, effectiveness, and sustainability of the National Commission.*

To deliver on the key strategic objectives, KNCHR employed various strategies including public education and training, advocacy for reforms through submission of advisories to Parliament, enhancing strategic partnerships with different stakeholders through referral partners forum, redress mechanisms through Alternative Dispute Resolution (ADR), and seeking judicial interventions as petitioners, co-petitioners, interested party or as an amicus curiae (friend of the court) to guarantee human rights and freedoms are enjoyed by all in Kenya.





## CHAPTER TWO

# Promotion and deepening a culture of human rights and fundamental freedoms among the public

In accordance to its mandate under Section 8 (g) of the KNCHR Act the Commission continued building the capacity of State and non-State actors on thematic human rights issues. The state of human rights awareness in Kenya presented a complex picture, characterized by both advancements in certain areas and persistent challenges in others. On the whole, there was a noticeable increase in the understanding of human rights issues among the general public in Kenya. This positive trend can be attributed, in part, to the diligent efforts of the Kenya National Commission on Human Rights, Civil Society Organizations, human rights activists, and the wider availability of information through mainstream media and the digital media platforms. Various crucial topics, including police brutality, gender inequality, corruption and access to education and healthcare, received significant attention, fostering public discussions and demanding accountability.

The Kenya National Commission on Human Rights played an active role in enhancing public awareness regarding human rights. Their efforts focused on addressing a range of human rights issues, such as women's rights, children's rights, freedom of expression and the rights of marginalized and vulnerable groups. Additionally, the Commission facilitated platforms for individuals to report violations of their rights, ensuring that the public had a means to seek justice and protection.

The Commission strengthened human rights accountability and advocacy structures and pushed for the integration of human rights education in formal and informal learning institutions that led to; enhanced public knowledge on human rights and obligations; strengthened human rights accountability and advocacy structures; increased public participation at County and National governments.

## 2.1 Public awareness and education on human rights and obligations

In the pursuit of empowering the public on human rights and obligations, the Commission conducted; County Trainer of Trainers (ToTs) on human rights and obligations; thematic and targeted public forums; roadshows and exhibitions; traditional media campaigns;

public awareness and education on human rights through new media, arts and culture. The Commission directly reached **4,900** Community members out of the targeted **11,200** through public awareness forums with help of TOTs and approximately **5 million** people through targeted community awareness radio campaigns.

### 2.1.1 TOT training on human rights and obligations

During the reporting period, the KNCHR made significant strides in advancing human rights and obligations and this included; improving access to water and sanitation and healthcare services. Notably, Trainer of Trainers (TOTs) from **Wajir, Garissa, and Marsabit Counties** underwent comprehensive training on the Sexual Offences Act and the preservation of evidence related to sexual offences.

Stakeholders were also trained as TOTs on monitoring the right to water and sanitation. The trained stakeholders played a pivotal role in assisting the Commission in developing a *County Model Action Plan* that outlined specific deliverables for stakeholders in the *Water, Sanitation, and Hygiene* (WASH) sector, as part of the collaborative effort to enhance the fulfilment of the right to water and sanitation. Ultimately, the trained TOTs facilitated sensitization forums, reaching out to approximately **1,500** people creating a platform for integrating the views to enrich the model County Action Plan.

### 2.1.2 Thematic public forums



#### Promoting inclusivity and democratic values: advancing peaceful elections and intersex persons' rights awareness

Through a series of impactful public forums, the Commission educated and influenced public attitudes, behaviours, and beliefs on peaceful elections and upholding the rights of intersex persons in Kenya.

The fora included a youth-focused event in Nyamira County, empowering **200 youths** as peace ambassadors during the general elections. Additionally, six forums were held in Kisii, Kisumu, Homabay, and Vihiga counties, shedding light on intersex persons' challenges. It also included the dissemination of the Taskforce Report on the Intersex Persons. The Government officials attending the forums acknowledged their prior lack of awareness, resulting in changed perspectives on the rights of the intersex persons.

Participants gained insights into intersex persons' experiences, recommendations from the *Intersex Persons Taskforce Report*, and they proposed solutions to address challenges that affect the intersex persons. The forums directly reached **377 individuals**, including intersex persons' parents and guardians, journalists, and state actors. The utilization and coverage of local community media, national mainstream media and through the social media platforms coverage, extended the forums' impact and reach to at least **5 million people** nationwide.

By engaging communities and raising awareness on human rights and peaceful elections, the Commission fostered understanding, empathy, and acceptance, promoting a more inclusive society that respects the rights and dignity of all.



KNCHR and Intersex Persons Implementation Committee representative (left) joined by the Coordinator of KNCHR Western Region, Jacqueline Ingutiah (centre) during a media briefing session in Kisii during the stakeholders' public awareness and dissemination of the Intersex Persons Task-force report.



### **Advancing the rights to health and water: Empowering communities and ensuring accountability**

The Commission achieved significant milestones in advancing the rights to health and water, focusing on empowering communities and ensuring accountability. One noteworthy accomplishment was the organization of a community forum in Sipili, Laikipia County, to address the right to health. In response to a Nation Media NTV expose on alleged violations of patients' right to health by the management of Sipili Maternity Hospital. In August 2021 an investigative team from NTV<sup>2</sup> embarked on a fact-finding mission after receiving numerous allegations from patients of sexual assault at the hands of a nurse at a Laikipia health facility. After going undercover for 2 months, NTV managed to capture the accused male nurse in the act and corroborated the same with other victims.

<sup>2</sup> Footage available at: ([https://www.youtube.com/watch?v=Q9nmXBGm\\_o](https://www.youtube.com/watch?v=Q9nmXBGm_o))



**#DoctorEvil: The secrets hidden at Sipili Hospital, Laikipia**

A TV screen grab of the Nation Media NTV expose

KNCHR sensitized the community about their rights and emphasized the importance of collaborative efforts among stakeholders. The forum facilitated an integrated engagement involving key players and drivers of health. As a result, the Commission received and processed complaints related to human rights violations, and it continued to follow up to ensure redress.

Moreover, the Commission partnered with the Center for Enhancing Democracy and Good Governance (CEDGG), a Civil Society Organization, in Kinamba and Mahianyu, Laikipia County. The objective was to engage residents, service users, social auditors, and village committees on health and water facilities to understand the challenges they faced in accessing their rights. Through these engagements, the Commission empowered the communities to demand their rights and hold the duty bearers accountable. Notably, the residents of Mahianyu submitted a memorandum to the Commission, seeking further engagement with the County Executive Committee for Health regarding an ill-equipped dispensary. Through these endeavours, the Commission significantly contributed to safeguarding and promoting the rights to health and water.



**Community dialogue on conflict prevention in Tana River County:  
Enhancing awareness and guiding peacebuilding interventions**

The Commission engaged in activities to foster peace-building and conflict resolution in Tana River County. KNCHR organized a community dialogue on conflict prevention, bringing together key stakeholders such as; the District Peace Committee, Elders, and Grassroots Human Rights Defenders from Garsen sub-county. This consultative forum aimed to gain insights into conflict dynamics, identify potential partners, and strengthen existing redress mechanisms. The dialogue also provided valuable data for early warning and response mechanisms.

Through the dialogue, KNCHR successfully gained comprehensive understanding of the existing structures and developed a road-map guiding their interventions on conflict dynamics in Tana River County, while emphasizing the intersection with human rights. The outcomes of this initiative were further amplified by a follow-up training held by KNCHR for stakeholders in Tana River on conflict sensitivity. This training enabled the participants to appreciate and integrate a conflict sensitivity approach in their programming and interventions. Topics covered during the training included; understanding conflict, phases of conflict, drivers of conflict, conflict management skills, and the importance of integrating conflict sensitivity approach in programming.

These collective efforts by KNCHR not only raised public awareness of citizens' rights and obligations; but also empowered stakeholders in Tana River County to establish effective conflict resolution mechanisms. By merging insights gained from the community dialogue and the conflict sensitivity training, KNCHR fostered collaboration and built a solid foundation for sustainable peace-building and conflict management in the region.

### 2.1.3 Human rights thematic day's commemorations

These are the international days currently observed and commemorated by the UN as proposed by member States and established by the General Assembly with a resolution. The UN designates specific days, weeks, years, and decades as occasions to mark particular events or topics to promote, through awareness and action, the objectives of the Organization.

The Commission embraces these days as powerful advocacy platforms and occasions to educate and train the public on issues of specific concern, to mobilize political will and resources to address national human rights challenges and to celebrate and reinforce achievements of human rights. The existence of international days predates the establishment of the United Nations, but the UN has embraced them as a powerful advocacy tool.

KNCHR took part in celebrating more than **ten (10)** international thematic days such as: *International Human Rights Day, International Albinism Awareness Day, International Day in Support of Victims of Torture, International Day of the Victims of Enforced Disappearances, International Women's Day, International Prisoners' Justice Day Prisoners, World Day Against the Death Penalty, World Day against Trafficking in Persons, and International Day for the Right to the Truth concerning Gross Human Rights Violations Day of the African Child and The Victims of torture day, and Intersex Awareness Day.* Below are samples of the success stories emanating from these commemorations:



#### **International Albinism Awareness Day (IAAD): Promoting inclusivity**

The International Albinism Awareness Day (IAAD) is a world event commemorated every year on June 13th to celebrate and raise awareness on the rights of persons with albinism.<sup>3</sup>

<sup>3</sup> See more information concerning IAAD at <https://www.un.org/en/observances/albinism-day>.

During the reporting year under review, the Commission made significant strides in promoting human rights, particularly in raising awareness about albinism. Key achievements included; organizing engaging essay and poetry competitions for young learners and youth, fostering creativity, and nurturing human rights champions. The hybrid award ceremony held at the Hilton Hotel recognized the winners and highlighted the importance of understanding the albinism condition under the theme **“Different in Color, Equal in Rights.”**

The Commission also actively participated in the International Albinism Awareness Day (IAAD) celebrations in collaboration with the National Council for Persons with Disabilities (NCPWD). The event, themed “United in making our voice heard,” took place at the Karisa Maitha Grounds in Kilifi Town. The Commission Secretary, Dr. Bernard Mogesa, shared valuable insights as a key speaker, while Dr. Linah Jebii Kilimo, the then Chief Administrative Secretary in the Ministry of Public Service and Gender, graced the occasion as the Guest of Honor. The speeches emphasized the promotion and protection of the rights of persons with albinism in Kenya.

These initiatives successfully empowered youth, fostered creativity, and raised awareness about the rights of persons with albinism. By actively engaging the community and celebrating the IAAD, the Commission played a vital role in advocating for equality and protecting the rights of persons with albinism in Kenya.



Essayists display certificates and gifts at the award Ceremony on 8th October 2021 to celebrate the International Albinism Awareness Day. In their midst is from right to left Dr Elizabeth Kamundia (KNCHR) and Alex Munyere (NCPWD) and 6th from right: Hon. Lady Justice Mbaru (Chief Guest).



### **World Mental Health Day 2021: Promoting mental health awareness and creative expression**

*World Mental Health Day* is an international event celebrated annually on 10th October to raise awareness about mental health globally and provide support for individuals with mental health conditions. In 2021, amidst the then ongoing COVID-19 pandemic and its adverse effects on mental well-being, the significance of this observance was heightened. The focus was on outcomes rather than processes, highlighting the consequences of the pandemic on mental health worldwide.

To commemorate the 2021 World Mental Health Day, the Commission organized a poetry competition aimed at two age groups: **13-18 years** and **19-25 years**. This competition served as a platform for young individuals to creatively express existing inequalities in the mental health sphere and identify opportunities for reducing disparities, aligning with the global campaign theme for the year: “*Mental Health in an Unequal World: Together we can make a difference.*” The winners of the competition were honoured in a vibrant ceremony held on April 19, 2022, at the Hilton Hotel, which was also livestreamed virtually. Additionally, the Commission published an anthology featuring the submitted poems, showcasing the creative talent and diverse perspectives of the participants.

Winners of the poetry competition display their certificates on 19th April 2022 at the Hilton Hotel, Nairobi. Below: A poster on the poetry writing competition disseminated to members of the public.



### **International Human Rights Day: “Promoting human rights awareness and collaboration”**

During the reporting period under review, the Commission successfully organized the International Human Rights Day celebrations at Ndungulu Grounds in Kesses Sub-County, Uasin Gishu County. The event, held on 10th December 2021, focused on the theme of ‘*Reducing Inequalities, Advancing Human Rights.*’ It brought together a diverse range of stakeholders, including representatives from the County Government of Uasin Gishu, National Government Administration Officials, Independent Commissions (such as CAJ, EACC, NLC, and EACC), The Judiciary, Refugee Affairs Secretariat (RAS), Children’s Department, Probation, National Police Service, and numerous NGOs and CBOs from Uasin Gishu County.

The primary outcome of the event was to raise public awareness of human rights in various aspects. Attendees were enlightened about the historical origins and the current state of human rights protection in the country. Additionally, specific human rights issues pertinent to Uasin Gishu County were discussed, shedding light on local challenges and potential solutions. The event also provided a platform for complaints handling agencies to educate the public on the process of filing complaints related to human rights violations based on their respective operational areas.

A significant outcome of the celebration was the presentation of a memorandum by the Ogiek Community, addressing the status of their human rights situation in light of a regional court's decision on their ancestral land eviction. This demonstrated the event's effectiveness in providing marginalized communities with an opportunity to voice their concerns and seek redress.

Prior to the main event, a series of build-up activities took place, further reinforcing the impact of the celebrations. These activities included the launch of the Commission's reports on Labor Relations during Covid-19 and Access to Justice, legal aid clinics, public forums on human rights in Uasin Gishu County, and a consultative meeting with various CSO representatives. The insights gathered from these engagements informed the Commission's subsequent call to action during the main event, promoting a collaborative approach to addressing thematic human rights issues in the county.

Through the successful organization of the International Human Rights Day celebration, the Commission achieved its objective of raising awareness, fostering collaboration, and empowering individuals and communities to protect and advocate for human rights.

#### 2.1.4 New media, arts and culture platforms

By developing a comprehensive series of monthly messages sourced from the Bill of Rights in the Constitution of Kenya, Chapter 4, the Commission successfully fostered a culture of understanding and respect for individual rights. Throughout the year, the Commission developed over 120 targeted and thematic campaigns that generated a wholesome utilization of all KNCHR digital and social media platforms; translating to an audience reach of over **5 million** people. These strategically targeted the youth and the literate online populations in Kenya.

## 2.2 Support human rights accountability and advocacy platforms



### Strengthening human rights advocacy and community engagement in addressing SGBV: KNCHR's Impact in Uasin Gishu and Trans Nzoia counties.

During the reporting period, KNCHR made significant strides in combating sexual and gender-based violence (SGBV) and human rights violations in **Uasin Gishu** and **Trans Nzoia** Counties. The outcomes achieved paved the way for future success in addressing these pressing issues.

KNCHR conducted targeted community dialogue meetings, focusing on youth and women, to enhance participants' knowledge and capacity in addressing SGBV and human rights violations. These efforts resulted in increased awareness and empowerment, equipping individuals, including community elders, with the necessary tools to effectively combat SGBV.



To strengthen the response to SGBV, KNCHR established two human rights and accountability platforms in **Kesogon** and **Turbo**, located in **Trans Nzoia** and **Uasin Gishu** Counties. These platforms served as vital mechanisms for documenting and addressing SGBV cases within the communities. Following accessible channels for reporting and intervention, victims of SGBV are now more likely to be heard, supported, and provided with avenues for seeking justice.

KNCHR also prioritized partnerships and collaboration with local administration and Community Health Volunteers in Kesogon and Turbo. This collaborative approach enabled a comprehensive response to SGBV and human rights violations, leveraging the expertise and resources of multiple stakeholders. By fostering these alliances, KNCHR ensured a holistic and sustained effort to tackle the challenges at hand.

Looking ahead, the established platforms and collaborative networks further strengthened the collective response to SGBV, providing a solid foundation for future success. KNCHR's commitment to empowering communities, raising awareness, and facilitating support and accountability continued to play a crucial role in combatting SGBV and promoting human rights in Uasin Gishu and Trans Nzoia Counties.

Furthermore, in a separate incidence, the Commission conducted meetings in support of CSO groups in the aforementioned counties. Grassroot Human Rights Defenders (HRDs) and representatives from Community Based Organizations (CBOs) in Uasin Gishu and Trans Nzoia Counties were trained on monitoring the protection and promotion of human rights. The training encompassed areas such as; *documentation of human rights violations, application of human rights-based approaches, security and safety of HRDs, conflict management and prevention, various legislations on human rights, and evidence collection*. Additionally, two (2) peace and human rights accountability platforms were established to advocate for human rights standards and principles in the communities.

The Commission made significant progress in addressing SGBV and human rights violations in Uasin Gishu and Trans Nzoia Counties. Through the above initiatives, individuals have been empowered and equipped to combat SGBV and advocate for human rights. Collaboration with local stakeholders ensures a comprehensive response to these challenges, providing avenues for reporting and support.



### **Enhancing collaborative justice: Expedited resolution and conviction in defilement cases**

The Commission engaged referral partners through strategic review meetings to address concerns regarding various human rights violations. These meetings served as valuable platforms to share best practices and identify areas that required improvement. Notably, one significant area of engagement was the stakeholders' involvement on *children matters within the justice sector*. The focus was to address challenges related to prolonged prosecution of defilement cases and the lack of sufficient evidence, which hindered the delivery of justice to victims. As a result of these collaborative efforts, particularly in Karatina town in Nyeri

County, stakeholders made a commitment to foster better synergies among the *Judiciary, Police, health department, ODPP, and Children officers*. This commitment translated into tangible action when a case involving the defilement of a 3-year-old girl by her step-father arose. The stakeholders worked closely together, leading to the suspect's arrest, collection of necessary forensic evidence, arraignment in court, and proper processing of all witnesses. The Commission anticipates the judgement in the upcoming reporting period, a testament to the outcomes of KNCHR collaborative endeavours.



### **Strengthening electoral integrity: Promoting collaboration and action**

The Commission achieved significant milestones in promoting electoral integrity and fostering collaboration with various stakeholders. Through **17 advocacy reports, 7 press Statements/releases** and accountability meetings, the Commission engaged with State and non-State actors, emphasizing the importance of transparent and fair elections. In preparation for the 2022 general elections, KNCHR conducted **15 meetings with strategic partners**, including the Office of the Registrar of Political Parties, National Police Service, Ministry of Education, Witness Protection Agency, African Union Elections Observers group, International Justice Mission, Amnesty International, and Western Human Rights Network.

These constructive platforms served as crucial channels to disseminate the Commission's comprehensive reports on the 2017 elections. Discussions centred on identifying areas of collaboration and formulating action plans to prevent electoral malpractices and violations. By fostering partnerships and developing joint initiatives, the Commission aimed to ensure free, fair and credible elections that uphold democratic principles and protect the rights of citizens.



### **Advancing human rights for intersex persons in Kitui and Makeni Counties**

Notably, Kenya took a significant step forward in documenting the journey of intersex persons by including an intersex "sex marker" during the 2019 population census. This ground breaking initiative resulted in identifying the number and distribution of intersex persons in each county and led to the establishment of the *Taskforce on Policy, Legal, Administrative, and Institutional Reforms regarding Intersex Persons in Kenya*.

Furthermore, the appointment and operationalization of the Intersex Persons Implementation and Coordination Committee (IPICC) Secretariat, with multi-sectorial representation, marked a crucial milestone. The IPICC Secretariat, domiciled at the Commission, aimed to advance advocacy for the human rights of all intersex children and adults in Kenya.

The Commission successfully established two accountability platforms in Kitui and Makeni. These platforms aimed to create safe spaces for the protection and promotion of intersex persons' rights in the two counties. Through the advocacy forums organized, there was a remarkable increase in awareness regarding the rights of intersex persons, effectively contributing to the reduction of stigma associated with being born intersex.

By implementing these initiatives, the Commission has made significant strides in advancing the rights of intersex persons in Kitui and Makueni Counties, fostering inclusivity and promoting a more just and equitable society.



### Enhancing peacebuilding and conflict resolution in Tana River County

During the reporting period, KNCHR successfully undertook initiatives that went beyond processing human rights complaints in Tana River County. The Commission's primary focus was to document the impact of insecurity on the enjoyment of rights and fundamental freedoms, with a view to promoting sustainable peace-building and conflict management. To this end, KNCHR organized a consultative meeting on conflict resolution and human rights-based approaches, bringing together **25 key peacebuilding stakeholders**, including elders (Gazza) and members of the District Peace Committee.

The consultative session proved effective in achieving its objectives. KNCHR successfully identified current conflict trends in Hola Sub-County and established early warning and response mechanisms to address these issues promptly. Additionally, grassroots human rights defenders were trained on Alternative Dispute Resolution (ADR) mechanisms, enabling them to contribute effectively to conflict resolution efforts. The participants gained a clear understanding of the types of complaints they could refer to the Commission, mainly related to pastoralists and farmers' conflicts and land evictions.

One of the significant results of the session was the enhanced understanding of the nexus between peace-building and human rights. Participants were guided on adopting a Human Rights-based Approach (HRBA) to conflict resolution and were equipped with knowledge about early warning mechanisms. The importance of collaboration and partnership among stakeholders was emphasized to establish robust early warning and early response mechanisms to address emerging issues promptly.

Through these initiatives, KNCHR recognized that the structural underdevelopment by both the national and county governments posed a significant threat to peaceful coexistence among communities. Elected leaders at both levels often focused solely on areas where they received substantial political support. This insight highlighted the need for proactive measures and advocacy to address these challenges.

Overall, KNCHR's efforts to enhance peacebuilding and conflict resolution in Tana River County led to improved understanding, capacity-building, and collaboration among stakeholders, fostering a more inclusive and rights-centred approach to conflict resolution in the region.



Stakeholders during consultative meeting on conflict resolution and human rights-based approach to conflict resolution at Marichiano Hotel on 26 – 27th .11.2021.

## 2.3 Integrate human rights knowledge in formal and informal learning institutions



### Building a rights-based education system: Milestones in curriculum development and mainstreaming

During the reporting period, the Commission, in collaboration with stakeholders in the education sector led by the Kenya Institute of Curriculum Development (KICD), achieved significant milestones in promoting human rights education in the Kenyan education system. Notably, the following results were accomplished:

- (a) *Development of a Handbook on Citizenship Education:* A comprehensive handbook on Citizenship Education was developed. This educational resource emphasized the importance of citizenship, fostering learners' understanding of their roles as African and global citizens. It empowers learners to actively engage in addressing local, regional, and global challenges. The handbook incorporated transformative approaches that facilitate the discovery of new knowledge and experiences, enabling learners to become proactive contributors to a more just, peaceful, tolerant, inclusive, secure, and sustainable world. Human rights, including a special focus on intersex children, are integral components of this handbook.

- (b) *Mainstreaming of Human Rights Education in the Competency-Based Curriculum:* Through a partnership with the Kenya Institute for Curriculum Development (KICD), the Commission played a pivotal role in developing Global Citizenship Mainstreaming Matrices for both Junior Secondary School and Senior Secondary School in the new Competency-Based Curriculum (CBC) development process. These matrices ensure the effective integration of human rights education into the CBC. As a result of this collaboration, it is noteworthy that the CBC for Junior Secondary School has successfully mainstreamed human rights education across carrier and non-carrier subjects. This achievement signifies a significant step toward nurturing a culture of respect for human rights throughout Kenya over time.

These accomplishments highlight the tangible results achieved through the Commission's efforts to promote human rights education within the Kenyan education system. By equipping learners with the knowledge, values, and skills necessary for responsible citizenship and fostering a culture of human rights, the Commission is contributing to the development of a more inclusive, equitable, and rights-based society.



The Global Citizenship Mainstreaming Matrices, jointly developed by the KNCHR and KICD in order to mainstream human rights education in the CBC Curriculum.



### Promoting human rights culture in universities

In pursuit of fostering working relationships and promoting the culture of human rights among learners, the Commission successfully conducted meetings with institutions of higher learning. Notably, fruitful engagements took place at Kisii University and Kabianga University. These meetings yielded significant outcomes, as the Commission actively reached out to the university community to raise awareness about human rights principles. Furthermore, an important milestone was achieved through the signing of a Memorandum of Understanding (MOU) with Kabianga University. This MOU served to solidify and enhance the collaboration between the two institutions, thereby strengthening the collective efforts in instilling a culture of respect for human rights within the university campuses.

Also, a notable accomplishment was successfully advocating for the inclusion of human rights in the curriculums of Laikipia and Egerton University. This strategic effort aimed to deepen understanding and address human rights issues within academia and society.

Engagement with the Dean of the Faculty of Law at Egerton University yielded another important breakthrough. Recognizing the potential for collaboration, the Commission explored joint Public Interest Litigation (PIL) opportunities through the university's legal aid program. Specific PIL cases were identified and are currently undergoing processing.

These achievements mark significant progress towards our goal of promoting human rights, fostering academic engagement, and cultivating effective collaborations. By integrating human rights into curriculums and leveraging joint PIL initiatives, KNCHR anticipates creating a lasting positive impact on the advancement and protection of human rights in our society. The Commission's continued partnership with Kisii, Kabianga, Laikipia, and Egerton Universities demonstrates KNCHR's commitment to fostering a culture of human rights and strengthening alliances for meaningful change.



### Empowering Madrasa students with human rights knowledge for a better future

The Commission also focused on instilling human rights knowledge in informal learning institutions, empowering individuals to assert their rights confidently. The Commission engaged pupils from three Madrasas—Madras Tul Takwa, Madras Iklas, and Madras Rahma—representing Garsen Sub-County on November 24, 2021. This initiative aligned with the KNCHR's mandate to cultivate a culture of rights and fundamental freedoms, aiming for enhanced enjoyment of these rights by all.

During the session, the Commission shared the United Nations Convention on the Rights of a Child (UNCRC) and the African Charter on the Rights and Welfare of Children with 27 students. These students not only acquired valuable knowledge about their rights but also developed a deep respect for them. KNCHR believed that their understanding of the four pillars of child rights—*Survival, Protection, Development, and Participation*—combined with their new-found appreciation for diversity, will empower them to combat prejudice, foster positive relationships, promote peaceful coexistence, and make the most of their lives.

The fruit of this engagement held immense promise for the future. By equipping young individuals with the tools to protect and exercise their rights, KNCHR sowed the seeds for a society that upholds human rights principles, ensuring a better future for all.



Learners with their teachers during sensitization meeting for informal learning institutions in Tana River County on 24 November, 2021.

## CHAPTER THREE

# Entrench and secure observance of human rights principles and standards by all public and private institutions

State organs have a constitutional duty to observe, respect, protect, promote and fulfil the human rights and fundamental freedoms based on the Bill of Rights (Article 21). Traditionally, it had been thought that the obligation of promoting and protecting human rights was exclusively that of the State and that private entities could not be brought to account for violations of human rights. Furthermore, all State organs and all public officers have the duty to address the needs of vulnerable groups within society including women, older members of society, persons with disabilities, children, youth, members of minority or marginalised communities and members of a particular ethnic, religious or cultural community.

In interpreting this question, the Judiciary has recognised that private bodies and individuals wield great power over the citizenry and that it is important that the latter are protected from such private bodies who may for instance discriminate or cause other constitutional breaches.

Kenya is bound by various regional and international human rights obligations which form part of the laws of Kenya (Article (2) (6)). Further, the Constitution obligates the State to, *'enact and implement legislation to fulfil its international obligations in respect of human rights and fundamental freedoms'*.

One of the functions of the Commission as outlined by Article 59(2) of the Constitution is to act as the *principal organ of the State in ensuring compliance with obligations under international and regional treaties and conventions relating to human rights*.

### 3.1 Capacity building of duty bearers on human rights principles and standards

The Commission continues to support institutions in the integration of human rights principles and norms in policies, practices, and processes of the duty bearers through Human Rights Based Approach (HRBA) training. In the reporting period, the Commission trained both State and non-State actors on different human rights thematic areas ranging from chiefs, prison officers, county government officials, magistrates, etc.



### 3.1.1 Training of State actors and non-State actors on National, Regional and International human rights instruments and standards and other HR thematic areas

The National Commission continued to support institutions in the integration of human rights principles and norms in policies, practices and processes of the duty bearers through Human Rights Based Approach (HRBA) training. The Commission trained **712 duty bearers**. These composed of the law enforcement officers and other duty bearers from Ministries, Departments and Government Agencies such as; the National Government Administration Officers (NGAO); Law enforcement Officers; Ministry of Health Officers; and Kenya Forest Service among others. The Commission also managed to train Human Rights Defenders (HRDs) on human rights principles and standards to support the 2022 general elections process. The traditional contribution of HRDs in such a process is to ensure that citizens are sufficiently sensitized to play their civic duty to elect their leaders, monitor the election processes and ensure it meets the international standards and practices. The following are selected examples of the training.



#### **Bridging human rights and forest conservation: A transformative curriculum for Kenya**

In collaboration with the REDD+ UNDP project, the Commission successfully developed a human rights-compliant Curriculum and Manual for Training of Kenya Forest Service (KFS) and other stakeholders on Human Rights-Based Approaches (HRBA) in Forest Conservation, Protection, and Management. This significant achievement aimed to promote a human-rights centred approach, emphasizing the Kenyan Constitution and legal frameworks surrounding forest conservation.

Through a series of technical workshops involving key stakeholders, the curriculum was enriched with practical knowledge, effectively integrating the convergence of human rights and forest conservation in Kenya. The resulting training manual serves as a valuable resource for mainstreaming HRBA in Kenya, fostering the fulfilment of a broad range of rights, including Economic, Social, and Cultural rights such as health, food, water, sanitation, as well as civil and political rights.

Upon completion, the approved Curriculum and Manual were delivered to the Kenya Forest Service. Looking ahead, the next phase of this engagement will focus on utilizing the Curriculum in training Forest Rangers at the Forest Law Enforcement Academy (FOLEA). It will also include a refresher training program for the existing rangers, KFS staff, and Forest adjacent communities.

By implementing these measures, the ultimate outcome was the cultivation of a culture that respects human rights in the management and conservation of the environment throughout Kenya.

## 3.2 Monitoring compliance with human rights principles and standards in public and private institutions.

### 3.2.1 Review of laws and policies at the national and county level



#### 26 advisories on law and policy reviewed and submitted to relevant national and county focal points on legislation and policy making

The Commission issued **26 advisories** to Parliamentary and Senate House Committees, stakeholders, and relevant actors, ensuring compliance of proposed laws and policies with the bill of rights and international human rights instruments. The Commission's audits assessed the compatibility of bills and policies, emphasizing compliance with constitutional and human rights frameworks. Through **18 written and oral advisories**, transparency and accountability were fostered, leading to improved governance and the protection of human rights. These efforts made a tangible impact, shaping legislation and policies that uphold the rights and dignity of all persons in Kenya.



#### Legislative Achievements in the Year: Children Act, 2022 and Mental Health (Amendment) Act, 2022

During the year under review, KNCHR achieved significant successes in advocating and influencing important legislative changes. KNCHR played a critical role in two crucial acts, namely the **Children Act<sup>4</sup>, 2022** (No. 29 of 2022) and the **Mental Health (Amendment) Act, 2022** (No. 27 of 2022)<sup>5</sup>. These achievements are the outcomes of our dedicated efforts in lobbying and active participation throughout the legislative processes.

#### Mental Health (Amendment) Act, 2022

After a long and persistent journey of advocacy, collaboration with National Assembly and Senate, civil society organizations (CSOs), and stakeholders, KNCHR successfully influenced the enactment of the Mental Health (Amendment) Act, 2022. Notably, several of the recommendations put forth by the Commission were incorporated into the Amendment. A significant milestone was the inclusion of KNCHR as a member of the Kenya Mental Health Board, established under section 4 of the Act. This recognition reflects KNCHR expertise and commitment to fostering positive change in the mental health landscape.

4 Children Act, 2022; Accessible at <http://kenyalaw.org/8181/exist/kenyalaw/actview.xql?actid=No.%2029%20of%202022>. The Act however was assented to on 6th July 2022 and took effect from 26th July 2022.

5 Mental Health (Amendment) Act, 2022; accessible at [http://kenyalaw.org/ki/fileadmin/pdfdownloads/Acts/2022/TheMentalHealth\\_Amendment\\_Act\\_2022.pdf](http://kenyalaw.org/ki/fileadmin/pdfdownloads/Acts/2022/TheMentalHealth_Amendment_Act_2022.pdf). The Act was assented to on 21st June 2022 and commenced 11th July 2022.

### Children Act with Progressive Provisions

Another noteworthy accomplishment was the enactment of the Children Act, which introduced progressive provisions to protect and support children's rights. The Commission has been actively advocating for the review of various provisions through advisories and international mechanisms. The newly enacted Act incorporates several proposals that KNCHR championed, including the recognition of intersex individuals, raising the age of criminal liability to 12 years, and introducing diversion programs for children in conflict with the law. These advancements represent crucial steps forward in ensuring the well-being and rights of children across the country.

Other advisories submitted by the Commission were as follows:

1. Petition on amendment of Articles 47, 49 of the Constitution and other statutes on the criminal justice system submitted to the Senate Standing Committee on Justice, Legal Affairs and Human Rights;
2. Alternative Dispute Resolution Bill, 2021 submitted to the Senate Standing Committee on Justice, Legal Affairs & Human Rights;
3. Kenya Citizenship and Immigration (amendment) Bill, 2021 submitted to Senate Standing Committee on National Security, Defence and Foreign Relations;
4. National Cohesion and Peace Building Bill, 2021 submitted to the Senate Standing Committee on National Cohesion, Equal Opportunity and Regional Integration;
5. Victim Protection (General) regulations, 2021 submitted to the Victim Protection Board;
6. Advisory to the National Council for Persons with Disabilities on the Disability Medical Assessment and Categorization Guidelines (MOH);
7. Children Bill, 2021 submitted to the National Assembly Departmental Committee on Labour and Social Welfare;
8. Election Campaign Financing (Amendment) Bill No. 37 of 2021 submitted to the National Assembly Constitutional Implementation Oversight Committee;
9. Elections (Amendment) Bill, No. 41 of 2021 submitted to the National Assembly Constitutional Implementation Oversight Committee;
10. Persons with Disabilities Bill, (National Assembly Bills No. 61), 2021 submitted to the Departmental Committee on Labour and Social Welfare;
11. Persons with Disabilities (Registration) (Amendment) Regulations, 2020 submitted to the National Council for Persons with Disabilities;
12. Advisory to the Kenya National Bureau of Statistics on a human rights-based approach to the Kenya Demographic and Health Survey;
13. Advisory to the Office of the Attorney General and Department of Justice on the removal of Kenya's reservation under article 14 (2) (c) of the Maputo Protocol;
14. Advisory to the Departmental Committee on Defence & Foreign Relations, and Labour and Social Welfare on The Protocol to the African Charter on Human and Peoples' Rights on The Rights of Persons with Disabilities in Africa dated 18th August 2021. The advisory is accessible here;

15. Advisory/comments on the Judicial Service Commission Strategic Plan; and
16. Advisory on the Draft Sexual and Reproductive Healthcare Policy to the Ministry of Health.



### **Model county action plans for Garissa and Marsabit Counties for enhanced service delivery and coordination in water and sanitation sector**

Under the collaborative efforts of the Commission and the Right to Water Organization, significant progress were made in the development of **Model County Action Plans (MCAPs)** for **Garissa** and **Marsabit** Counties. These MCAPs represent a comprehensive five-year roadmap aimed at enhancing service delivery in the water and sanitation sector. The plans prioritize effective coordination between the National and County governments, as well as key stakeholders, including development partners. By focusing on six key pillars—*legal and policy frameworks, capacity building and public awareness, service provision, governance and management, political and public participation, and access to information*—the MCAPs are set to yield tangible outcomes in terms of improved water and sanitation services, increased awareness and knowledge among the public, strengthened governance mechanisms, enhanced political participation, and greater access to information for all stakeholders. These outcomes contributed to the sustainable development and well-being of Garissa and Marsabit Counties with regard to right to water.

### **3.2.2 High level Meetings with duty bearers to advocate for adoption of key human rights principles**



#### **Consultative meeting on remediation guidelines for vulnerable labour migrants in Kenya**

In line with its role as the principal organ of the State for ensuring human rights compliance, the KNCHR, in partnership with the International Organization for Migration (IOM), organized a consultative forum to develop remediation guidelines for vulnerable labour migrants in Kenya, engaging senior technical officials responsible for migrant protection and labour migration institutions. Government and other stakeholders in migration management participated in the forum which yielded six essential steps for the remediation guidelines:

1. *Submitting and receiving grievances*: Establishing a mechanism for receiving and processing grievances from vulnerable labour migrants.
2. *Verifying grievances*: Ensuring proper verification of grievances to validate their authenticity and credibility.
3. *Investigating grievances and determining response*: Conducting thorough investigations into grievances and formulating appropriate responses.
4. *Redressing grievances (designing the remediation plan)*: Developing comprehensive remediation plans to address the issues raised in the grievances.

5. *Implementing and monitoring remediation:* Ensuring effective implementation of remediation plans and monitoring their progress and impact.
6. *Closing the incident:* Properly concluding the remediation process after all necessary actions have been taken.

The guidelines emphasize the utilization of existing mechanisms and actors in providing remediation rather than establishing new ones. They encourage businesses to collaborate with State and non-State actors, as well as international organizations specializing in supporting victims of trafficking. The ongoing process aimed to finalize the document, after which it was expected that the Government will adopt these guidelines to ensure better protection and support for vulnerable labour migrants in Kenya.



### **Multi-sector collaboration for successful 2022 general elections**

KNCHR, in line with its role to raise public awareness of citizens' rights and obligations under the Constitution, successfully organized a consultative meeting with various government agencies and Civil Society Organizations. This meeting aimed to strategize on the preparedness for the 2022 general elections. Key stakeholders included the *Independent Elections and Boundaries Commission (IEBC)*, the *Witness Protection Agency (WPA)*, the *Office of the Registrar of Political Parties (ORPP)*, the *Independent Policing Oversight Authority (IPOA)*, the *Judiciary*, and the *Mombasa County government*, among others.

The primary objective was to foster collaboration and develop a comprehensive work plan that incorporated both State and non-State agencies, along with civil society members. The focus was on conducting outreach programs to enhance capacity building on the Electoral Code of Conduct and civic education relating to the 2022 general elections. Moreover, special attention was given to inclusivity by engaging persons with disabilities (PWDs), youth and women in activities pertaining to peace and conflict resolution, as well as empowerment for effective participation.

Through these deliberations, the significance of each stakeholder's role in creating a conducive environment for the elections was evident. Additionally, the discussions shed light on socio-economic challenges, including youth unemployment and drug abuse, which could potentially impact the security during the electioneering period.

The recommendations of these engagements were incorporated into the KNCHR's election preparedness dialogue and monitoring strategy. The collaborative efforts of various stakeholders played a crucial role in facilitating a relatively peaceful 2022 general elections, while also addressing the identified social and economic challenges.

By adopting a multi-sectoral approach and fostering cooperation among diverse actors, the KNCHR successfully contributed to ensuring peaceful 2022 general elections.

### 3.2.3 Audit of institutional compliance with human rights standards



#### Promoting migrant rights in places of detention: Achievements in human rights audit

In a significant milestone, the KNCHR successfully implemented the ‘Migration and Human Rights’ project. Noteworthy, was the development of Standard Operating Procedures (SOPs) and data collection tools to facilitate the human rights audit of migrants in detention facilities.

The SOPs and data collection tools were rigorously piloted across 16 detention facilities spanning seven counties, encompassing *G.K prisons in Hola, Kwale, Malindi, Shimo Medium, Shimo Maximum, Shimo Women, Wundanyi, Taveta, Voi, Kingorani*, as well as *Nyeri Maximum Prison*. Additionally, holding facilities such as *Nyeri Children Remand* and *Nyeri Police Station* were audited.

This audit yielded valuable data that proved instrumental in advocating for critical reforms in migration management. Furthermore, it facilitated dialogues and interventions aimed at promoting and safeguarding the rights of migrants. By monitoring compliance with human rights standards and fulfilling its mandate as outlined in the KNCHR Act, the Commission successfully bolstered the protection and well-being of migrants in detention.

This accomplishment exemplifies the KNCHR’s dedication to upholding human rights, fostering systemic change, and ensuring that the rights of all individuals, including migrants, are respected and safeguarded within Kenya’s borders.



#### Progress in ensuring human rights compliance at Thompson Falls prisons

During the reporting period, the KNCHR made significant strides in its efforts to ensure human rights compliance at Thompson Falls GK Prison in Nyahururu. The Commission held productive engagement with the officer in Charge of the facility, focusing on the prevention of torture and officers’ conduct.

One notable achievement of the meeting was the officer’s acknowledgment of the need for enhanced capacity regarding the Prevention of Torture Act. This recognition highlights the commitment to improving the treatment of prisoners and preventing any form of torture at the facility.

In addition to discussing the prevention of torture, the Commission took the opportunity to update the officer on the progress of a complaint regarding non-payment of hardship allowances for the officers at the facility. Recognizing the disparity between these officers and their counterparts in the designated hardship county, the Commission had sought the intervention of the Commissioner General of prisons.

The intervention yielded positive results, as the Commissioner General responded promptly, assuring the KNCHR that the matter was being addressed. Consequently, the officers at Thomson Falls GK Prison were to receive their hardship allowances in due course, bringing their compensation in line with the standards set for hardship counties.



### **Advancing business and human rights in Kenya: Development and adoption of the National Action Plan on Business and Human Rights**

During the reporting period, significant achievements were made in advancing business and human rights in Kenya through the development and adoption of the National Action Plan on Business and Human Rights (NAP-BHR). This plan domesticates the United Nations Guiding Principles on Business and Human Rights (UNGPs), providing a comprehensive government policy strategy for protecting against human rights abuses by businesses.

Under the leadership of the KNCHR and the Office of the Attorney General and Department of Justice, stakeholders collaborated through a National Steering Committee to develop the NAP-BHR. The primary goal was to outline concrete commitments by the Government of Kenya, guiding the State in fulfilling its duty to protect individuals and communities from business-related human rights violations.

The NAP-BHR encompasses three key pillars: the *State's duty to protect against human rights abuses*, *businesses' responsibility to respect human rights*, and *access to remedy for victims of business-related harm*. This framework aims to guide businesses in undertaking appropriate measures to respect human rights, promote human rights due diligence, and strengthen access to judicial and non-judicial remedies for victims.

During the reporting period, a multi-stakeholder committee was established to ensure the implementation of the NAP-BHR. The committee developed a detailed work plan that included policy actions, strategic activities, indicators, responsible government actors, partners, timelines, and estimated budgets. This plan serves as a roadmap for implementing and monitoring the policy actions outlined in the NAP-BHR.

The KNCHR, in collaboration with its partners, took significant steps to implement the policy actions outlined in the work plan. KNCHR conducted training workshops on business and human rights for various stakeholders, including public officials, business actors, civil society organizations, judicial and administrative actors, and journalists. Additionally, the Commission carried out a pilot corporate human rights benchmark to assess the integration of human rights due diligence by companies.

Moving forward, the KNCHR and the Department of Justice (DOJ) became active in developing guidelines for establishing credible operational-level grievance mechanisms, further strengthening the protection of human rights in business operations.

Through these achievements, Kenya has since demonstrated its commitment to upholding business and human rights principles, promoting responsible business conduct, and ensuring access to remedies for those affected by business-related human rights violations.



### Advancing rights to water and sanitation: Development and implementation of guidelines for marginalized groups

In collaboration with partners, KNCHR successfully developed and published human rights indicators specific to Marsabit and Garissa Counties, focusing on monitoring the realization of the rights to water and sanitation for vulnerable and marginalized groups. These indicators served as comprehensive guidelines for implementing a human-rights-based approach, ensuring the Model Action Plans' effective implementation. The ultimate goal was to promote and fulfil the rights of marginalized and vulnerable communities in Garissa and Marsabit Counties.

To ensure the legitimacy and effectiveness of the policy documents, the Commission organized stakeholder validation sessions. The validated documents were then published and shared with the leadership of the project counties, aiming to inform and inspire appropriate policy, legislative, and administrative actions. This comprehensive effort culminated in an important public forum held in Marsabit Town, where the Commission officially handed over the documents. The forum brought together key stakeholders from the water and sanitation sector, representing the project counties.

Through these initiatives, KNCHR has since successfully advanced the rights to water and sanitation for vulnerable and marginalized groups in Garissa and Marsabit Counties. By providing clear guidelines, facilitating stakeholder engagement, and fostering collaboration, the Commission has taken significant strides in ensuring equitable access to these fundamental rights, thus enhancing the overall well-being and dignity of these communities.

## 3.3 Evidence-based research toward the promotion of human rights and prevention of human rights violations



### Assessing health facilities' preparedness: Improving Kenya's public healthcare systems

In 2021, KNCHR published a comprehensive report titled *"The Fragility of Kenya's Public Health Care Systems: An assessment report of selected county public health facilities."*<sup>6</sup> The assessment aimed to evaluate the readiness of medical institutions in managing COVID-19 cases and recommend appropriate measures. The assessment covered several hospitals, including Makueni County Referral Hospital, Machakos County Referral Hospital, Nyeri County Referral Hospital, Embu County Referral Hospital, Kakamega County General Teaching and Referral Hospital, Jaramogi Oginga Odinga Teaching and Referral Hospital, Coast General Teaching and Referral Hospital, and Lunga Lunga Sub-County Hospital.

The assessment revealed significant administrative and policy gaps within the national and devolved healthcare systems. These gaps included deteriorating health facilities and

6 Available at: <https://www.knchr.org/Publications/Thematic-Reports/Ecosoc-Rights/Right-to-Health>



inadequate infrastructure, non-compliance with healthcare standards, insufficient and counterfeit pharmaceutical services and medical supplies, outdated diagnostic equipment leading to potential misdiagnosis, understaffing of medical personnel, lack of specialist training to cope with changing disease profiles, and inadequate management of public health institutions due to a shortage of medical professionals. Furthermore, the public health sector received insufficient financing from the government.

Based on the findings, the Commission made critical recommendations to various stakeholders to address these challenges and promote the right to health in Kenya. Key recommendations included ensuring timely disbursement of funds to County governments, implementing commitments outlined in the Abuja declaration by allocating 15% of the national budget for the health sector, strengthening coordination between national and inter-county structures for healthcare services, establishing and adequately resourcing a mental health facility at the county level, and implementing process automation for efficient supply chain management.

The Commission expects that stakeholders within the health sector will utilize the report's findings to inform their programming, policy formulation, legislative review dialogues, and other measures aimed at improving the realization and enjoyment of the right to health in Kenya.



### **Enhancing water and sanitation governance for vulnerable communities in Kenya**

KNCHR collaborated with the Human Right to Water Organization and with support from the Swiss Development Corporation (SDC) for the project *“Leaving No One Behind - Building policies for vulnerable people into governance frameworks for Water and Sanitation in Kenya.”* The project focused on Marsabit and Garissa Counties after conducting a situational analysis report<sup>7</sup> on Wajir, Garissa, and Marsabit Counties.

The report identified key outcomes regarding the challenges faced by vulnerable populations in the water and sanitation governance frameworks. These outcomes included the inadequate recognition of the population and their rights within the existing legal landscape governing the water and sanitation sector. Unsafe and unprotected sources of water, inadequate sanitation facilities, and difficulties accessing water, including the associated high costs, were also highlighted. The report further emphasized the lack of adequately resourced institutions, including the Water Regulatory Authority, as well as insufficient budget allocation for service provision. Additionally, it pointed out the need for improved coordination between the national and county governments.

By identifying these opportunities and challenges, the report provided a comprehensive understanding of the prevailing issues surrounding water and sanitation governance in the targeted counties. This knowledge would serve as a foundation for the subsequent implementation of the project, with the aim of addressing these challenges and improving the overall conditions for vulnerable communities.

<sup>7</sup> Available at: <https://www.knchr.org/Publications/Thematic-Reports/Ecosoc-Rights/Right-To-Water>



### Monitoring county laws on disabilities: Assessing county legislation on rights of Persons with Disabilities in Kenya

The Commission published and launched the book<sup>8</sup> on monitoring County laws on persons with disabilities on 6th June 2022. The launch and dissemination of the book “*Review of County Legislation on the Rights of Persons with Disabilities in Kenya*” holds immense significance in the fight for inclusivity. This publication addresses the pressing need to assess the compliance of county legislation with international standards and the Kenyan Constitution regarding the rights of persons with disabilities.

By providing a comprehensive review of existing laws, policies, and guidelines, the book not only identifies areas of improvement but also paves the way for future progress. It serves as a crucial resource for informing legal reform processes, offering guidance on developing legislation that aligns with the UN Convention on the Rights of Persons with Disabilities and the Constitution of Kenya.

The research findings highlight both positive strides and challenges in the realm of disability rights. This knowledge is instrumental in shaping the path towards a more inclusive society. The book’s recommendations serve as a roadmap for drafting laws that safeguard the rights and well-being of persons with disabilities.

Moreover, the publication raised awareness about the gaps and opportunities in county legislation, fostering dialogue and collaboration among stakeholders. It empowers policymakers, advocates, and communities to actively engage in the ongoing struggle for inclusivity and equality.

In summary, the launch and dissemination of this book not only highlight the importance of reviewing county legislation but also create a transformative path towards inclusive legal frameworks. It empowers stakeholders to drive positive change, ensuring the rights and well-being of persons with disabilities are protected and upheld in Kenya.



Participants display copies during the launch of the Report on 6th June 2022.

8 Accessed at: <https://www.knchr.org/Portals/0/Disability%20Publications/Review%20of%20County%20Legislation%20On%20The%20Rights%20of%20PWDs.pdf?ver=2022-06-02-123434-927>

### 3.3.1 Collaboration with national statistical offices, UN agencies, and voluntary sector organizations on data collection on human rights



#### Strengthening collaboration with KNBS: Promoting human rights through statistics

In October 2022, KNCHR and the Kenya National Bureau of Statistics (KNBS) held a significant technical collaborative meeting in Machakos to evaluate the progress of implementing the Memorandum of Understanding (MoU) between the two organizations. The objective was to enhance collaboration and leverage statistical insights for human rights initiatives. As a result of the engagement, several outcomes were achieved:

1. *Enhancing Statistical Competence:* A consensus was reached to organize a forum aimed at sensitizing both the KNCHR and KNBS on the crucial role of statistics in supporting human rights work. This initiative seeks to foster a deeper understanding of statistical methodologies and their application within the context of human rights advocacy.
2. *Strengthening Complaints Management:* Recognizing the importance of effective complaints management, a follow-up meeting was agreed upon to evaluate the KNCHR's complaints management system. This evaluation aims to identify areas for improvement and enhance the overall efficiency and responsiveness of the system.
3. *Increased Collaboration:* An exciting outcome of this engagement was the inclusion of the KNCHR in the Governance, Justice, and Rule of Law Medium Term Plan Sector Working Group. This achievement signifies the recognition of the KNCHR's expertise in promoting human rights through statistical analysis and its vital contribution to the sector's strategic planning and decision-making processes.

Through these outcomes, the collaboration between KNCHR and KNBS fostered a stronger partnership, facilitating the integration of statistical insights into human rights initiatives, and ultimately enhancing the promotion and protection of human rights in Kenya.



#### Strengthening data collection for SDG Indicator 16.10.1 in Kenya

The Commission made significant strides towards enhancing data collection for SDG Indicator 16.10.1, which focuses on *violence against human rights defenders, journalists, and trade unionists*. A country-specific methodology for data collection was developed through collaborative efforts with key stakeholders.

To ensure comprehensive data collection, the Commission created an interview guide and conducted interviews with both State and non-State actors, including IPOA, NPS, NCRC, Defenders Coalition, KHRC, and IMLU. Moreover, a multi stakeholders retreat was organized from 25th to 28th October 2021, bringing together participants from various organizations such as; the Office of the United Nations High Commissioner for Human Rights, KNBS, Defenders' Coalition, Social Justice Centres, MUHURI, and the National Police Service.

During the retreat, the methodology for SDG Indicator 16.10.1 was contextualized specifically for Kenya. In addition, collaborative efforts with KNBS and OHCHR were initiated to finalize the metadata associated with the indicator in the forthcoming financial year. This collective endeavour aims to harmonize data collection practices, ensuring the availability of high-quality data for future reporting and monitoring purposes. It will significantly enhance Kenya's ability to report and monitor the implementation of SDG Indicator 16.10.1, both through the Voluntary Review Process and international rights mechanisms.

By implementing these measures, the Commission strived to facilitate improved reporting accuracy and enable more effective monitoring of progress towards achieving SDG Indicator 16.10.1 in Kenya.

### 3.4 Enhance State's compliance with National, Regional and International instruments relating to human rights

#### 3.4.1. Monitor and report on the progress made in fulfilment of international obligations under article 132 (c)



##### **Annual report on the promotion of national values and principles of governance: Progress and outcomes**

In accordance with the Constitution of Kenya, which emphasizes the importance of national values and principles of governance, the Commission fulfils its mandate by assessing the measures taken by the State to promote these values. Additionally, the Commission evaluates the State's efforts in fulfilling its treaty obligations as ratified.

The Commission's focus was on assessing the progress made in promoting the National Values and Principles of Governance (NVPG) for the period 2018-2020. The resulting combined alternative report reflects the outcomes achieved during this time frame, highlighting the impact of the measures undertaken.

The Commission's report<sup>9</sup> not only serves to meet the constitutional requirement but also provides valuable insights into the progress made towards the realization of national values and principles of governance. It offers an assessment of the tangible outcomes resulting from the State's implementation of policies and decisions aligned with the NVPG, as well as the fulfilment of treaty obligations.

By publishing this comprehensive report, the Commission aimed to ensure transparency, accountability, and public awareness regarding the promotion and implementation of

9 KNCHR, 'National Values and Principles of Governance': An alternative Report of the State Compliance on Obligations under Article 132(c)(i) & (iii), Constitution of Kenya on Realization of Article 10; accessible at [https://www.knchr.org/Portals/0/KNCHR%27s%20Alternative%20Report%20on%20the%20Progress%20Made%20in%20Realisation%20of%20National%20Values%20and%20Principles%20of%20Governance\\_2022.pdf](https://www.knchr.org/Portals/0/KNCHR%27s%20Alternative%20Report%20on%20the%20Progress%20Made%20in%20Realisation%20of%20National%20Values%20and%20Principles%20of%20Governance_2022.pdf).

national values and principles of governance. It contributed to an informed public debate, as the report is made available in the Kenya Gazette and presented for debate in the National Assembly.

Through this annual report, the Commission played a vital role in reinforcing the significance of national values and principles of governance, promoting positive outcomes, and fostering a stronger and more responsible governance framework for the benefit of all Kenyans.

### 3.4.2 Monitor and report on Kenya's compliance with the national, regional and international treaties



#### Legislative advances: Monitoring the implementation of disability laws in Kenya

As the monitoring agency under Article 33(2) of the Convention on the Rights of Persons with Disabilities (CRPD), the Commission has made progress in assessing Kenya's compliance with the CRPD. The Commission reviewed county laws and policies related to persons with disabilities, ensuring alignment with the Constitution and the CRPD<sup>10</sup>.

Key outcomes from the study revealed that **nine (9) out of 47 counties (19.1%)** have enacted Acts on persons with disabilities, while **20 counties (42.5%)** had bills addressing these rights. However, **18 counties (38.2%)** lacked both bills and acts. It is encouraging to note the government's goodwill in implementing disability rights, as evidenced by the inclusion of these rights in the Bill of Rights, the Persons with Disabilities Act, and the endorsement of the UNCRPD.

The Commission's monitoring and advocacy efforts have led to positive changes, such as increased legislative focus on persons with disabilities in several counties. However, addressing the gaps in the legislative framework across all counties remains a priority to ensure comprehensive protection of disability rights throughout Kenya.

### 3.4.3 Preparation of KNCHR reports for Submission to treaty body mechanisms

As an "A" status National Human Rights Institution (NHRI), the Commission actively participates in regional and international human rights platforms including before the treaty body mechanisms and the human rights council as well as; the regional and global associations of NHRIs. The Commission also engages with the special mandates at continental and UN levels. By doing so, the Commission is able to objectively present the country's human rights status, the progress and challenges. The Commission is also able to influence regional and international human rights agenda while enhancing the country's image among nations.

<sup>10</sup> The report is accessible at <https://www.knchr.org/Portals/0/Disability%20Publications/Review%20of%20County%20Legislation%20On%20The%20Rights%20of%20PWDs.pdf?ver=2022-06-02-123434-927>.

The Commission engaged with regional and international treaty body mechanisms and presented submissions to various human rights bodies at the regional and international levels. The engagements are as follows:

**TABLE 1: SCHEDULE OF SUBMISSIONS MADE TO INTERNATIONAL AND REGIONAL HUMAN RIGHTS BODIES DURING THE 2021/2022 FINANCIAL YEAR**

No	Title Of Submission & Thematic Issue	Body Submitted To	Summary Of Issues Raised	Date Of Submission
1	Submission on General Comment No. 26 (2021) of the Committee on Economic, Social and Cultural Rights on Land and Economic, Social and Cultural Rights  <b>Land rights</b>	Committee on Economic, Social and Cultural Rights	<p>The development of the General Comment was welcome, since it would support the interpretation and adjudication of cases concerning Kenyan indigenous peoples' ancestral land rights.</p> <p>The Commission recommended the inclusion of the following in the draft General Comment:</p> <ul style="list-style-type: none"> <li>• Identification of children, persons with disabilities and stateless persons as marginalized groups in access to land.</li> <li>• Inclusion of the role of National Human Rights Institutions in the protection and promotion of economic, social and cultural rights, under State obligations.</li> <li>• Protection of communal dimensions of tenure through demarcation of the boundaries of communal land, as an additional obligation of State parties.</li> <li>• An express mention of procedural safeguards during evictions.</li> <li>• An obligation for State parties to ensure that communities also benefit from exploitation of natural resources on their land by third parties.</li> <li>• Emphasis on the need to provide full information, in a language and manner that is accessible to the affected communities, in order to enable participation and lodge of complaints.</li> <li>• Specific mention of indigenous human rights defenders as a unique group of human rights defenders.</li> <li>• Recognition of the unique role that indigenous peoples play in environmental conservation and management.</li> </ul> <p>The submission is accessible at <a href="https://www.ohchr.org/Documents/HRBodies/CESCR/GC-Land-ESCR/62_Kenya_National_Commission_on_Human_Rights.docx">https://www.ohchr.org/Documents/HRBodies/CESCR/GC-Land-ESCR/62_Kenya_National_Commission_on_Human_Rights.docx</a></p>	15th August 2021

No	Title Of Submission & Thematic Issue	Body Submitted To	Summary Of Issues Raised	Date Of Submission
2.	<p>Technical inputs to the Global Alliance of National Human Rights Institutions' draft Global Action Plan to support the protection and promotion of human rights defenders and civic space</p> <p><b>Human Rights Defenders</b></p>	Global Alliance of National Human Rights Institutions	<p>The Commission recommended the inclusion of the following in the draft Global Action Plan:</p> <ul style="list-style-type: none"> <li>• Highlighting the activities National Human Rights Institutions carry out to promote and protect the rights of human rights defenders, as provided for in the Marrakech Declaration. These include reviewing legislation and policies to ensure they align with the State's international and regional human rights obligations, and facilitating access to justice for victims of human rights violations.</li> <li>• Failure or prolonged delays in appointment of Commissioners as a threat to the work, effectiveness and independence of National Human Rights Institutions.</li> <li>• Identification of timelines for the execution of objectives under the Action Plan.</li> <li>• Recognition of the role of regional networks of National Human Rights Institutions in coordinating engagements with regional human rights mechanisms.</li> </ul> <p>The submission is accessible at <a href="https://portal.knchr.org/Research/_layouts/15/start.aspx#/Compliance/Forms/AllItems">https://portal.knchr.org/Research/_layouts/15/start.aspx#/Compliance/Forms/AllItems</a>.</p>	27th August 2021
3.	<p>Response to the Global Alliance of National Human Rights Institutions Survey on NHRIs work on climate change and other environmental issues</p> <p><b>Climate change</b></p>	Global Alliance of National Human Rights Institutions	<p>The submission highlighted KNCHR's work on climate change and environmental conservation. This primarily includes monitoring and advising the Government on a human rights-based approach to forest conservation; receiving and investigating complaints of excessive use of force during evictions of forest dwellers; supporting litigation of claims on ancestral lands by forest dwellers; engaging with civil society organizations and affected forest dwelling communities on their claims to ancestral lands; carrying out independent fact-finding missions to Embobut Forest; carrying out human rights training of government agencies working on forest conservation; and developing a training curriculum and manual on a human rights-based approach to forest conservation.</p> <p>The submission is accessible at <a href="https://portal.knchr.org/Research/_layouts/15/start.aspx#/Compliance/Forms/AllItems">https://portal.knchr.org/Research/_layouts/15/start.aspx#/Compliance/Forms/AllItems</a>.</p>	10th September 2021

No	Title Of Submission & Thematic Issue	Body Submitted To	Summary Of Issues Raised	Date Of Submission
4.	Statement presented by the Kenya National Commission on Human Rights to the African Commission on Human and Peoples' Rights during its 69th Ordinary Session	African Commission on Human and Peoples' Rights	<p>The Statement highlighted the human rights situation in Kenya. Some key issues raised include:</p> <ul style="list-style-type: none"> <li>• Excessive use of force by the police during enforcement of COVID-19 containment measures.</li> <li>• Positive measures taken to support access to justice such as the enactment of the Legal Aid Act, 2016.</li> <li>• Forced evictions during the COVID-19 pandemic.</li> <li>• Inequalities in access to education for different groups.</li> <li>• Failure by Parliament to enact the Constitutional two-thirds gender rule.</li> <li>• Adoption of more restrictive policies towards refugees and asylum seekers, including threats to permanently close refugee camps.</li> <li>• Progress towards the granting of citizenship to stateless communities in Kenya.</li> </ul> <p>The Statement is accessible at <a href="https://portal.knchr.org/Research/_layouts/15/start.aspx#/Compliance/Forms/AllItems">https://portal.knchr.org/Research/_layouts/15/start.aspx#/Compliance/Forms/AllItems</a>.</p>	30th October 2021
5.	Statement presented by the Kenya National Commission on Human Rights to the African Commission on Human and Peoples' Rights during its 71st Ordinary Session	African Commission on Human and Peoples' Rights	<p>The Statement highlighted the human rights developments that took place in Kenya from November 2021 to April 2022. Some key issues raised include:</p> <ul style="list-style-type: none"> <li>• Enactment of the Refugee Act, 2021.</li> <li>• Kenya's ratification of the Protocol on the Rights of Older Persons in Africa and the Africa Disability Protocol.</li> <li>• Launch of the POLICARE initiative by the National Police Service to prevent and respond to cases of sexual and gender-based violence.</li> <li>• The vetting and approval of appointment of KNCHR Commissioners, by Parliament.</li> <li>• Increased cases of extrajudicial killings and enforced disappearances and low investigation and prosecution of responsible persons.</li> <li>• Increased cases of insecurity and loss of lives in several counties.</li> <li>• Continued evictions and demolitions of homes without due process.</li> </ul> <p>The Statement is accessible at <a href="https://nanhri-online-centre.uwazi.io/api/files/1653302413259bbqyglm19ru.pdf">https://nanhri-online-centre.uwazi.io/api/files/1653302413259bbqyglm19ru.pdf</a>.</p>	15th April 2022



No	Title Of Submission & Thematic Issue	Body Submitted To	Summary Of Issues Raised	Date Of Submission
6.	<p>Statement to the United Nations Committee Against Torture towards review of the State's third periodic report under the Convention Against Torture and other cruel, inhuman or degrading treatment or punishment</p> <p>Freedom from torture, and other cruel, inhuman or degrading treatment or punishment</p>	United Nations Committee Against Torture	<p>The Statement highlighted the progress Kenya has made towards the implementation of the Convention Against Torture. Some key issues highlighted include:</p> <ul style="list-style-type: none"> <li>• Enactment of the Prevention of Torture Act, 2017.</li> <li>• Low rate of prosecution of security officers for extra-judicial killings and excessive use of force vis a vis the number of complaints lodged.</li> <li>• Failure to fully operationalize the National Coroners Service Act, 2017 (No. 18 of 2017).</li> <li>• Increased cases of enforced disappearances.</li> <li>• Establishment of a Counter-trafficking in Persons Advisory committee in 2014.</li> <li>• Establishment of an Anti-FGM and Child Marriage Prosecution Unit by the Office of the Director of Public Prosecutions to fast-track the prosecution of FGM and child marriage cases.</li> <li>• Forced/involuntary sterilization of women living with disabilities and women living with HIV. There are no specific measures or legislation in place to prohibit forced or coercive sterilization.</li> </ul> <p>The Statement is accessible at <a href="https://portal.knchr.org/Research/_layouts/15/start.aspx#/Compliance/Forms/AllItems">https://portal.knchr.org/Research/_layouts/15/start.aspx#/Compliance/Forms/AllItems</a>.</p>	
7.	<p>Contribution to the report of the United Nations Secretary-General: "A global call for concrete action for the elimination of racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation and follow-up to the Durban Declaration and Programme of Action" (A/RES/76/266)</p> <p><b>Racial discrimination</b></p>	Office of the United Nations High Commissioner for Human Rights	<p>The Submission highlighted the following issues:</p> <ul style="list-style-type: none"> <li>• Legislative, judicial and administrative measures taken within the last three years to eliminate racism, racial discrimination, xenophobia and related intolerance.</li> <li>• Participatory and inclusive design and implementation processes that contribute to halting, reversing and repairing the lasting consequences and ongoing manifestations of systemic racism.</li> <li>• Reparatory justice initiatives regarding slavery, the slave trade, the transatlantic slave trade, colonialism, apartheid, genocide and past tragedies.</li> </ul> <p>The Statement is accessible at <a href="https://portal.knchr.org/Research/_layouts/15/start.aspx#/Compliance/Forms/AllItems">https://portal.knchr.org/Research/_layouts/15/start.aspx#/Compliance/Forms/AllItems</a>.</p>	16th May 2022

No	Title Of Submission & Thematic Issue	Body Submitted To	Summary Of Issues Raised	Date Of Submission
8.	Shadow Report of the Kenya National Commission on Human Rights on the implementation of the African Charter on Human and Peoples' Rights	African Commission on Human and Peoples' Rights	<p>The Report highlights the status of implementation of Kenya's obligations under the ACHPR and draws from the work of the Commission, notably: complaints received, cases adjudicated before courts, monitoring reports, reviews and advisories to the Legislature on bills and laws, and general observations of the Commission on the status of human rights in Kenya. The report was prepared to inform the review of Kenya's 12th and 13th Periodic Report on the African Charter on Human and Peoples' Rights which was scheduled for the 71st Ordinary Session of the African Commission from 21st April 2022 to 13th May 2022.</p> <p>The Report is accessible at <a href="https://www.knchr.org/Portals/0/10_09_2021%20Shadow%20Report%20of%20the%20Kenya%20National%20Commission%20on%20Human%20Rights%20on%20the%20African%20Charter%20on%20Human%20and%20Peoples%20Rights.pdf">https://www.knchr.org/Portals/0/10_09_2021 Shadow Report of the Kenya National Commission on Human Rights on the African Charter on Human and Peoples Rights.pdf</a>.</p>	10th September 2021
9.	Shadow Report of the Kenya National Commission on Human Rights on the implementation of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa	African Commission on Human and Peoples' Rights	<p>The report highlights the status of implementation of the Protocol and draws from the work of the Commission, notably: complaints received, cases adjudicated before courts, monitoring reports, reviews and advisories to the Legislature on bills and laws, and general observations of the Commission on the status of enjoyment of rights by women and girls in Kenya. The report was prepared in view of the scheduled review of Kenya on her implementation of the Protocol scheduled for the 71st Ordinary Session of the African Commission on Human and Peoples' Rights from 21st April 2022 to 13th May 2022.</p> <p>The report is accessible at <a href="https://www.knchr.org/Portals/0/10_09_2021%20Shadow%20Report%20of%20the%20Kenya%20National%20Commission%20on%20Human%20Rights%20on%20the%20African%20Charter%20on%20Human%20and%20Peoples%20Rights.pdf">https://www.knchr.org/Portals/0/10_09_2021 Shadow Report of the Kenya National Commission on Human Rights on the African Charter on Human and Peoples Rights.pdf</a>.</p>	10th September 2021
10.	Report to the Committee Against Torture on the review of Kenya's third periodic report on the implementation of the provisions of the Convention Against Torture and Other cruel, inhuman or degrading treatment and/or punishment	Committee Against Torture	<p>The report updated an earlier report submitted to the Committee in March 2020, detailing relevant developments on the right to freedom from torture in Kenya that transpired between March 2020 and March 2022. The report informed Kenya's review by the Committee against Torture during its 73rd Session that took place from 19th April 2022 to 13th May 2022.</p> <p>The report is accessible at <a href="https://www.knchr.org/Portals/0/18_03_2022%20Final%20KNCHR%20alternative%20report%20on%20implementation%20of%20the%20CAT.pdf">https://www.knchr.org/Portals/0/18_03_2022 Final KNCHR alternative report on implementation of the CAT.pdf</a>.</p>	18th March 2022



No	Title Of Submission & Thematic Issue	Body Submitted To	Summary Of Issues Raised	Date Of Submission
11.	Submission of the Kenya National Commission on Human Rights on challenges and opportunities for NHRIs during COVID-19 made during a high level dialogue between African NHRIs and the United Nations High Commissioner for Human Rights	African National Human Rights Institutions; Office of the United Nations High Commissioner for Human Rights	The Submission noted that NHRIs globally have directed their efforts to addressing the impact of COVID-19 on those rights areas very directly affected by government responses to COVID-19, for example, the right to life and health as well as information and participation, as well as addressing the needs of particular groups at-risk. These include in particular women and children; people with disabilities and older persons; as well as migrants and internally displaced persons, minority groups and indigenous communities. The COVID-19 pandemic has significantly increased demands on NHRIs to respond to the arising challenges and their internal operations have been impacted. NHRIs have also been put under stress and in some cases have faced reprisals as a result of carrying out their mandates.	4th November 2021
12.	Oral submission to the Virtual United Nations Human Rights Council panel discussion on Mental Health and Human Rights (HRC RES 43)	United Nations Human Rights Council	The Submission highlighted key aspects of legal reform on mental health based on the Convention on the Rights of Persons with Disabilities.	15th November 2021
13.	Submission of the Commission's status report on work done by the NHRI on disability	Global Disability Summit	This report is to feed into the Kenya country report to the second Global Disability Summit.	15th October 2021

## CHAPTER FOUR

# Securing appropriate redress, accountability for human rights violations, and respect for the rule of law

In this strategic objective, the KNCHR addressed challenges, such as public mistrust in the utilization of justice mechanisms, including ADR, and widespread cases of human rights violations in both private and public spheres, along with disregard for the Constitution and the rule of law. To overcome these obstacles, several key strategies were adopted, including optimizing complaints receipt, processing, and investigations, engaging in strategic public interest litigation, and advocating for a Human Rights-Based Approach (HRBA) in the administration of justice and appropriate justice systems and mechanisms. Through these concerted efforts, we aimed to promote justice, uphold human rights, and foster accountability within our society.

### 4.1 Complaints Processing and Investigations

During the review period, KNCHR achieved significant milestones in increasing case resolution and improving complaints management, investigations and follow-up strategies. A total of **1,766 processed complaints** on human rights violations and **76 investigations** covering diverse issues such as; extrajudicial killings, torture, disappearances, land disputes, labour rights, and business-related complaints were handled. In doing so, the Commission demonstrated commitment to uphold rights, despite a **48.58%** decrease in cases during the post-COVID period (from **3,437 to 1,766**). Majority of these complaints were successfully resolved through referral, legal advice, and Alternative Dispute Resolution (ADR). Notably, a significant proportion (**49.7%**) of the violations reported fell under the ECOSOC category, particularly labour-related violations.

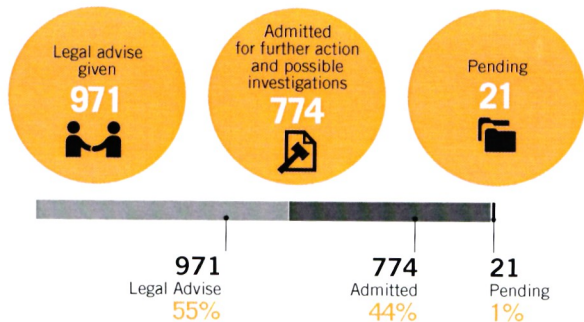
To ensure the adherence to existing KNCHR admissibility criteria<sup>11</sup>, all received complaints underwent scrutiny. Cases that met the criteria received attention through the provision of legal advice, preliminary inquiries, and referral of non-admissible cases to KNCHR referral partners for further interventions.

11 See the admissibility criteria document: [https://www.knchr.org/Portals/0/Reports/faqs\\_on\\_admissibility.pdf](https://www.knchr.org/Portals/0/Reports/faqs_on_admissibility.pdf)



## Admission Status Summary

During the period under review, the directorate handled at least **1,766** complaints comprising of follow up actions and review of existing cases.



## Type of Complainants



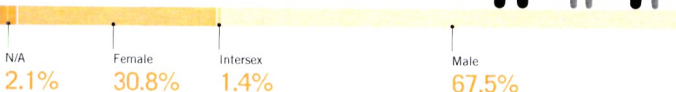
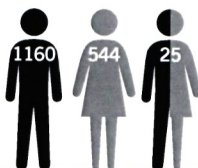
Majority of complaints, totalling to **1706** (96.06%), were reported by individual persons, followed by representatives **32** (1.81%), Joint complainants **15** (0.85%) and lastly organisation recorded **13** (0.74%), complaints.

### Marital status summary

Divorced	32	1.81%
Married	1,001	56.68%
N/A	203	11.49%
Not Indicated	116	6.57%
Separated	64	3.62%
Single	256	14.50%
Widowed	94	5.32%
<b>Total</b>	<b>1,766</b>	

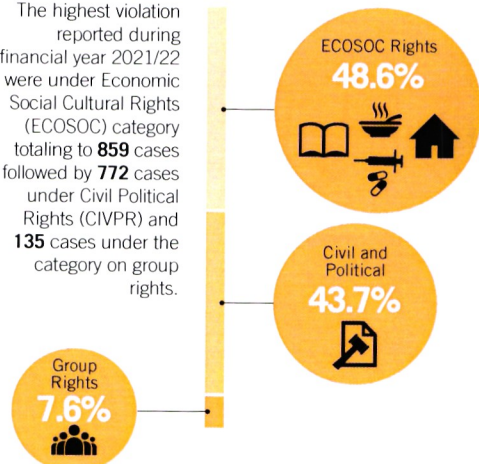
## Gender Analysis

There were, **1160** (65.7%) Male, **544** (30.8%) Female, **25** (1.4%) intersex persons and **37** (2.1%) other categories who lodged the complaints during the financial year 2021/22.

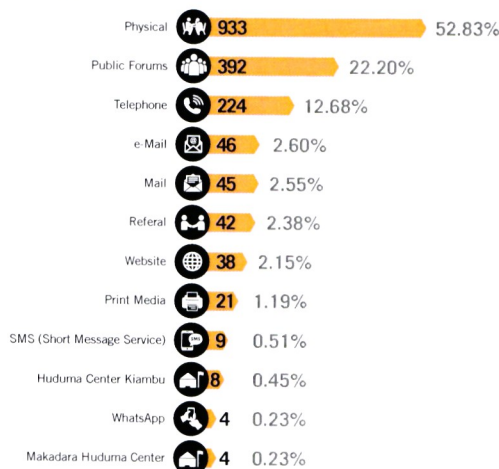


## Category of Violation

The highest violation reported during financial year 2021/22 were under Economic Social Cultural Rights (ECOSOC) category totalling to **859** cases followed by **772** cases under Civil Political Rights (CIVPR) and **135** cases under the category on group rights.



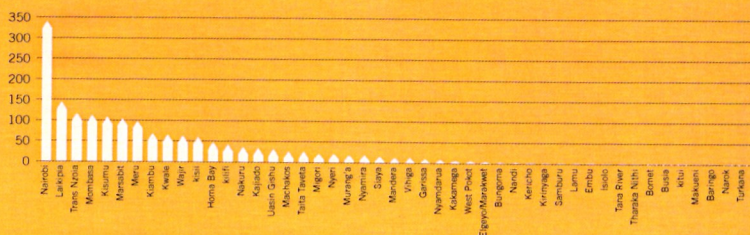
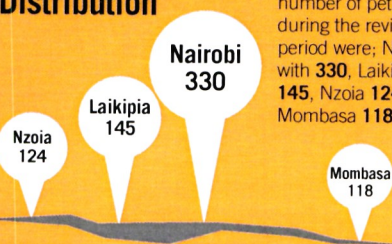
## Lodging Mode Summary



## Geographical Distribution

The Counties that recorded the highest number of petitioners during the review period were; Nairobi, with **330**, Laikipia **145**, Nzoia **124** and Mombasa **118** cases.

## Geographical Distribution of Complaints



Through these endeavours, KNCHR made significant strides in enhancing human rights protection, ensuring efficient case resolution, and promoting justice for victims of rights violations.

In addition, the in-house psychologist played a crucial role in providing psychosocial support to clients who sought assistance from KNCHR. **Fourteen (14)** walk-in petitioners received personalized psychological support, while an additional **six (6)** individuals benefitted from tele-counselling sessions. This approach was specifically designed to accommodate petitioners who required psychological assistance but were unable to physically visit KNCHR.

These services aimed to ensure that clients not only receive legal and administrative redress for their complaints; but also receive the necessary psychosocial support and encouragement. By addressing the mental health needs of our clients, personnel, and the general public, these measures contribute significantly to promoting overall well-being.

#### 4.1.1 Conduct investigations on human rights violations

**72 investigations and 12 rapid response missions were conducted during the review period.**

KNCHR conducted **72 investigations** comprising at least **12 rapid response missions** and **5 follow-up investigations**. The KNCHR held meetings/forums with duty bearers in the course of investigations and shared post missions recommendations. Below are samples of the said investigations.

##### **Promoting environmental well-being: Ensuring a clean and healthy environment**

In respect to commitment in advancing the right to a clean environment, KNCHR conducted an investigation into alleged violations at Naromoru Boys High School in Nyeri County. It came to KNCHR attention that the institution lacked an effective system for managing sewage, resulting in its release into the surrounding homesteads and nearby river, which served as a crucial water source for downstream communities. Recognizing the importance of addressing this issue, KNCHR engaged with the school's management and provided guidance on implementing a proper sewer disposal mechanism to prevent further violations of the right to a clean environment.

As a result of KNCHR intervention, the school took swift action and constructed three septic tanks to address the problem of sewer discharge. This proactive measure ensured that the local environment and the well-being of the surrounding communities were protected. Additionally, these actions were taken while the school awaited connection to the Nyeri Sewer line, showcasing their commitment to maintaining a clean and healthy environment.

Through this collaborative effort, KNCHR successfully achieved the outcome of improving the environmental conditions in and around Naromoru Boys High School. By promoting responsible waste management practices and prioritizing the protection of the

surrounding ecosystem, the Commission fostered a positive impact on the lives of the local community members who rely on the river for their daily needs.

Together, KNCHR is working towards a future where the right to a clean and healthy environment is upheld, ensuring the well-being of present and future generations.

### **Safeguarding human rights and promoting fair compensation**

KNCHR commitment to safeguarding human rights, achieved significant outcomes this year. KNCHR conducted a follow-up investigation into the alleged forceful eviction and lack of compensation faced by Turkana ethnic minorities in Kedong Naivasha due to geothermal exploration.

Its investigation revealed that plans for compensating the evictees were being handled discreetly, disadvantaging the real victims. To address this, KNCHR promptly alerted the Deputy County Commissioner (DCC) in Naivasha and facilitated a meeting between the company, the evictees (former workers of Kedong Ranch and their families), and the DCC.

Through ongoing negotiations, the Commission actively advocated for fair compensation and the protection of the vulnerable squatters' interests. KNCHR will continue reporting on the progress of these negotiations, ensuring transparency and a just outcome for those affected.

KNCHR efforts aim to establish a precedent for upholding human rights and advocating for fair compensation practices. The Commission remains steadfast in its commitment to securing the rights and well-being of individuals facing similar challenges.

### **Preserving the right to life: Combating witchcraft-related violence**

In response to media reports of the brutal lynching of four elderly women in Kisii County, KNCHR took immediate action in November 2021. The organization aimed to investigate the causes of such crimes, identify the perpetrators, provide accountability and redress for the victims, and raise awareness of human rights principles and the rule of law.

KNCHR conducted inquiries, including meetings with victims' families, local administration, the County Government of Kisii, the Abagusii Council of elders, and the Taskforce established by the County Governor. Public sensitization forums were also held to engage the community.

As a result, KNCHR submitted a memorandum and advisory to the Taskforce, offering recommendations based on their fact-finding efforts. The organization was further involved in the ongoing criminal cases, representing the victims' interests.

KNCHR shared a comprehensive fact-finding report with the relevant state actors, guiding them towards necessary remedial actions. Through these efforts, KNCHR made

a significant impact by increasing accountability, promoting human rights awareness, and seeking justice for the victims.

By advocating for respect and upholding of human rights principles, KNCHR strives for a future where such acts of violence and injustice are prevented.

### **Resolving adverse effects of extractive works in Rangwe Quarry**

The investigation addressed adverse effects caused by extractive works at Rangwe Quarry, Homa Bay County. The private developer's activities, involving explosive murrum extraction, led to increased noise, structural vibrations, dust, and vegetation loss. The Commission recorded 33 statements, conducted site visits, and interviewed relevant duty bearers. NEMA issued a stop order and a license with 62 conditions, including the use of licensed blasters and explosives. The Commission recommended NEMA's close monitoring of license compliance. Subsequent visits confirmed the private developer's adherence, although some community members remained dissatisfied with NEMA's intervention.

### **Unlawful evictions and human rights violations in Mwangaza area**

In September 2021, KNCHR received a petition from **five (5) petitioners** representing the residents of Mwangaza location within Isiolo Central Sub-County, regarding alleged unlawful and forceful evictions by the police, accompanied by excessive use of force. The residents of Mwangaza had been relocated from Kiwanja Ndege area to make way for the construction of Isiolo airport, with promises of compensation. However, the relocation process was marred by irregularities, favouring the rich and leading to violence. On August 22, 2021, police officers invaded their homes at dawn, **demolishing 42 houses** without serving any eviction notices. The evictions resulted in the destruction of properties, rendering 42 families homeless, and causing injuries to three individuals. **Six (6)** persons were subsequently arrested and charged.

Following investigations, KNCHR determined that the evictions violated legal and human rights standards. It was discovered that a stay order issued by a court in Isiolo on May 29, 2019, had been served to the Officer in Charge of the Isiolo police station, but it was disregarded under pressure from the Police Headquarters. This constituted a violation of the petitioners' constitutional rights. KNCHR documented these violations and shared its findings with the Inspector General of Police, along with recommendations for remedial actions. Additionally, the report was shared with the petitioners' advocate to support the case for contempt proceedings and seek compensation.

### **Investigation into Allegations of Torture at Manyani Maximum Prison**

The Commission received a complaint from the law firm of Kaikai, Mugalo & Co. Advocates regarding allegations of torture against inmates Luqman Khatib, Musa Shaban Kabuchu, and Mohmaned Salim by prison warders at Manyani Maximum Prison. These allegations



involved the violation of torture or cruel, inhuman, degrading treatment and punishment, with the three inmates reported to have suffered severe injuries requiring urgent medical attention. Seeking the intervention of the Kenya National Commission on Human Rights, the law firm requested an investigation into the matter, focusing on the inmates' right to health and any potential redress.

During its preliminary inquiries, the Commission found evidence suggesting a constitutional violation, including violations of Article 25 and 29 (d), (e), (f) of the Prevention of Torture Act, 2017, which safeguard against torture, cruel, inhuman or degrading treatment or punishment, as well as Article 43, which guarantees the right to the highest attainable standards of health. Additionally, violations of Article 49 concerning the rights of arrested persons, Articles 1 and 2 of the UNCAT, and Article 48 of the Constitution, which pertain to access to justice and the State's obligation to conduct impartial and effective investigations, were identified. The Commission compiled a comprehensive feedback report with recommendations, which was subsequently submitted to the Kenya Prison Services for their consideration.

#### 4.1.2 Joint public complaints handling initiatives with Referral Partners



##### Strengthening human rights partnerships and expanding referral network

Significant achievements were made in relation to the complaints handling and referral partnership network strengthening. These accomplishments reflect the KNCHR's commitment to protecting and promoting human rights in the country. By sensitizing representatives, expanding the partnership network, executing partnership MoUs, and establishing county complaints handling and referral networks, KNCHR took proactive steps to enhance collaboration, address human rights concerns, and created a platform for effective complaint resolution. The following highlights were the key outcomes during this period.

1. *Sensitization of representatives:* KNCHR successfully sensitized **34 representatives** from State agencies and Civil Society Organizations on its mandate of protecting and promoting human rights in the country. The forum facilitated discussions on various partnership-related issues, such as the execution of the MoU by remaining partners, the Human Rights Defenders (HRD) Policy and Action plan, and joint activities for the year.
2. *Expansion of partnership network:* The referral partnership network witnessed significant expansion with the addition of four new members. These members include the Paralegal Society of Kenya, Directorate of Immigration Services, Kakuzi PLC, and Usikimye Organisation—a CSO focusing on gender and SGBV matters. The inclusion of these new members enhanced the network's capacity for resolving complaints that fall beyond the scope of a single institution.

3. *Execution of partnership MOUs:* Two institutions, namely the Christian Legal Aid & Research and Legal Resources Foundation, successfully executed the partnership MoU. Additionally, the National Land Commission is in the process of executing the MoU. Other partners also committed to executing the MoU in the coming financial year, demonstrating their dedication to fostering collaboration.
4. *County complaints handling and referral networks:* As part of strengthening partnerships with county networks, KNCHR inaugurated three county complaints handling and referral partnership networks in Murang'a, Kirinyaga, and Embu counties. These networks provided platforms for participants to voice human rights concerns, discuss unique challenges faced, and propose remedies. The forums also facilitated interaction between youth groups and the Deputy County Commissioner, enabling them to raise security concerns specific to their respective areas.

These initiatives demonstrate KNCHR's commitment to strengthening human rights partnerships, expanding the referral network, and fostering collaborative efforts to address diverse human rights concerns.



#### **Strengthening accessibility and collaboration: KNCHR's partnership with Huduma Centers**

In October 2021, the KNCHR collaborated with the Huduma Service Secretariat to expand its reach and accessibility to the public, resulting in significant achievements. During Huduma Centers Customer Service Week 2021, the Commission actively participated in enhancing service delivery. One of the key result was the increased visibility of the Commission through public engagement forums, where the team sensitized individuals on the Commission's mandate and distributed informative IEC (Information, Education, and Communication) materials. These efforts proved successful in educating members of the public about their rights and responsibilities. Additionally, as a direct outcome of these initiatives, the KNCHR received **forty-one (41)** new complaints regarding alleged human rights violations. To ensure appropriate action, the Commission provided tailored legal advice for each complaint, further emphasizing its commitment to safeguarding human rights in Kenya. Through this partnership, the KNCHR significantly expanded its impact on the community, fostering public awareness and accessibility to justice.

The Commission remains committed to reaching out to more Kenyans through ongoing collaboration with Huduma Centers. These centers play a crucial role in expanding the Commission's accessibility and outreach. By leveraging the extensive network of Huduma Centers, the KNCHR aims to ensure that its services and information on human rights are easily accessible to individuals nationwide. The partnerships align with the KNCHR's vision of promoting and protecting human rights for all.



### Empowering communities: Advancing human rights awareness and complaint handling efforts.

In November 2021, the Commission actively participated in a legal aid clinic organized by its referral partner Protection International at Mathare 4B grounds. The event included organizations such as; FIDA-Kenya, Mathare Social Justice Centre, and pro-bono lawyers. The KNCHR team focused on sensitizing the public about the Commission's complaints processing mandate. A total of **forty-three (43) complaints** were screened and documented, with social economic rights concerns being prominent, including unemployment and economic hardships. **Thirteen (13) complaints** were referred to partner institutions. Alongside Protection International, the KNCHR successfully enhanced public knowledge of human rights issues and distributed information materials.

Additionally, to address limited access and presence in Kenya, KNCHR conducted mobile human rights clinics in Machakos County. Collaborating with complaints handling and referral institutions, these forums educated the public about human rights and provided an opportunity to lodge complaints. Partners included IPOA, WPA, ODPP, NPSC, RBA, IMLU, NLC, Yatta Prison, Cooperatives Tribunal, and NTSA - Machakos office. **Twenty-four (24) complaints** were screened and documented, covering various concerns such as land matters, complaints against the police, access to justice, and complaints against advocates.

## 4.2 Public Interest Litigation (PIL)

PIL is one of the strategies by which the Commission influenced policy direction and interpretation of the constitution through the judicial process. It also served as a mechanism for the protection of human rights. The Commission participated in PIL through either originating petitions in its name or joining existing petitions filed by other parties which have a major public interest component either as *amicus curiae* or an interested party as appropriate. The Commission was involved in **38 ongoing PIL cases** which include **5 new cases**. The following are types of the cases: restriction of movements; unlawful use of force by the police; inaccessibility of government services to vulnerable groups and; specific unconstitutionality of the Public Health Regulations.

### Constitutional Petition Number 120 of 2020 (High Court of Kenya in Nairobi - Constitutional and Human Rights Division)

The Petitioner was the Law Society of Kenya (LSK). Among other orders, LSK sought to have the Curfew Order issued on 27th March 2020 declared unconstitutional and orders prohibiting the police from using excessive and unreasonable force when enforcing the curfew. KNCHR participated as an interested party where it supported the Petition, presented evidence and submitted on unlawful use of force by the police. The Court, among other orders, declared as unconstitutional and prohibited the use of unreasonable force (by the police) in enforcing the Curfew Order. The Court further issued an order prohibiting interference with media coverage of the curfew.

### **Constitutional Petition No. 132 of 2020 Law Society of Kenya VS the Hon. Attorney General & Cabinet Secretary for Health.**

The Petition challenged the constitutionality of the Public Health Regulations (COVID-19 Restriction of Movement of Persons and Related Measures Rules, 2020) issued by the Cabinet Secretary for Health) on grounds that the Regulations were enacted without any public participation, are vague and failed to comply with the provisions of the Statutory Instruments Act. KNCHR joined in the suit as an interested party. The Commission supports the Petition and has submitted on: lack of public participation, lack of certainty, validity of the regulations insofar as procedures for enactment of statutory instruments and the proportionality of the penalty imposed. All parties have filed their submissions and judgment shall be on notice.

### **Constitutional Petition No. 140 of 2020 Okiyah Omtata -VS- CS Ministry of Health & Another (As consolidated with Petition No 128/2020 and MSA Petition No 28/2020)**

Among others, the Petition challenges the validity of the various restriction of movement orders; the legal validity of the decisions by the government to require individuals to go into compulsory quarantine for public health protection without obtaining a Magistrate's order authorizing the compulsory quarantine; and legal validity of the decisions by the government forcing people ordered into compulsory quarantine in places other than of their own. KNCHR successfully applied to be enjoined as an interested party. Parties have since filed their respective responses and submissions in readiness for hearing on 7th July 2020.

## **4.3 Alternative Dispute Resolution (ADR)**



### **Ten (10) human rights violations resolved through ADR as a redress mechanism**

KNCHR is mandated to employ Alternative Dispute Resolution (ADR) in the resolution of matters falling within its jurisdiction. ADR offers confidential, less formal, and less stressful processes such as mediation, arbitration, and neutral evaluation. By actively engaging in ADR, the KNCHR successfully resolved numerous human rights disputes, resulting in creative solutions, long-lasting outcomes, greater satisfaction, and improved relationships. Through its commitment to finalizing an ADR framework, the KNCHR aimed to harness the power of ADR to promote effective and harmonious resolutions in human rights cases, contributing to a more inclusive and just society.

The following is a sample from the **ten (10) cases** resolved through ADR mediation since they were the only cases where parties were willing to participate in a mediation. The outcomes achieved in these cases highlight the positive impact of ADR in preserving relationships, fostering dialogue, and promoting reconciliation.

### **Resolving a labour dispute: A win-win solution through ADR**

In a recent labour dispute, three security guards who had been terminated found themselves denied their salaries for their final month of work. The employer justified the salary withholding, citing the guards' failure to return company property. Through discussions facilitated by Alternative Dispute Resolution (ADR), a mutually beneficial resolution was achieved. The employer agreed to pay the outstanding salaries to the guards, while the guards willingly returned the uniforms they had retained. This collaborative approach fostered a harmonious outcome, demonstrating the effectiveness of ADR in achieving fair and efficient dispute resolutions.

### **ADR Resolves Dispute over Detention of Deceased's Body**

In a case brought to the attention of the KNCHR, an alleged detention of a deceased body due to unpaid medical bills was successfully resolved through Alternative Dispute Resolution (ADR). The complaint originated during a stakeholder's consultative forum in Nakuru, where it was revealed that the deceased had been treated at Nakuru County Referral Hospital but unfortunately passed away. The family was unable to settle the outstanding bill, resulting in the hospital refusing to release the body. Upon convening a mediation meeting, the KNCHR facilitated a resolution in which the hospital waived the entire bill and ordered the immediate release of the body to the family for burial. ADR proved instrumental in achieving a swift and amicable solution to this sensitive matter.

### **Resolving property rights disputes through mediation**

In this mediation case, KNCHR facilitated the resolution of a property rights dispute among family members of a deceased polygamous man in Nakuru County. The KNCHR received a petition from a resident of Njoro Constituency on behalf of her large family, consisting of five wives and thirty-seven children. The family had been unable to reach an agreement regarding the distribution of the deceased's estate, leading to frequent conflicts and insults that affected the health of the petitioner's mother. Through mediation conducted by the KNCHR, the five families reached a settlement agreement, witnessed by the Commission.

### **Harmonizing 'Nyumba Kumi' Initiative and human rights-based dispute resolution for empowered communities**

In the reporting period, KNCHR embarked on a ground-breaking approach that synergizes the *Nyumba Kumi Initiative* with human rights-based dispute resolution to address community issues effectively. This innovative partnership aimed to strengthen the capacity of Alternative Justice System (AJS) partners in Samburu County and empower them to resolve grassroots complaints while upholding human rights.

Through comprehensive training, the KNCHR empowered Chiefs, Village elders, Human Rights Defenders (HRDs), faith-based organizations (FBOs), and 'Nyumba Kumi' elders with the tools and knowledge to identify, report, and resolve community issues. By combining the intimate knowledge of the Nyumba Kumi Initiative, where citizens are encouraged to know their neighbours and surroundings, with the human rights-based approaches to dispute resolution, this collaboration has paved the way for a harmonious and inclusive neighbourhood.

The trained individuals in Samburu County have become invaluable resources for their communities. They actively engage in resolving human rights complaints in far-flung areas, acting as trusted intermediaries who understand the local dynamics and sensitivities. They not only address issues directly but also serve as conduits for referring cases to the KNCHR for legal advice or direct intervention when needed.

This dynamic partnership between the *Nyumba Kumi* Initiative and human rights-based dispute resolution demonstrates the power of community engagement in fostering a safe, sustainable, and prosperous neighbourhood. By empowering local stakeholders to actively participate in resolving community issues, we are creating a society where citizens are not only vigilant but also actively contribute to the promotion and protection of human rights and access to justice.

### **Resolving grievances and ensuring transparency in the Mombasa Kwa Jomvu Highway Project**

In response to complaints received by the African Development Bank regarding involuntary resettlement and project implementation irregularities, the Commission took proactive measures to address these concerns and ensure adherence to the bank's policies and relevant laws. Collaborating closely with the Kenya National Highways Authority (KeNHA) and other stakeholders, the Commission played a crucial role in monitoring, investigating, and reporting on human rights observance. From June to July 2022, the Commission actively participated as an observer in a mediation process initiated by the Director General of KeNHA between KeNHA and the Project Affected Persons (PAPs). Through its engagement, the Commission provided valuable recommendations that effectively addressed the grievances raised by the affected individuals, facilitating the project's progression. The Director General of KeNHA later acknowledged the Commission's role as an observer for the Alternative Justice Systems Framework for the Mombasa-Mariakani Highway Project, emphasizing its significance in a letter dated 24th April 2023 (Ref. KeNHA/04.EVOL.7/92).

Through the successful resolution of these cases, KNCHR demonstrated the effectiveness of ADR in addressing human rights violations and promoting amicable solutions that uphold the rights and interests of all parties involved.

## 4.4 Advocacy for HRBA in the delivery of justice in courts and tribunals



### **Empowering Court Users: The Collaborative Journey of Kenya's Court Users Committees**

The Court Users Committees (CUC) were established by the Judiciary under the National Council on Administration of Justice to enhance the participation of marginalized court users and promote collaboration among partners. KNCHR played a crucial role in the formation of CUCs, and their involvement led to the acknowledgment and adoption of CUCs by the Judiciary. These committees provide a platform for sharing information, engaging with referral partners, addressing access to justice and registering complaints. The collaborative efforts of the Judiciary and KNCHR have empowered court users and strengthened the administration of justice in Kenya.

The achievements of KNCHR and the CUCs have been instrumental in advancing the objectives set forth for a streamlined administration of justice. Through their collaborative efforts, they have made significant progress in improving access to justice, enhancing service delivery, promoting accountability and coordination within the justice system.

One of the key objectives of the CUCs is to ensure an accountable, coordinated, efficient, effective, and consultative approach in the delivery of justice. This objective has been achieved through regular engagements and discussions held in various regions, addressing thematic areas crucial to the administration of justice. For example, in:

- (a) Tana River County, the CUC platform focused on access to justice for special interest groups. Through open dialogue and collaboration, strategies were developed to support these marginalized groups in navigating the justice system effectively.
- (b) Kilifi County, the CUC platform centred around access to justice for intersex persons, marginalized groups, youth, and women, with a particular emphasis on a human rights-based approach. The discussions resulted in concrete action plans to ensure equal access to justice for these vulnerable populations.
- (c) Taita Taveta County, the CUC platform delved into principles of human rights-based approach, decriminalization of petty offenses, and sexual and gender-based violence (SGBV) in the context of elections. This collaborative effort led to increased awareness among justice actors and the development of strategies to address these pressing issues.

- (d) Kwale County, the CUC platform focused on cases of domestic violence and children defilement. Through comprehensive discussions, stakeholders devised measures to protect victims, strengthen prosecution, and improve the overall handling of such cases.
- (e) Wajir County, the CUC platform addressed various issues, including the increase in drug trafficking, fundraising for holding cells, repatriation of irregular migrants, participation of children in political campaigns, and the need for court process servers and child protection units. These discussions have paved the way for enhanced collaboration and action to tackle these challenges.

These are just a few examples highlighting the achievements of KNCHR and CUCs in advancing access to justice, promoting coordination among stakeholders, and addressing critical thematic areas within the justice system. Through their collective efforts, they have made significant strides in fulfilling the objectives of the CUCs, thereby contributing to a more efficient and effective administration of justice in Kenya.



KNCHR officers during Msambweni CUC meeting in Kwale County.



## CHAPTER FIVE

# Enhancing the efficiency, effectiveness, and sustainability of the National Commission

To efficiently carry out its mandate, the National Commission recognizes the significance of maximizing its resources and internal procedures. It employs a variety of strategies to accomplish this. These include; improving accessibility and expanding its national presence, more effectively mobilizing resources, cultivating a performance-oriented culture and strengthening human resources, reviewing and implementing standards and processes, improving visibility and brand recognition, leveraging information and communication technology, improving financial planning and management, strengthening planning, monitoring, evaluation, and knowledge management, and optimizing supply.

Through these measures, the National Commission continues to improve its efficiency, effectiveness, visibility and sustainability in carrying out its duties.

The National Commission continues to optimize its capabilities and effectively serve its mandate by implementing these steps. The National Commission strives to strengthen its visibility, generate significant results, and assure its long-term success in serving the nation through enhanced accessibility, streamlined processes and strategic resource utilization.

KNCHR undertook to deliver its mandate more effectively and efficiently. It highlights the Commission's roles and tasks as accomplished through various modes of engagement undertaken through partnerships and membership in the various taskforce and committees of which KNCHR is a member. This objective also focused on; partnerships, enabling skills as acquired through the training of staff or partners, and the innovations (survey and technological) that shaped service delivery during the reporting period.



### Enhancing human rights in county governance: Achievements

The Commission made significant achievements in enhancing human rights within devolved governance structure. A key milestone was the formalization of the Memorandum of Understanding (MoU) between the Commission and the County Assemblies Forum (CAF), signed on 12th July 2021. The MoU, titled 'Infusing Human Rights Based Approach in County Governance,' established a framework for collaboration and co-operation between the two institutions.

Through this partnership, several outcomes were realized. Firstly, the integration of Human Rights Based Approach (HRBA) in County legislation; ensuring that human rights considerations are embedded in the county laws. Secondly, the publication and dissemination of human rights sensitization manuals took place at County Assemblies, promoting awareness and understanding of human rights principles among county officials.

The Commission and the County Assemblies Forum actively sought out partnerships with relevant stakeholders, fostering collaborations aimed at advancing human rights within their respective mandates. By working together, these institutions collectively contributed to the promotion and protection of human rights, establishing a strong foundation for a human rights-based approach in the respective Counties legislation and governance.

Through the achievements of the 2021/2022 financial year, the Commission and the County Assemblies Forum have taken crucial steps towards ensuring that human rights are upheld and respected at the County level. These outcomes reflect their commitment to creating a legislative environment that is inclusive, equitable and rights-centred.



Flanked by their respective senior officers, the Chief Executive Officer of County Assemblies Forum and the Chief Executive Officer of KNCHR append their signatures on the MoU documents



### Recognized commitment to diversity and inclusion

The Commission prioritized strategic leadership and knowledge management, conducting targeted training programs for succession planning and enhancing KNCHR team's capabilities. KNCHR's commitment to diversity mainstreaming was recognized through the National Diversity and Inclusion Awards & Recognition (DIAR Awards). KNCHR received the accolade of being the most diverse and inclusive Constitutional Commission. This recognition stems from continuous efforts in disability mainstreaming, regional balancing, and gender mainstreaming in employment practice. The DIAR Awards honor organizations and individuals championing diversity, equity, inclusion, and belonging, emphasizing the Commission's dedication to fostering an inclusive environment where everyone feels valued and respected.

This reporting period reflects KNCHR’s involvement in various processes, with a particular focus on promoting diversity and inclusion. The achievements in talent attraction, strategic leadership, and knowledge management demonstrate effective resource utilization and continuous improvement. The recognition received from the DIAR Awards reinforces the Commission’s commitment to creating an inclusive society. Moving forward, the Commission remains dedicated to prioritizing diversity and inclusion as it upholds human rights and justice for all.



Ms Petronella Mukaindo (Deputy Director, KNCHR) and Dr. Elizabeth Kamundia (Assistant Director) receiving the DIAR Award on behalf of the Commission for the category of most inclusive Constitutional Commission and Independent Office on 18th March 2022.

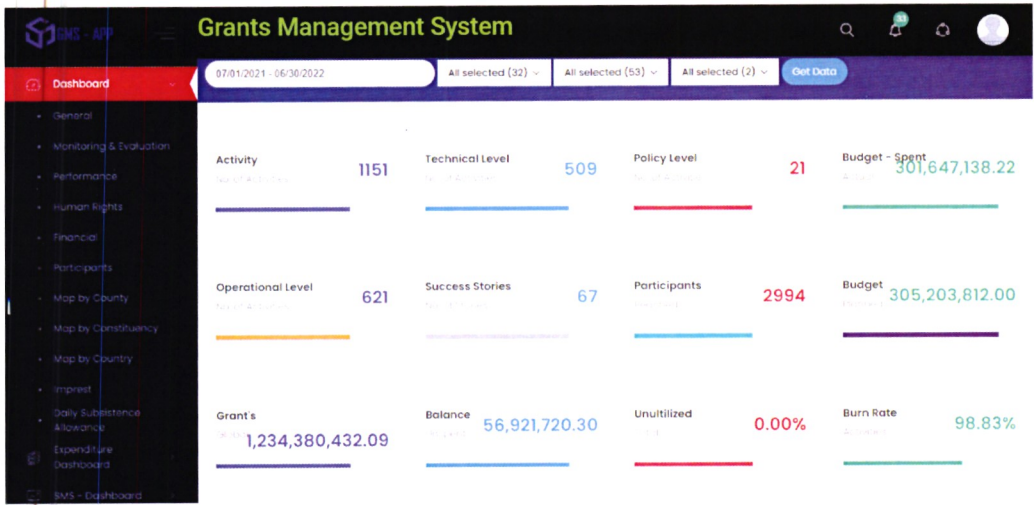


### Strengthened technological solutions for enhanced operations and communication

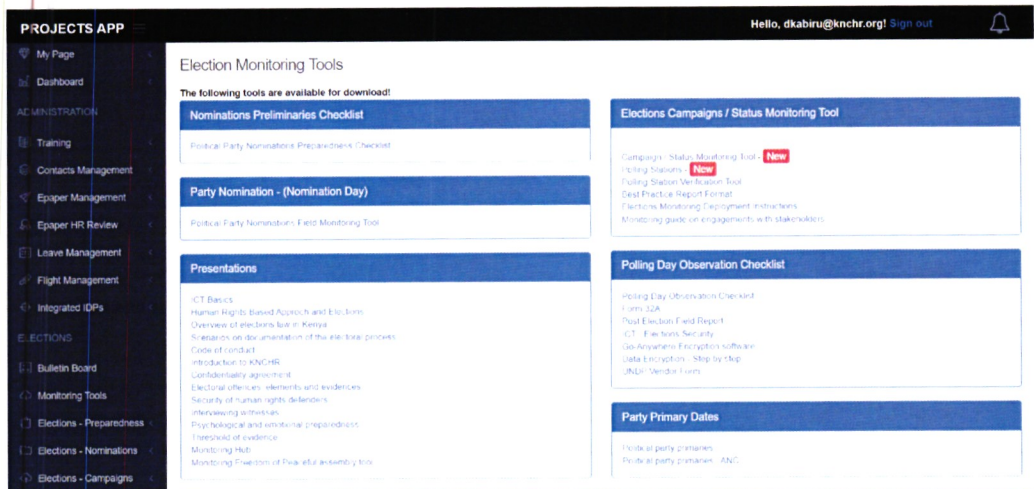
The Commission recognized the need to enhance its technological infrastructure to meet the demands of a fast-paced world and satisfy stakeholder needs. Key measures were taken to ensure effective operation, even during crises. The communication platform received significant improvements, particularly in email services, to enhance dependability, accessibility, scalability, and security. The Commission also acquired licenses for comprehensive security platforms, safeguarding users and stakeholders from cyber threats.

To maintain accessibility and communication, KNCHR focused on enhancing its SMS platform and toll-free line. The SMS platform allowed the public to submit petitions and complaints via a short message **code 22359**, while also enabling regular communication with stakeholders. The toll-free line **0800 720 627** was introduced to assist individuals who couldn’t afford airtime but needed the Commission’s intervention.

These technological advancements greatly improved the Commission’s operations and communication with stakeholders. The Commission’s commitment was also geared towards adopting new technologies which ensured accessibility, dependability, and security, even in times of crisis. Moving forward, the Commission will continue leveraging on technology to provide enhanced services to constituents and the general public.



A snap shot of The Grants Management System (GMS) - and inhouse system for keeping track of all our activities, challenges, lessons learnt, recommendations, finances but above all a great way to analyze and reflect on our great work.



Snapshot from KNCHR’s projects management App - Election Monitoring Section.



### **Advancing human rights: Expanding reach and impact**

The Commission demonstrated its commitment to promoting and protecting human rights in Kenya. This summary highlights KNCHR's strategic approach to public affairs and communication, emphasizing its involvement in various processes.

The Commission played a pivotal role in informing the public about the human rights situation in Kenya and advocating for change. By leveraging various communication tactics and strategies, they effectively disseminated information and amplified the Commission's mission.

One notable accomplishment was the enhancement of corporate public awareness and engagement. Despite limited advertising resources, the team maximized the Commission's placing as a reliable news source, forging partnerships with mainstream media outlets and community media networks. Through this collaborative approach, the Commission succeeded in creating substantial public awareness and significantly increasing its brand visibility and equity.

The Commission also excelled in activating localized media engagements across the regional offices, which covered specific clusters of the 47 Counties. By integrating these engagements into the Commission's activities, KNCHR ensured that the human rights messages reached a wider audience. Furthermore, the extensive utilization of KNCHR's social media and digital platforms significantly expanded the visibility of the Commissions' initiatives and achievements.

A major focus of KNCHR's efforts was the dissemination of targeted messages in respect to the 2022 General Elections. KNCHR disseminated election-related messages through regional community media and vernacular/community radio stations. These messages reached an estimated 30 million Kenyans nationwide. Additionally, KNCHR utilized various multimedia formats, such as audios, visual productions and press statements, which were shared through KNCHR's corporate website, social media pages, and online platforms.

Through the Commission's proactive media engagements and activations, the communication team played a vital role in bolstering KNCHR's visibility throughout the 2021-2022 financial year. Their exceptional achievements in promoting human rights awareness, both on a national scale and within local communities, exemplify their dedication to advancing the mission of KNCHR.



12 NEWS BEAT

**BALLOT 2022** FOR MORE NEWS VISIT: [www.knchr.org](http://www.knchr.org)

### Rights body lays strategies to monitor upcoming polls

The Kenya National Commission on Human Rights (KNCHR) has put in place strategies to monitor the upcoming General Election, the commission's chief executive officer, Bernard Magesa, says. He made the revelation in Kitale where the commission's top ranking officials paid a courtesy call on Trans Nzoia County Commissioner Saisson Ojwang on Tuesday. They were received by Ojwang, county Police Commander Jacinta Wesonga and county Criminal Investigations Officer Francis Kihara. As campaigns for the August 9 national polls gather momentum, Magesa said they were

working closely with all stakeholders to ensure maximum protection and promotion of human rights. He singled out the Independent Electoral and Boundaries Commission, Office of Registrar of Political Parties, the Judiciary and all political parties, as the key stakeholders. The CEO said they have already deployed 100 election monitors to 24 hot-spot counties ahead of party primaries. Commission vice-chairperson Raymond Nyeris said the team was visiting all the 47 counties and checking on election preparedness.

-KNA



Sample KNCHR Communication from the various news outlets.



### Inclusive and efficient procurement for impact

The Commission achieved inclusive procurement practices by allocating 35% of procurable goods and services to preference groups, surpassing the mandated 30% requirement. This accomplishment demonstrated the Commission's commitment in promoting equal and diversified opportunities. Through prudent procurement management and practices, the Commission ensured timely delivery and value-based costs, facilitating KNCHR's activities without delays or disruptions.

By prioritizing inclusion, the Commission enhanced operational efficiency and maximized the impact of its work. Through strategic procurement, the Commission supported its mission to protect and promote human rights in Kenya, while empowering women, youth, and persons with disabilities. The Commission's successful procurement efforts exemplify its dedication to fostering an inclusive society and optimizing resources for the greater benefit of the community.

## CHAPTER SIX

# Challenges And Recommendations

In executing its mandate, the Commission encountered the following challenges:

1. *Decreased and inadequate funding:* The National Commission is a constitutional body that needs to be adequately funded as provided by Article 249 of the Constitution. However, it has continued to experience inadequate funding from the exchequer resulting in the Commission being unable to fully deliver on its core mandate as established by law. The insufficient budgetary allocation from the government minimally covered the programmatic costs. As a result, KNCHR faced difficulties in achieving its desired program outputs. Moreover, late disbursement of quarterly allocation funds by the Treasury, continue to constrain program implementation and procurement of goods and services as per the program and procurement plans respectively. IFMIS has continuously slowed down implementation due to system downtimes.
2. *Inadequate work amenities and tools as required by labour laws:* The Commission lacks the required facilitation for basic work amenities and tools such as vehicles, work spaces, ICT equipment, WASH facilities as provided for in Occupational Safety and Health Act (OSHA) and Work Injury Benefits Act (WIBA). The inadequate amenities and working tools continued to hamper the optimal operation of the Commission.
3. *Inadequate staff capacity:* The National Commission faced staffing challenges and operated at 25% capacity – that is, 114 staff members out of the authorized staff establishment of 461. This inadequacy persisted despite the increasing demand for Commission’s services at the grassroot level countrywide. Moreover, the funding for essential training for staff was negligible which hindered the Commission’s ability to improve competency, knowledge and skills of its employees to match the emerging national human rights issues.
4. *Limited regional presence and accessibility:* The Commission has only five (5) Regional Offices and its Headquarters in Nairobi. The Regional Offices are located in Kitale (North Rift Region), Wajir (North Eastern), Mombasa (Coast Region), Nyahururu (Central Region), and Kisumu (Western Kenya). This continued to limit the Commission’s national presence and hinder its ability to reach the citizens in all the counties thus affecting access to quality and affordable Commission’s services.

5. *Delayed resolution of complaints and obstruction of justice:* Lack of cooperation from some public and private institutions made it difficult for the Commission to conduct its work, especially in the resolution of complaints. Equally, there was non-responsiveness from some duty bearers to act on key recommendations brought to their purview by KNCHR.
6. *Inadequate time to review bills:* The short period given for the review of bills before Parliament and county assemblies continues to be a challenge facing the Commission. The short period coupled with the unavailability of bills in public outlets compromises the Commission's ability to effectively respond to proposed legislation.

The following are **recommendations** to address the mentioned challenges:

1. Increase KNCHR's funding towards programmatic operations which includes but not limited to creation of new offices in devolved structures i.e., the 47 counties as per article 249 of the Constitution. The Commission also calls for increase in staff capacity to reflect the recommended 461 staff levels vis a vis the current 114 in post. This will guarantee a wider reach of KNCHR services by citizens. Moreover, there is need for the National Treasury to look into the late disbursement of quarterly allocation funds and the IFMIS system downtimes which continue to constrain program implementation and procurement of goods and services.
2. *Restore the Commission's Internship programme:* The Commission had put in place a robust internship programme for Kenyan graduates from universities since it was a standing Committee till 2019 when the funding was stopped. Over 500 Kenyans have gone through the Commission's Internship Programme for the past 15 years. The programme had been an intense learning ground and the former interns have continued to excel in their various fields and continued to champion human rights matters in Kenya and outside Kenya. The Commission is currently unable to play this critical training role that employers play in the society.
3. *Delayed resolution of complaints and obstruction of justice:* The Commission calls for speedy resolutions of complaints and sanctioning of any public or private institution that obstructs justice.
4. *Inadequate submission of documentation from petitioners:* The Commission will continue to conduct human rights clinics to raise awareness of the public on the same, as well as make phone call follow-ups in cases where such petitioners can be reached by phone.



# FINANCIAL STATEMENTS

## Statement of receipts and payments for the period ended 30 June 2022

	Note	2021-2022 (Kshs)	2020-2021 (Kshs)
<b>RECEIPTS</b>			
Proceeds from Domestic and Foreign Grants	1	193,386,824	26,275,586
Exchequer releases	2	397,507,276	365,921,675
<b>Total receipts</b>		<b>590,894,100</b>	<b>392,197,261</b>
<b>PAYMENTS</b>			
Compensation of Employees	3	250,848,346	243,647,455
Use of goods and services	4	123,618,194	95,990,110
Social security benefits	5	24,112,868	26,892,259
Other payments- donors	7	178,154,991	107,009,622
<b>Total payments</b>		<b>576,734,399</b>	<b>473,539,446</b>
<b>Surplus/deficit</b>		<b>14,159,701</b>	<b>(81,342,185)</b>

The accounting policies and explanatory notes to these financial statements form an integral part of the financial statements. The entity financial statements were approved by the Commission on 29 September 2022 and signed by:

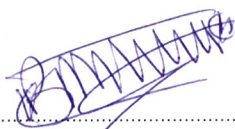
Commission Secretary/CEO (PS)  
Dr. Bernard Mogesa

Finance Manager/HAU  
John Wamwanga  
ICPAK Member No: 2872

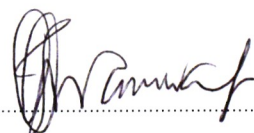
## Statement of assets and liabilities

	Note	2021-2022 (Kshs)	2020-2021 (Kshs)
<b>FINANCIAL ASSETS</b>			
Cash and cash equivalents			
Bank balances	8	84,509,900	66,274,075
<b>Total cash and cash equivalent</b>		<b>84,509,900</b>	<b>66,274,075</b>
Account receivables			
Deposits	14.2	7,940,608	7,940,608
Accounts receivables – Imprests & advances	9	1,171,273	1,182,820
Staff debtors	9	133,081	174,081
Cash in transit	9	5,212,512	9,236,090
Total accounts receivables		14,457,474	18,533,599
<b>Total financial assets</b>		<b>98,967,374</b>	<b>84,807,674</b>
Financial liabilities			
<b>Net financial assets</b>		<b>98,967,374</b>	<b>84,807,674</b>
Fund balance b/fwd	10	84,807,673	166,149,859
Surplus/deficit for the year		14,159,701	(81,342,185)
<b>Net financial position</b>		<b>98,967,374</b>	<b>84,807,674</b>

The accounting policies and explanatory notes to these financial statements form an integral part of the financial statements. The entity financial statements were approved by the Commission on 29 September 2022 and signed by:



Commission Secretary/CEO (PS)  
Dr. Bernard Mogesa



Finance Manager/HAU  
John Wamwanga  
ICPAK Member No: 2872

## Statement of cash flows for the year ended 30 June 2022

	Note	2021-2022 (Kshs)	2020-2021 (Kshs)
<b>RECEIPTS FOR OPERATING INCOME</b>			
Proceeds from Domestic and Foreign Grants	1	193,386,824	26,275,586
Exchequer Releases	2	397,507,276	365,921,675
<b>PAYMENTS FOR OPERATING EXPENSES</b>			
Compensation of Employees	3	(250,848,346)	(243,647,455)
Use of goods and services	4	(123,618,194)	(95,990,110)
Social Security Benefits	5	(24,112,868)	(26,892,259)
Other Expenses- Donors	7	(178,154,991)	(107,009,622)
<b>ADJUSTED FOR:</b>			
Changes in receivables	12	4,076,124	(2,550,368)
<b>Net cash flow from operating activities</b>		<b>18,235,825</b>	<b>(83,892,553)</b>
cash flow from investing activities			
Cash flow from borrowing activities			
Net cash flow from financing activities			
<b>Net increase in cash and cash equivalent</b>		<b>18,235,825</b>	<b>(83,892,553)</b>
Cash and cash equivalent at BEGINNING of the year		66,274,075	150,166,628
Cash and cash equivalent at END of the year		84,509,900	66,274,075

The accounting policies and explanatory notes to these financial statements form an integral part of the financial statements. The entity financial statements were approved by the Commission on 29 September 2022 and signed by:

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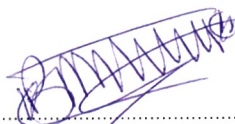
## Statement of comparison of budget and actual amounts for the year ended 30 June 2022

Receipt/Expense Item	Original Budget (Kshs)	Adjustments (Kshs)	Final Budget (Kshs)	Actual on Comparable Basis (Kshs)	Budget Utilization Difference (Kshs)	% of Utilization
	a	b	c=a+b	d	e=c-d	f=d/c %
<b>RECEIPTS</b>						
Proceeds from Domestic and Foreign Grants	184,400,000	0	184,400,000	193,386,824	-8,986,824	105%
Exchequer releases	408,711,517	-9,000,000	399,711,517	397,507,276	2,204,241	99%
<b>Total Receipts</b>	<b>593,111,517</b>	<b>-9,000,000</b>	<b>584,111,517</b>	<b>590,894,100</b>	<b>-6,782,583</b>	<b>101%</b>
<b>PAYMENTS</b>						
Compensation of Employees	259,579,480	-9,000,000	250,579,480	250,848,346	-268,866	100%
Use of goods and services	124,571,517		124,571,517	123,618,194	953,323	99%
Social Security Benefits	24,558,520		24,558,520	24,112,868	447,652	98%
Acquisition of Assets						
Other Payments-Donors	184,400,000		184,400,000	178,154,991	6,245,009	97%
<b>Total Payments</b>	<b>593,111,517</b>	<b>-9,000,000</b>	<b>584,111,517</b>	<b>576,734,399</b>	<b>7,377,118</b>	<b>99%</b>
<b>Surplus/ Deficit</b>				<b>14,159,701</b>	<b>(14,159,701)</b>	

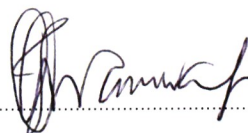
## Notes:

- The changes between the original budget and final budget was partially a consequence of reallocation by the Government and budget cut totalling Kshs 9,000,000=
- The Social Security Benefits had under-expenditure of 2% which was compensated by over-expenditure in Compensations of employees. This resulted partly from some vacant positions not having been filled. E.g. Director-Corporate Services.
- There are also expenses that could not be booked as the budget lined had insufficient funding such as internet, rent, communication, contracted services etc. In this case, the affected expenses could not be booked in IFMIS for payment and later remained outstanding as Pending Bills.

The entity financial statements were approved on 29 September 2022 and signed by:



Commission Secretary/CEO (PS)  
Dr. Bernard Mogesa



Finance Manager/HAU  
John Wamwanga  
ICPAK Member No: 2872



## Summary statement of appropriation: recurrent for the year ended 30 June 2022

Receipt/Expense Item	Original Budget Kshs	Adjustments Kshs	Final Budget Kshs	Actual on Comparable Basis Kshs	Budget Utilization Difference Kshs	% of Utilization
	a	b	c=a+b	d	e=c-d	f=d/c %
<b>RECEIPTS</b>						
Proceeds from Domestic and Foreign Grants	184,400,000	0	184,400,000	193,386,824	-8,986,824	105%
Exchequer releases	408,711,517	-9,000,000	399,711,517	397,507,276	2,204,241	99%
<b>Total Receipts</b>	<b>593,111,517</b>	<b>-9,000,000</b>	<b>584,111,517</b>	<b>590,894,100</b>	<b>-6,782,583</b>	<b>101%</b>
<b>PAYMENTS</b>						
Compensation of Employees	259,579,480	-9,000,000	250,579,480	250,848,346	-268,866	100%
Use of goods and services	124,571,517		124,571,517	123,618,194	953,323	99%
Social Security Benefits	24,558,520		24,558,520	24,112,868	447,652	98%
Acquisition of Assets						
Other Payments-Donors	184,400,000		184,400,000	178,154,991	6,245,009	97%
<b>Total Payments</b>	<b>593,111,517</b>	<b>-9,000,000</b>	<b>584,111,517</b>	<b>576,734,399</b>	<b>7,377,118</b>	<b>99%</b>
<b>Surplus/ Deficit</b>				<b>14,159,701</b>	<b>(14,159,701)</b>	

## Notes

The entity financial statements were approved by the Commission on 29 September 2022 and signed by:

Commission Secretary/CEO (PS)  
Dr. Bernard Mogesa

Finance Manager/HAU  
John Wamwanga  
ICPAK Member No: 2872

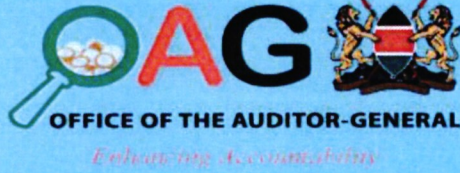
## Budget execution by programmes and sub-programmes for the year ended 30 June 2022

Programme/Sub-programme	Original Budget	Adjustments	Final Budget	Actual on comparable basis	Budget utilization difference
	2021		2021	2021	
	Kshs	Kshs	Kshs	Kshs	Kshs
Programme 1					
Sub-programme 1	593,111,517	-9,000,000	584,111,517	576,734,399	7,377,118

(NB: This statement is a disclosure statement indicating the utilisation in the same format at KNCHR's budgets which are programme based.)

- The Kenya National Commission on Human Rights has only one Programme: Protection and Promotion of Human Rights and one Sub-Programme: Complaints, Investigations and Redress.
- The changes between the original and final budget are as a result of the Treasury retaining 9 million of approved budget during Supplementary budget and not reallocation within the budget as per IPSAS 1.7.23

REPUBLIC OF KENYA



**REPORT**

**OF**

**THE AUDITOR-GENERAL**

**ON**

**KENYA NATIONAL COMMISSION ON  
HUMAN RIGHTS**

**FOR THE YEAR ENDED  
30 JUNE, 2022**

## REPUBLIC OF KENYA

Telephone: +254-(20) 3214000  
 E-mail: info@oagkenya.go.ke  
 Website: www.oagkenya.go.ke



HEADQUARTERS  
 Anniversary Towers  
 Monrovia Street  
 P.O. Box 30084-00100  
 NAIROBI

## REPORT OF THE AUDITOR-GENERAL ON KENYA NATIONAL COMMISSION ON HUMAN RIGHTS FOR THE YEAR ENDED 30 JUNE, 2022

### PREAMBLE

I draw your attention to the contents of my report which is in three parts:

- A. Report on the Financial Statements that considers whether the financial statements are fairly presented in accordance with the applicable financial reporting framework, accounting standards and the relevant laws and regulations that have a direct effect on the financial statements.
- B. Report on Lawfulness and Effectiveness in Use of Public Resources which considers compliance with applicable laws, regulations, policies, gazette notices, circulars, guidelines and manuals and whether public resources are applied in a prudent, efficient, economic, transparent and accountable manner to ensure Government achieves value for money and that such funds are applied for intended purpose.
- C. Report on Effectiveness of Internal Controls, Risk Management and Governance which considers how the entity has instituted checks and balances to guide internal operations. This responds to the effectiveness of the governance structure, the risk management environment, and the internal controls developed and implemented by those charged with governance for orderly, efficient and effective operations of the entity.

An unmodified opinion does not necessarily mean that an entity has complied with all relevant laws and regulations, and that its internal controls, risk management and governance systems are properly designed and were working effectively in the financial year under review.

The three parts of the report are aimed at addressing the statutory roles and responsibilities of the Auditor-General as provided by Article 229 of the Constitution, the Public Finance Management Act, 2012 and the Public Audit Act, 2015. The three parts of the report, when read together constitute the report of the Auditor-General.

### REPORT ON THE FINANCIAL STATEMENTS

#### Opinion

I have audited the accompanying financial statements of Kenya National Commission on Human Rights set out on pages 1 to 22, which comprise the statement of assets and

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*Report of the Auditor-General on Kenya National Commission on Human Rights for the year ended 30 June, 2022*



liabilities as at 30 June, 2022, and the statement of receipts and payments, statement of cash flows, statement of comparison of budget and actual amounts and summary statement of appropriation for the year then ended and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 35 of the Public Audit Act, 2015. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit.

In my opinion, the financial statements present fairly, in all material respects, the financial position of the Kenya National Commission on Human Rights as at 30 June, 2022 and of its financial performance and its cash flows for the year then ended, in accordance with the International Public Sector Accounting Standards (Cash Basis) and comply with the Public Finance Management Act, 2012 and the Kenya National Commission on Human Rights Act, 2011.

**Basis for Opinion**

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the Kenya National Commission on Human Rights Management in accordance with ISSAI 130 on Code of Ethics. I have fulfilled other ethical responsibilities in accordance with the ISSAI and in accordance with other ethical requirements applicable to performing audits of financial statements in Kenya. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

**Key Audit Matters**

Key audit matters are those matters that, in my professional judgment, are of most significance in the audit of the financial statements. There were no key audit matters to report in the year under review.

**Other Matter**

**Pending Bills**

According to Annex 1 to the financial statements, the Commission had pending bills totalling Kshs.13,242,693 as at 30 June, 2022, which were not settled in 2021/2022 financial year but were instead carried forward to 2022/2023 financial year due to inadequate exchequer allocations.

Failure to settle bills during the year to which they relate adversely affects the budgetary provisions of the subsequent year to which they are charged as they form a first charge.

## REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

### Conclusion

As required by Article 229(6) of the Constitution, based on the audit procedures performed, I confirm that, nothing has come to my attention to cause me to believe that public resources have not been applied lawfully and in an effective way.

### Basis for Conclusion

The audit was conducted in accordance with ISSAI 4000. The standard requires that I comply with ethical requirements and plan and perform the audit to obtain assurance about whether the activities, financial transactions and information reflected in the financial statements are in compliance, in all material respects, with the authorities that govern them. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

## REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

### Conclusion

As required by Section 7(1)(a) of the Public Audit Act, 2015, based on the audit procedures performed, I confirm that, nothing else has come to my attention to cause me to believe that internal controls, risk management and overall governance were not effective.

### Basis for Conclusion

The audit was conducted in accordance with ISSAI 2315 and ISSAI 2330. The standards require that I plan and perform the audit to obtain assurance about whether processes and systems of internal controls, risk management and overall governance were operating effectively, in all material respects. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

### Responsibilities of Management and Commissioners

Management is responsible for the preparation and fair presentation of these financial statements in accordance with International Public Sector Accounting Standards (Cash Basis) and for maintaining effective internal controls as Management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error and for its assessment of the effectiveness of internal controls, risk management and overall governance.

In preparing the financial statements, Management is responsible for assessing the Commission's ability to continue to sustain its services, disclosing, as applicable, matters related to sustainability of services and using the applicable basis of accounting unless

Management is aware of the intention to terminate the Commission or to cease operations.

The Management is also responsible for the submission of the financial statements to the Auditor-General in accordance with the provisions of Section 47 of the Public Audit Act, 2015.

In addition to the responsibility for the preparation and presentation of the financial statements described above, the Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them, and that public resources are applied in an effective way.

Those charged with governance are responsible for overseeing the revenue reporting process, reviewing the effectiveness of how the Management monitors compliance with relevant legislative and regulatory requirements, ensuring that effective processes and systems are in place to address key roles and responsibilities in relation to governance and risk management, and ensuring the adequacy and effectiveness of the control environment.

#### **Auditor-General's Responsibilities for the Audit**

The audit objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion in accordance with the provisions of Section 48 of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISSAIs will always detect a material misstatement and weakness when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

In addition to the audit of the financial statements, a compliance audit is planned and performed to express a conclusion about whether, in all material respects, the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities that govern them and that public resources are applied in an effective way, in accordance with the provisions of Article 229(6) of the Constitution and submit the audit report in compliance with Article 229(7) of the Constitution.

Further, in planning and performing the audit of the financial statements and audit of compliance, I consider internal controls in order to give an assurance on the effectiveness of internal controls, risk management and overall governance processes and systems in accordance with the provisions of Section 7(1)(a) of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. My consideration of the internal controls would not necessarily disclose all matters in the internal controls that

might be material weaknesses under the ISSAIs. A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements caused by error or fraud in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions.

Because of its inherent limitations, internal controls may not prevent or detect misstatements and instances of non-compliance. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies and procedures may deteriorate.

As part of an audit conducted in accordance with ISSAIs, I exercise professional judgement and maintain professional scepticism throughout the audit. I also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Management.
- Conclude on the appropriateness of the Management's use of the applicable basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Commission's ability to continue to sustain its services. If I conclude that a material uncertainty exists, I am required to draw attention in the auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my audit report. However, future events or conditions may cause the Commission to cease to continue to sustain its services.
- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.
- Obtain sufficient appropriate audit evidence regarding the financial information and business activities of the Commission to express an opinion on the financial statements.
- Perform such other procedures as I consider necessary in the circumstances.

I communicate with the Management regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that are identified during the audit.

I also provide the Management with a statement that I have complied with relevant ethical requirements regarding independence, and to communicate with them all relationships and other matters that may reasonably be thought to bear on my independence, and where applicable, related safeguards.



CPA Nancy Gathungu, CBS  
AUDITOR-GENERAL

Nairobi

31 January, 2023

