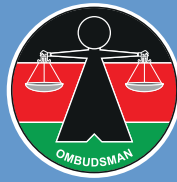


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Newsletter



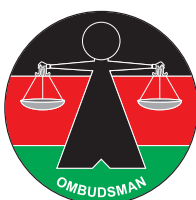
Third Cohort Commissioners
Take Oath of Office



Commission Celebrates Wins at
the Nairobi Legal Awards



Students Readmitted
Unconditionally Following
Ombudsman Intervention



**Commission on Administrative Justice
(Office of the Ombudsman)**
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Commissioners

Ms. Dorothy Jamator Kimengech

Hon. Charles Njagua Kanyi

Commission Secretary/CEO

Ms. Mercy K. Wambua, OGW

Editor

Mr. Osman Mohammed

Contributors

1. Sammy Cheboi
2. Edward Opany
3. Franklin Lilako
4. Faith Oloo
5. Rodney Amollo
6. Jacob Malelu
7. Maryann Wanjiru
8. Njeri Kenyaggia
9. Asma Abdalla
10. Consolata Ntongai

Photography & Design

Moses Sukali

EDITOR'S NOTE

Beginning of a New Era:
Welcoming the Third Cohort Commissioners

On behalf of the editorial team, I am delighted to present to you the fifteenth issue of the Ombudsman Newsletter.

In this edition, we celebrate the swearing-in of the Third Cohort Commissioners: Chairperson Mr. Charles Orinda Dulo and Commission members Ms. Dorothy Jamator Kimengech and Hon. Charles Njagua Kanyi.



They officially took office on Monday, December 9, 2024, in a ceremony presided over by Chief Justice Her Ladyship Martha K. Koome at the Supreme Court Building in Nairobi, with the oath administered by Chief Registrar of the Judiciary, Hon. Winfridah Boyani Mokaya.

We also highlight the 7th Annual Gala and Award Ceremony of the Nairobi Legal Awards, where the Commission was honored as the Best Public Sector Legal Department of the Year 2024. This quarter, the Commission partnered with NAMATI to train Civil Society Organizations (CSOs), Duty Bearers, and other stakeholders while disseminating a Public Inquiry Report on challenges citizens face when obtaining legal identity documents, specifically in Wajir County.

Furthermore, we continue our mission to righting administrative wrongs and upholding the right of access to information. A notable success story featured in this edition is that of fifteen students who were reinstated at St. Mary's Nyangwa Girls Secondary School in Embu County due to the Commission's intervention.

As part of our strategy to bring services directly to the community, we held Ombudsman Open Days in Langas, Uasin Gishu County, and Manyatta B in Kisumu County, supported by GIZ's Strengthening Good Governance Programme. These events provided an opportunity for public education on our mandates while facilitating complaint submissions and offering legal aid.

As the year comes to an end, I would like to extend my heartfelt gratitude to our dedicated staff for their unwavering commitment and hard work throughout the year. Your efforts have been instrumental in driving our mission forward.

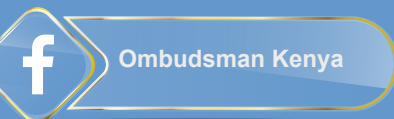
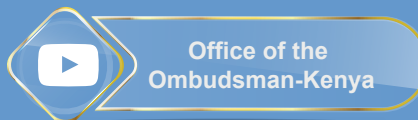
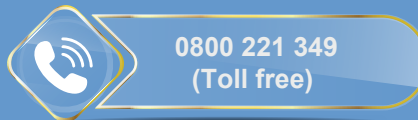
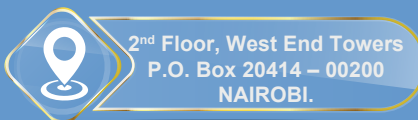
Wishing you all a joyful holiday season filled with peace and happiness.

Enjoy the read!

Editor

Mr. Osman Mohamed

Director, Public Education, Advocacy and Corporate Communications



MESSAGE FROM THE CEO

Public Sector Legal Department of the Year

**By Mercy K Wambua, OGW,
Commission Secretary/CEO**

As we approach the end of this calendar year, we are excited to welcome the third cohort of Commissioners, led by the Chairperson, Mr. Charles Orinda Dulo and Commissioners, Ms. Dorothy Jemator Kimengech and Hon. Charles Njagua Kanyi. We are confident that under the leadership of such a great team, the Commission will continue to serve the public through redressing maladministration and promoting access to information.

For the period between October and December 2024, the Commission recorded various achievements where our Legal Department was awarded as the winner under the Public Sector Legal Department of the Year category, for being a beacon of hope for citizens, demonstrating a steadfast commitment to reform, innovation and delivering justice where it's needed most.

During the first half of the 2024/2025 Financial Year, the Commission received 1,373 new complaints, out of which 587 were resolved, translating to a resolution rate of 43%. Additionally, a systemic investigation into Alleged Inordinate Delay by Teachers Service Commission in Processing Pension and Gratuity for Retired Teachers, was commenced and is currently ongoing.

The Commission assessed and issued 391 certificates to MDAs for compliance with the indicator, resolution of public complaints for FY 2023/2024. Further, we received, assessed and provided feedback to 370 MDAs, based on the first quarter reports for FY 2024/2025.

On promoting Access to Information, the Commission received and adjudicated 105 appeals on request for information resulting to 100% resolution rate. Additionally, the Commission participated in 2 key public interest cases.

To enhance the capacity of public officers and offices in handling complaints, the Commission trained a total of 600 public officers from 8 MDAs and 4 County Government offices during the first quarter. Further, a total of 282 public officers from 11 MDAs and 1 County Government were trained during the second quarter.



Additionally, the Commission participated in the International Conference of Ombuds Institutions for the Armed Forces, held in Berlin Germany, from 30th September to 2nd October 2024. The objectives of 16ICOAF were to raise awareness, facilitate and foster peer-to-peer exchange of knowledge and best practices, and articulate future policy responses among ombuds institutions on "The Armed Forces Under Pressure – Ombuds Institutions and the Duty of Care to Service Members".

The Commission, with support from the Food and Agriculture Organization (FAO) commenced the process of reviewing the Commission on Administrative Justice Act, 2011 the Commission on Administrative Justice Act Regulations 2013, and the CAJ Alternative Dispute Resolution manual. The exercise is meant to align our governing legal framework with the latest national and international legal instruments, as well as technology, so as to be consistent with both local and international best practices.

This year has therefore been one of growth, innovation, and resilience. I am very proud of what we've accomplished so far, and remain confident that the second half of the 2024/2025 Financial Year will be marked with greater achievements.

Merry Christmas and a happy, prosperous New Year!

THIRD COHORT COMMISSIONERS

Third Cohort Commissioners Take Oath of Office



Mr. Charles Orinda Dulo, Chairperson



Ms. Dorothy Jamator Kimengech,
Vice Chairperson and
Access to Information Commissioner



Hon. Charles Njagua Kanyi,
Commissioner in-charge of
Complain and Investigations

Three new commissioners have taken over at the Commission with a promise to improve service delivery through the effective execution of the Commission's mandate and stakeholder engagement.

The three commissioners who were appointed by President William Ruto via Gazette Notices No. 16094 and 16097 dated 5th December 2024, took their oath of office with a pledge to focus on serving the people of Kenya.

The commissioners, led by the Chairperson, Mr. Charles Orinda Dulo, were sworn into office in a ceremony presided over by Chief Justice Her Ladyship Martha K. Koome on Monday, December 9, 2024, at the Supreme Court Building in Nairobi. The oath was administered by the Chief Registrar of the Judiciary, Hon. Winfridah Boyani Mokaya.

The other Commission members are Ms. Dorothy Jamator Kimengech and Hon. Charles Njagua Kanyi.

Speaking at the event, Chief Justice, Her Ladyship Martha Koome, congratulated the Chairperson and the Commissioners, emphasising that their appointment is a profound responsibility entrusted by Kenyans and urged the Commissioners to execute their mandate with impartiality and respect for the rule of law.

She noted that the Commission, among others, is mandated by the Constitution to advance the aspirations of Article 249(1), which outlines the objectives of independent offices: to protect the sovereignty of the people, secure the observance of democratic values and principles by all State organs, and promote constitutionalism.



She encouraged the Commissioners to use the Constitution as their guide while undertaking their duties and to remain independent, impartial, and courageous, as this is the only way to ensure the institution's credibility and noted that commission plays a unique and indispensable role in strengthening Kenya's democratic framework and ensuring the dignity, rights, and freedoms of all our people. Her Ladyship assured that the Judiciary will support the Commissions, as both institutions are created to advance justice.



THIRD COHORT COMMISSIONERS



By Edward Opany

Third Cohort Commissioners Promise to Take Ombudsman Services to the Grassroots, Upscale Public Education and Leverage Technology

The incoming Commission Chairperson, Mr. Charles Orinda Dulo has committed that he will ensure that the Ombudsman services are accessible in the 47 countries, while appearing before the Justice and Legal Affairs Committee of the National Assembly during the vetting exercise, Mr Dulo noted that there is limited access to the Commission's services. The Commission presently has a presence in Nairobi which is the Commission's headquarters and seven regional offices namely; Mombasa, Kisumu, Eldoret, Isiolo, Nyahururu Garissa, Meru, and Makueni which is yet to be officially launched. Mr. Dulo noted that the limited presence hinders many Kenyans from accessing and benefiting from the Ombudsman Services. To remedy the challenge, the Chairperson has committed that the Commission will set up container offices in all the 47 counties with the deployment of two officers per office an exercise he says will cost an estimate of Ksh. 50 million.

Mr. Dulo also appreciated the centrality of public awareness education, and advocacy as key strategies for stakeholder engagement to this end, the Commission will continue utilising social media platforms to sensitise the public on its mandate and its decisions and will leverage town hall meetings to engage the stakeholders on the various aspects of its mandate. This sentiment was shared by Commissioner Dorothy Jemator Kimengech who said that she would champion public sensitisation and engagement including public inquiry at the grassroots levels and public awareness and education through local language radio stations, stakeholder engagement with various public entities, and awareness forums in learning and religious institutions.

The strategies align and feed into the strategy the Commission has employed in creating public awareness and education at the grassroots. The Commission through the Ombudsman Mashinani 'services at the grassroots' has been undertaking community forums and ombudsman open days and religious forums in various informal settlements in Nairobi (Kiambiu, Korogocho, Kawangware, Kibra, Mukuru kwa Reuben, Mukuru Kwa Njenga, Mathare, and Kangemi), Kisumu (Manyatta B) and Eldoret (Langas). The Commission has also leveraged partner platforms at the grassroots to undertake public education by taking Ombudsman services to the grassroots.

The Commission has also utilised the local language stations and mainstream radio stations in undertaking radio campaigns. The most recent activity was undertaken in September and October 2024 where the Commission with the support of GIZ, Strengthening Good Governance program undertook a radio campaign which was aimed at creating awareness on the mandate of the Commission, publicising the Commission's service points at the regions and to publicise the Complaints Management Information System. Through the radio campaign which was undertaken on Radio Alpha, Radio Nam Lolwe, and Angaf Radio, the Commission was able to reach 9.2 million people. Additionally, the Commission is currently in partnership with various community and local language stations which will offer pro bono airtime to the Commission airtime for the Commission to conduct impactful public awareness and education programs.

Appreciating the challenge of inadequate resources, Mr. Dulo has promised to leverage his experience to ensure the prudent use of resources that he will establish a robust system of monitoring and evaluation in the use of resources and that he will leverage strategic partnerships and support in the justice sector to support some of the Commission's operations. The Chairperson has also appreciated the centrality of technology in the realisation of the Commission's mandates and to this end, he promised that he would leverage his background in law, science, and technology in the investigation, reporting, and complaints handling functions of the Commission and to utilise ICT in promoting access to the Commission's services through the use of mobile phone applications.

On his part, Commissioner, Charles Njagua Kanyi has committed that despite having served as a member of parliament, he would uphold the independence of the Commission adding that he is a public defender as demonstrated by his previous songs where he strongly condemned issues of maladministration.

Acknowledging the insufficient legal framework under which the Commission operates especially the Commission on Administrative Justice Act, 2011 on the unenforceability of the Commission's decisions as held by the Supreme Court, the Chairperson is of the view that there is a need to amend the CAJ Act, Cap 7J to give the Commission similar to those of the High Court to make binding decisions and recommendations.

THIRD COHORT COMMISSIONERS

New Commissioners Take Over, Promises Improved Service Delivery, Visionary Leadership and, Stakeholder Collaboration.



The new Chairperson and Commissioners were today, Monday, December 9 2024, hosted to a luncheon at the Safari Park Hotel.

Speaking at the event, the Chairperson of the Commission, Mr. Charles Orinda Dulo noted that their priority will be to strengthen the capacity of the Commission to deliver effectively on its mandate. This he said will entail a thorough development and review of the Commission's legal and regulatory infrastructure to ensure that the Commission's policies not only comply with existing laws but also reflect best practices in administrative justice and access to information.

Mr. Dulo emphasised the importance of prudent resource management and the establishment of a robust system for monitoring and evaluation. By leveraging his experience, he aims to ensure the effective utilisation of resources while seeking support from strategic partners within the justice sector.

Appreciating the significance of transparency and timely communication, Mr. Dulo promised to prioritise clear communication regarding the Commission's activities, decisions, and outcomes. The Commission will utilise various platforms such as social media, community fora, mainstream media, and newsletters to disseminate information widely. Feedback mechanisms will be established to allow citizens to voice their concerns and suggestions, fostering ongoing dialogue with the public.

He further stressed the need to harness technology's potential to enhance operations, from digitising complaint management systems to utilising data analytics for better decision-making. He promised to leverage his background in law, science, and technology to improve investigation processes and reporting functions within the Commission.

Acknowledging the insufficient legal framework under which the Commission operates, Mr. Dulo undertook to advocate for amendments to the CAJ Act, Cap 7J, to empower the Commission with similar authority as the High Court in making binding decisions.

Mr. Dulo reiterated that the focus must always remain on the core functions of the Commission to maximise our impact and facilitate societal transformation noting that the Commission is mandated to address grievances related to administrative injustices, promote good governance, and enhance public sector accountability. To achieve this, the new team will prioritise outreach programmes that educate citizens about their rights and how to seek redress. The Commission will also enhance our investigative capabilities to ensure that complaints are handled promptly and effectively. By establishing clear metrics for success to track progress and continuously improve the Commission's service delivery.

The Chairperson invited the Commissioners, staff members, and stakeholders to join him in striving towards excellence in service delivery. He emphasised the collective effort required to build a Commission that not only meets but exceeds the expectations of those it serves, thanking everyone for their trust and support as they embark on this important journey together.

On his part, Hon. Charles Njagua Kanyi reaffirmed that he is a team player and will work together with the Commissioners and the staff in delivering the mandates of the Commission. These sentiments were echoed by Commissioner Dorothy Jemator Kimengech who also promised that they will work together with the staff and other stakeholders in ensuring that the Commission delivers on its mandate.

The Commission Secretary/CEO, Ms. Mercy Wambua, on her part, welcomed the new Chairperson and the Commissioners, noting that the Commission's business, which had stalled following the end of the term of the second cohort Commissioners, will now resume. She also highlighted the progress made by the Commission and the challenges encountered in addressing all forms of maladministration and enforcing the right of access to information.

Ms. Caroline Jerono, the Head of Legal Affairs at the Executive Office of the President urged the Commissioners to execute the mandates of the Commission to make the Commission effective for the public to feel its impact.

The Commissioners will serve for a six-year term effective from December 5, 2024.

THIRD COHORT COMMISSIONERS

Commissioner's Profiles



Mr. Charles Orinda Dulo Chairperson

Mr. Dulo is a highly accomplished legal advocate with 20 years of extensive experience in the legal field. His diverse skill set encompasses a wide range of legal practices, including Arbitration and Alternative Dispute Resolution, Conveyancing, Construction and Engineering Law and Constitutional Law. This breadth of expertise positions him as a top litigant, known for his articulate advocacy and strategic approach to complex legal challenges.

In addition to his litigation prowess, Mr. Dulo has cultivated a strong practice in commercial and corporate law, further enhancing his capabilities within the legal landscape. His commitment to professional development extends beyond the confines of his firm, as he actively contributes to legal

education by lecturing at several prestigious institutions, including Strathmore School of Business, Daystar University, and Jomo Kenyatta University of Agriculture and Technology.

Mr. Dulo holds a Master of Laws (LLM) degree from the University of Nairobi, complemented by a Postgraduate Diploma in Law from the Kenya School of Law, and a Bachelor of Laws (LLB) degree from the same university.

His academic qualifications reflect a solid foundation in legal principles that underpin his practice.

Throughout his career, Mr. Dulo has held numerous significant roles, including serving as the Chancellor of the Diocese of Maseno East since June 2016 and as a Senior Lecturer at Daystar University from January 2010 until March 2024. He is currently the Managing Partner at Dulo & Company Advocates, a position he has held since March 2007. Previously, he was the Managing Partner at Kaluma & Associates Advocates from 2003 to 2006 and served as a Senior Research Fellow at Letwal International from November 2002 to September 2006. Additionally, he was a member of the Interim Management Committee at the Agriculture Fisheries and Food Authority.

Mr. Dulo is an active member of several professional organizations, including the Law Society of Kenya (LSK) and the East African Law Society (EALS), which underscores his commitment to maintaining high standards within the legal profession. His combination of practical experience, academic achievement, and dedication to teaching makes him a respected figure in both legal practice and education.

THIRD COHORT COMMISSIONERS



Ms. Dorothy Jemator Kimengech, Vice Chairperson and Access to Information Commissioner

Ms. Dorothy Jemator Kimengech is a distinguished Advocate of the High Court of Kenya, having been admitted to the bar on March 4, 2010. She holds a Postgraduate Diploma in Law from the Kenya School of Law and a Bachelor of Laws (LLB) from Moi University. Currently, she is pursuing a Master of Laws (LLM) at the University of East London.

With 14 years of legal experience, Ms. Kimengech has held significant roles in various legal and regulatory bodies. She is the Managing Partner at Chepkuto & Co. Advocates and has served as a member of the Energy and Petroleum Tribunal from 2020 to 2023, as well as a member of

the HIV & AIDS Tribunal from 2019 to 2022. Her expertise extends to election law and public procurement, having also contributed as a part-time Technical Expert for the Building Bridges Initiative (BBI) in 2020. Ms. Kimengech's involvement in dispute resolution includes serving on the Football Kenya Federation Disciplinary Committee.

She has authored several important rulings and submissions related to election petitions and policy issues. Her professional affiliations include membership in the Law Society of Kenya (LSK), the East African Law Society (EALS), and the Commonwealth Lawyers Association. She has received multiple accolades for her service, including an Appreciation Award from the Law Society of Kenya and another from the Pharmaceutical Society of Kenya. Known for her analytical skills and proactive approach, Ms. Kimengech is recognised as a leading advocate with a proven track record in high-profile litigation, commercial matters, and civil litigation. Her dedication to legal excellence continues to make her a significant figure in Kenya's legal landscape.



Hon. Charles Njagua Kanyi, Commissioner in-charge of Complaints and Investigations

Hon. Charles Njagua Kanyi is a prominent Kenyan politician, philanthropist, and performing artist. He holds a Bachelor's degree in Peace Studies and Conflict Resolution from Mount Kenya University and has made significant contributions to both the political and social landscape of Kenya.

Hon. Kanyi served as the Member of Parliament for Starehe Constituency from 2017 to 2022, where he was an active member of the Departmental Committee on Labour and Social Welfare. In addition to his parliamentary role, Hon. Kanyi is the Founder and Director of the Jaguar Youth Empowerment Foundation, a position he

has held since 2012. Through this foundation, he has dedicated his efforts to empowering youth and addressing social issues within his community.

His previous roles include serving as the Director at the National Authority for the Campaign Against Alcohol and Drug Abuse (NACADA) from 2015 to 2017 and as a patron of Main Switch Production. Hon. Kanyi is also known for his music career, performing under the name "Jaguar," where he has released several popular tracks that resonate with many Kenyans.

NAIROBI LEGAL AWARD

Commission Celebrates Wins at the Nairobi Legal Awards



The Commission emerged as the winner of the Best Public Sector Legal Department of the Year 2024 at the 7th Annual Gala and Award Ceremony of the Nairobi Legal Awards, held on Friday, November 22, 2024, at the Safari Park Hotel. During the ceremony, the Commission Secretary/CEO, Ms. Mercy Wambua, was also recognised as the 1st Runner-up in the In-House Public Sector Lawyer of the Year 2024 category.

Speaking at the award ceremony, Ms. Wambua commended the collective efforts of the Commission's team and our stakeholders in advancing administrative justice and access to information in Kenya.

The Commission also achieved a remarkable feat in November 2022 by emerging as the First Runner-Up in the Public Sector Legal Department of the Year Category 2022 (Legal Tech Edition) at the 5th Annual Nairobi Legal Awards Trust. This was in recognition of the good work undertaken by the Commission through the Complaints Investigations and Legal Services Department and, most importantly, for embracing technology through the CMIS (Complaints Management Information System) in handling complaints of maladministration in the public sector and enforcing access to information.

These awards underscore the Commission's unwavering commitment to enforcing administrative justice and enhancing access to information across Kenya. The Commission is proud of these achievements and remains dedicated to serving the public and promoting transparency and accountability in the public sector.

The Nairobi Legal Awards, an initiative of the LSK Nairobi Branch, celebrate legal professionals who have significantly impacted the legal profession.



STRENGTHENING HUMAN RIGHTS COLLABORATION

Commission Plays Host to Zimbabwean Delegation



The Commission on Tuesday, November 12, 2024 hosted a delegation from the Zimbabwe Human Rights Commission led by the Chairperson of the Commission, Ms. F. J. Majome who are on a study visit to Kenya. The purpose of the learning visit was for the ZHRC to gain insights into the Commission's experiences in various areas of Administrative Justice.

During the visit, the delegation explored how the Commission approaches its constitutional mandate on Administrative Justice, aiming to increase collaboration and learn best practices. Specifically, the ZHRC sought to; understand the organisational structure (organogram) of the CAJ, learn about the Commission's investigation processes and use of Alternative Dispute Resolution (ADR) and outreach programs, gain insights into how the Commission undertakes its capacity-building programs and partnership and engagements with Civil Society Organisations (CSOs), the Commission's collaboration with Ministries, Departments, and Agencies (MDAs) and to understand the challenges the Commission experience and the mitigation measure its employs, along with our success stories in administrative justice among other areas.

The Commission Secretary, Ms. Mercy K Wambua, and the various heads of departments and units were present during the engagements.

Ms. F. J. Majome was accompanied by Commissioner Beauty Kajese, Director, Complaints Handling, Investigations and Administrative Justice, Mrs. Kurai Makumbe, and Human Rights Officers representing the Bulawayo, Harare, Maniciland, and Masvingo regions. The delegation was also accompanied by two representatives from their partner institution,

the Raoul Wallenberg Institute of Human Rights and Humanitarian Law.

The delegation later on 13th and 14th November 2024, visited the Kenya National Commission on Human Rights, the National Gender and Equality Commission, and Independent Policing Oversight Authority as part of the study visit.

The delegation utilised the study visit to learn and understand the mandates and functions of KNCHR, NGECE and IPOA with a particular focus on their complaints and investigations processes. This exchange marked a valuable opportunity for shared learning and collaboration, fostering deeper ties and mutual insights in advancing human rights across our regions.

The Zimbabwe Human Rights Commission is the National Human Rights Institution for Zimbabwe and is mandated to protect, promote and enforce human rights and freedom.



ADR MANUAL REVIEW

Commission Reviews Regulations to Enhance Access to Justice and ADR Efficiency

The Commission conducted a workshop from November 5 to 7 and November 26 to 28, 2024, focusing on the review of its regulations and the Alternative Dispute Resolution (ADR) Manual. The initiative, spearheaded by Commission Secretary/CEO Ms. Mercy K. Wambua, is part of ongoing efforts to enhance the efficiency and effectiveness of ADR processes.

Ms. Wambua emphasised that this review is a vital step in the Commission's commitment to improving access to justice and promoting administrative fairness. By refining its processes and aligning them with contemporary best practices, the Commission aims to provide more efficient dispute resolution services to the public. She underlined the importance of an expert review process in fine-tuning proposed amendments to create a comprehensive document. Moreover, she highlighted the advantages of ADR as a more accessible, affordable, and time-efficient method for resolving disputes.

The review was conducted in collaboration with the Food and Agriculture Organisation (FAO) and involved legal experts from both the Commission's headquarters and regional offices. The workshop also benefits from contributions by representatives from the Kenya Law Reform Commission (KLRC) and the Nairobi Centre for International Arbitration (NCIA).



Through this review, the Commission seeks to align its regulations and procedures with the principles of administrative justice as outlined in Article 48 of the Constitution, which guarantees access to justice for all individuals and mandates that any associated fees should be reasonable and not obstruct access.



PUBLIC INQUIRY REPORT

Commission Partners with NAMATI Trains CSOs, Duty Bearers and other Stakeholders, Disseminate Public Inquiry Report



The Commission in partnership with NAMATI and in collaboration with the National Registration Bureau and Civil Registration Services on 8th to 10th October 2024 conducted training of members of the Civil Society Organisations, duty bearers, religious leaders, media practitioners and community leaders in Wajir County on the application process and acquisition of legal identity documents. The Commission also disseminate a Public Inquiry Report on the Problems Citizens Encounter when Obtaining Legal Identity Documents: A Case of Wajir County. The report is a product of a public inquiry undertaken by the Commission in February 2024 to understand the underlying reasons for the challenges surrounding the issuance of legal identity documents.

Ahead of the activities, a team from the Commission, led by the Director of Public Education, Advocacy, and Corporate Communications, Mr. Osman Mohammed, paid a courtesy call on the County Commissioner of Wajir County, Mr. Karuku J. Ngumo on Monday, October 7, 2024. The team briefed Mr. Ngumo on the activities and handed over a copy of the public inquiry report.



On Tuesday, October 8, 2024 members of the Civil Society Organisations were sensitised on the mandate of the Commission of addressing administrative injustices and enforcement of the right of access to information.

The CSOs were urged to utilise their organisations and forums to educate the public on processes to address the challenges associated with insufficient information during the application processes.

The Commission later on Wednesday, October 9, 2024, presented the report to the duty bearers including the National Government Administrative Officers who were also trained on the processes of acquiring the legal identity documents to help them appreciate the same and to educate the public during public forums and in the course of service delivery.

Speaking at the event, the Commission's Director in charge of Public Education, Advocacy, and Corporate Communications, Mr. Osman Mohammed, noted that the report had been shared with the Registrar, Civil Registration Services, the Director, National Registration Bureau, the Director of the Immigration Department, CEO, Ethics and Anti-Corruption Commission, CS, Ministry of Public Service, Performance and Delivery Management and Cabinet Secretary, Ministry of Interior and Coordination of Government Service for implementation of the Commission's recommendations.

PUBLIC INQUIRY REPORT



The County Commissioner of Wajir County, Mr. Karuku J. Ngumo, on his part thanked the Commission for its continued role of enforcing maladministration and the right of access to information and urged the National Government Administration to appreciate the work the Commission is undertaking.



He also appreciated the decision of the Commission to disseminate the public inquiry report in Wajir and engage the duty bearers in its implementation. He also noted the critical role the chiefs play in the process of acquisition of legal identity documents urged them to be more diligent in undertaking their work, especially when assisting the citizens, and urged them to offer services without discrimination while appreciating the unique challenges of Wajir County.

On the last day of the activity, the Commission disseminated the public inquiry report to the religious leaders, media practitioners and community leaders. The groups were sensitised on the process of application for the legal identity documents by the Civil Registration Services and the National Registration Bureau and were urged to sensitise the community on the processes to address the challenge of low awareness on the processes.

The report reveals a multitude of issues encountered throughout the acquisition process, ranging from delays in issuance to instances of discrimination and challenges with biometric verification and application processing. "These challenges underscore systemic issues within the identity document issuance process, necessitating urgent reforms to ensure equitable and efficient service delivery to all citizens," states the report.

The report cites the process of birth registration in Wajir County as presenting stringent requirements and procedures, contributing to low registration rates, particularly for nonhospital births.

On obtaining passports, the report cites challenges such as the absence of dedicated immigration offices and a lack of understanding among residents about the application process. High fees, prolonged processing times, and discretionary decision-making in background checks contribute to corruption and unnecessary delays, further compounded by reports of discriminatory practices and insufficient communication on application statuses, adds the report.

"Transparency, efficiency, and consistency are critical to ensuring equitable access to National Identity Documents for all residents," the report says.



HOW WE'VE HELPED

Students Readmitted Unconditionally Following Ombudsman Intervention

Fifteen students were unconditionally re-admitted at St. Mary's Nyangwa Girls Secondary School, Embu County, following the intervention of the Commission.

The affected parents complained that the Principal, St. Mary's Nyangwa Girls Secondary School, suspended their children from the school without issuing suspension letters or communicating when they could go back. According to the parents, the Principal on 17th July, 2024, called the parents of the affected Form Two students to the school to pick up the students. The affected students had rioted the previous day alleging denial of extra tuition despite the parents having paid Ksh1,500 per term since their admission to Form One. Additionally, the students raised other issues including being forced to bathe with dirty storm water and unhygienic food preparation.



"The students are still at home without suspension letters and no communication from the school's principal regarding when they are to resume. This is an infringement of the children's right to education not to mention the lack of extra tuition services paid for by the parents. We the parents are requesting for the Commission's urgent intervention to have the matters resolved and the students re-admitted back to the school to continue with their education," read the complaint letter from the parents to the Commission.

The Commission, by way of inquiry, took up the matter with the Principal Secretary, the State Department for Early Learning and Basic Education. Additionally, the Commission also wrote to the Principal.

"The Commission wishes to draw to your attention Article 47(1) of the Constitution of Kenya, 2010, on Fair Administrative Action and particularly the provision that provides that the administrative action ought to be lawful, expeditious, reasonable, and procedurally fair. Suspending the form two students without a suspension letter and only issuing the letters almost a month later, violates these tenets. We also wish to bring to your attention the provisions on a child's right to education as provided under Article 43 (1)(f) of the Constitution and as such keeping the children at home for such an extended period violates their right to education," read the letter from the Commission to the Principal.

Following the intervention of the Commission, the PS ordered the County Director of Education, Embu County, to investigate the matter and report.

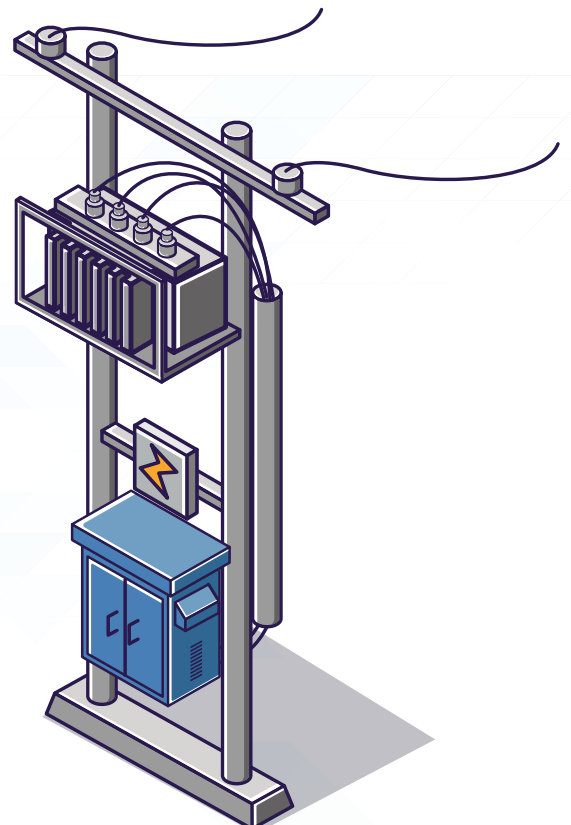
"Reference is made to your letter on the above subject matter. The Ministry carried out investigations through the County Director of Education, Embu County. After the investigations, the Principal was instructed to re-admit all the 15 girls unconditionally and to ensure that future disciplinary cases are handled without unnecessary delays. Attached is a copy of a letter and re-admission for reference," read the letter from the PS to the Commission.

New Transformer Installed Following Ombudsman Intervention

"We write to confirm that the power outage affecting the customer's neighborhood was occasioned by a faulty transformer. The transformer has since been replaced and power supply to the customer has been normalised," read a letter from Kenya Power to the Commission.

Ms. Joyce Thairu complained to the Commission alleging inaction by Kenya Power to restore power supply in the Karangia sub-location, Thegenge Location, Nyeri County. According to Ms. Thairu, the village had been in the dark for over a month and was greatly affecting schools and businesses in the area.

The Commission by way of inquiry took up the matter with the Managing Director, Kenya Power, leading to the installation of a new transformer.



HOW WE'VE HELPED

Meter Billing Anomaly Corrected, Electricity Reconnected

The Kenya Power Company corrected a meter billing anomaly and reconnected a customer to electricity following the intervention of the Commission in a case of wrong billing.

The customer, Mr Mwangi Kimathi, complained to the Commission alleging incorrect meter readings. According to him, he owns account number 47****66 and that he had not had power since 2nd April, 2024, after his electricity was disconnected. On 11th May, 2024, he was served with a bill where Kenya Power wrongly captured his meter reading as 6459 as opposed to 6381 an issue which he raised with the company and even shared the correct readings. However, despite the numerous follow-ups, the issue had not been resolved three months later forcing him to seek the intervention of the Commission.

The Commission, by way of inquiry, took up the matter with the Managing Director/Chief Executive Officer, Kenya Power, leading to the correction in the billing and electricity reconnection.

"Reference is made to your letter regarding the above complaint. On 10th May, 2024, we billed the account 47****66 Kshs.1,992 based on an erroneous meter reading of 6459 instead of 6381. The error was noted and the amount Ksh.1,992 credited on 14th May, 2024, captured as complimentary rebilling in the account statement. We installed a smart meter on 7th August, 2024, for meter reading efficiency and we have since restored supply to the customer's premises. Attached please find a copy of the account statement for your reference," read a letter from the Company to the Commission.

In a similar case of erroneous billing, Mr Viresh Mohindra, complained to the Commission alleging an excess bill of almost 2,000 units. According to him, he received a power bill dated 28th May, 2024, for Ksh. 118,847 which was excessive as the bill did not capture the correct units consumed and the invoice was allegedly issued without confirming the correct figure from the meter. He raised the anomaly with the Customer Service Manager and the Managing Director, Kenya Power, and the anomaly was not corrected impelling him to seek the intervention of the Commission.

The Commission by way of inquiry took up the matter with the Managing Director/ Chief Executive Officer, leading to the correction in the billing anomaly.

"Reference is made to your letter regarding the above complaint. On 25th May, 2024, we billed the account Kshs. 118, 841 based on an erroneous meter reading of 98870, the units billed were 4004 kwhrs. In June 2024, the reading was noted to be 98268 but due to the erroneous reading in May, our system failed to register the correct reading and thus billed zero units in June.

On 29th July, 2024, a correct reading of 99912 was obtained and the customer billed 1042 kwhrs amounting to a bill of Kshs. 29,910. We have since normalised the meter readings and as of 25th September, 2024, the readings were confirmed as 103657. The customer has since settled the May bill and the subsequent bills. Attached please find a copy of the account statement for your reference," read a letter from the Company to the Commission.

Siaya County Public Service Board Publishes Information

The Siaya County Public Service Board has finally published its annual report containing information on appointments on its website following the orders of the Commission.

A resident of Siaya County, Mr. Mike Achieng, appealed for review under section 14 (3) of the Access to Information Act, 2016, protesting the failure of the Siaya County Public Service Board to publish and release a comprehensive report on the recruitment exercise, names of successful candidates for various positions advertised on 13th December, 2022, 25th July, 2023, and 3rd March, 2024.

The Commission took up the matter with the Secretary/ Chief Executive Officer of the Board requesting that the information be proactively disclosed.

"The Commission notes that the information requested forms part of the information that should be proactively disclosed under Article (35)(3) of the Constitution and Section 5 of ATI Act, 2016, which requires all public entities to proactively disclose information affecting the nation," read the letter from the Commission to the CEO of the Board.

In its response, the Board indicated that the annual report containing information on appointments was available on their website. However, upon further audit, the Commission noted that the information was not available on the website.

"Reference is made to your letter whose contents we have noted. The Commission has undertaken an audit of your website and notes that the annual report containing information on appointments is not available on your website as indicated. Take note that the redacted report is part of the information required to be proactively disclosed under section 5 (1) of the ATI Act. This is, therefore, to request the Board to publish the redacted annual report containing the information on appointments as soon as possible but not later than thirty days," read the letter from the Commission.

The Board complied by publishing the report on its website and shared a copy with the Commission.

HOW WE'VE HELPED

Inmates Get Appeal Date, Court Proceedings Submitted

Two inmates were finally given the mention dates for the hearing of the cases following the intervention of the Commission in a case of inordinate delay.

The inmates complained to the Commission during a prison visit to the Eldoret GK Prison delay to be updated on the status of their appeals lodged with the Kapsabet High Court. A third inmate also complained to the Commission alleging a delay by the Kapsabet High Court to furnish court proceedings to the Court of Appeal to enable the processing of an appeal lodged at the Court of Appeal.

The Commission, by way of inquiry, took up the matter with the DR, Kapsabet High Court, leading to the two inmates being given the mention dates for the hearing of their cases. Regarding the complaint regarding a delay in forwarding proceedings to the Court of Appeal, the same was sent to the Court of Appeal on 7/10/2024, which shall ensure the processing of the appeal.

Section 51 of the Commission on Administrative Justice Act, 2011 requires every person in charge of a prison, remand, or mental institution where a person is held in custody, or of any institution where a person is a patient or inmate to ensure, notwithstanding the provisions of any other written law, that any correspondence from such person to the Commission is transmitted in confidence and any written communication in that regard to remain sealed.

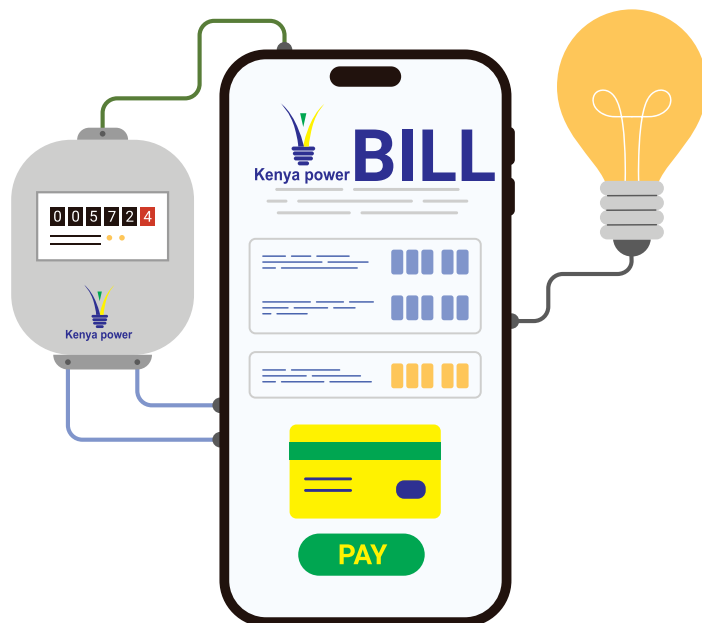


Fraud Suspect Refunds Money

A resident of Gilgil finally received her money from a fraud suspect following the intervention of the Commission in a case of police inaction.

Ms. Wairimu Mathenge complained to the Commission alleging that the Officer Commanding Station, Gilgil Police Station had failed to update her on the outcome of her complaint on obtaining money by false pretense which she lodged vide OB number 16/6/2020.

The Commission took up the matter with the Rift Valley Regional Criminal Investigations Office. The office initiated an inquiry and the suspect in the offence was traced to Karatina, Nyeri County. The Directorate of Criminal Investigation office in Karatina was briefed on the matter and plans were set forth to apprehend the suspect. However, upon getting information of his imminent arrest, the suspect's family reached out to the complainant to which they agreed to settle the matter amicably upon the payment of her dues. Consequently, the case was withdrawn.



Billing Anomaly Resolved

A billing anomaly was finally resolved thanks to the intervention of the Commission.

Mr. James Mayore complained to the Commission alleging the delay by the power company to resolve an anomaly in his electricity bill for account number 61****83 within the Kiboret area in Kitale, Trans Nzoia County. He attributed the anomaly to information furnished by Kenya Power alleging that he was the registered owner of account number 44****46 in Kisii County which had accrued a bill of Kshs.51,668 which he was directed to settle and the same was transferred to his account. Mr. Mayore was, however, not aware of the existence of such an account and had neither applied for nor consented to be issued with the same which impelled him to seek the intervention of the Commission.

The Commission took up the matter with the utility company leading to the correction of the billing

Public Access Road Opened

The County Government of Uasin Gishu finally opened a public access road following the intervention of the Commission.

Mr. Reuben Maru complained to the Commission alleging a delay by the County Government of Uasin Gishu to resolve their complaint on unlawful closure of the access road in Maru Estate, Kahoya area which they had lodged on 20th January 2023. This predicament impelled them to seek the intervention of the Commission to have the matter resolved.

The Commission took up the matter with the county leading to the opening of the road. Mr. Reuben visited the Commission's Eldoret Regional Office on 11th November 2024 and confirmed that the matter has been resolved and the access road duly opened.

HOW WE'VE HELPED

Employment Secured after Two Years



"I have just received an offer of appointment from the institution. What a surprise! I wish to take this opportunity to appreciate your efforts towards resolving this matter. I do not know how to appreciate it but I pray for an abundance of blessings from God for you." This was the message in an appreciation letter from a complainant to the Commission.

Mr. Joseph (not his real name) complained to the Commission alleging irregularities in the recruitment process for the position of Research Scientist in a public research institution within the agricultural sector. According to him, he applied for the position which was advertised in April 2022, and was shortlisted and interviews were conducted on 16th September, 2022.

Following the interviews, his referees were contacted for reference check on 27th October, 2022, and he later found out through his investigations that he was among the successful candidates whose names were forwarded to the institution and that the newly recruited officers had reported to work on January, 2023. However, by the reporting date, he had not been contacted. This prompted him to write to the Commission to request an investigation into the matter which he believed had been marred with irregularities and fraud.

The Commission advised the complainant to lodge a formal complaint with the Public Service Commission (PSC) and keep the Ombudsman updated which he did. The PSC acknowledged the receipt of his complaint and promised to investigate the matter and update him. However, the PSC had not updated him eight months after lodging the complaint forcing him to seek the intervention of the Commission.

The Commission took up the matter with the Chief Executive Officer, PSC, to respond to the complaint and provide a report of their investigations within 14 days. The inquiry did not elicit any response which forced the Commission to issue two reminders to the PSC. In their response, the PSC indicated that they had written to the CEO of the research institution to provide information to facilitate the resolution of the complaint and that they were awaiting their response.

The Commission again took up the matter with PSC when they delayed providing an update on the complaint.

"We refer to your letter dated 4th July, 2024. We note, regrettably, that we are yet to receive any response to date. By means of this letter, which serves as a reminder, we request that you look into the matter and revert to this office within seven days, providing an update on the status of the same," read a letter from the Commission to PSC. Through the intervention of the Commission, the complainant was issued with an offer letter on 13th December, 2024.

"Following your application for employment in this organisation and your subsequent interview for the same, I am pleased to inform you that you were successful and have been offered employment as a Research Scientist with effect from the date you report to your duties," read part of the offer letter.

Title Deed Processed

The Uasin Gishu County Lands Office finally processed and issued a title deed following the intervention of the Commission.

Mr. Patrick Kidali, a resident of the county, complained to the Commission alleging a delay by the office to issue him with a title deed for land parcel number Pioneer/Ngeria Block 1 (EATEC)/17**4 since his application for the same on 21st November 2023. The delay according to him, was depriving him of the right of proof of ownership to the parcel in addition to inconveniences in matters where the same is a requisite document.

Following the intervention of the Commission into the matter, Mr. Kidali was issued with the title deed.



OWN MOTION

Inquiry into the Status of Kenyan Citizens Living and Working in Lebanon

Of the estimated 26,000 Kenyans living and working in Lebanon, only about 7,000 of them have registered for the Government evacuation programme.

And of those who have expressed readiness to be evacuated, the Government has on October 11, 2024, facilitated 35 of them to return home.

This is part of the information released by the State Department for Diaspora Affairs following a suo moto (own motion) inquiry by the Commission on Administrative Justice (Office of the Ombudsman) to establish the status of Kenyans in Lebanon in the context of the escalating conflict in the region.

In its inquiry letter dated October 2, 2024, to the Principal Secretary, State Department for Diaspora Affairs, the Commission expressed its deep concern about the safety and well-being of Kenyan citizens living and working in Lebanon and the increasing risks to their lives and property, including limited access to essential services and the potential for further violence.

Thus, drawing from its suo moto powers, the Commission requested the Department to provide the following information:

- i. Registered number of Kenyans living and working in Lebanon;
- ii. An interim assessment report of the current security situation in Lebanon;
- iii. An evacuation plan indicating the steps to be taken to evacuate Kenyan citizens from Lebanon, including; the timeline, logistics, resources allocated, and any collaboration with partners for the evacuation process; and
- iv. Security measures being undertaken to protect Kenyan citizens who remain in Lebanon pending their evacuation or otherwise.

"Due to the impending serious safety risks, we request you to consider this complaint and revert within seven (7) days," the Commission's inquiry letter stated.



In the response dated October 11, 2024, Principal Secretary, Roseline Njogu, indicated that the Department had in place an evacuation plan that is being implemented. The plan had been drawn up by a Multi-Agency Committee that is currently overseeing its implementation.

She indicated that as part of immediate measures, Kenyans were provided with an opportunity to be evacuated, with 35 taking up the offer. Unfortunately, on the travel day, five (5) of them were a no-show leading to loss of ticket values.

Some of the interventions that the government has implemented include;

- i. A live registration where Kenyans can register for evacuation and availing of emergency mobile numbers;
- ii. Kenyans have been advised to move away from the epicentre of the violence, South of Lebanon, to the North of Lebanon which is safer. In addition, to Lebanese government's safe shelters, Kenya has secured additional shelters to cater for citizens as evacuation exercise continues;
- iii. The National Treasury has availed resources to fund the evacuation programme;
- iv. The Department has dispatched ten consular staff to support staff at Kenya Embassy in Kuwait and the Honorary Consulate in Beirut to hasten the evacuation process; and
- v. Kenya Embassy in Kuwait has negotiated with Lebanese government for waiver of overstay penalties and exit clearance fees which would otherwise cause hurdles in faster evacuations.



OWN MOTION

Maintenance on Major Roads to Commence in January 2025, KURA Assures Ombudsman

The Director General of the Kenya Urban Roads Authority (KURA) has assured the Commission that planned maintenance for Jogoo Road, Ngong Road, Northern and Eastern bypasses, Lang'ata Road, and Outer Ring Road, among others, will commence in January, 2025, under the Performance Based Maintenance Contract (PBC) and that the procurement process for the same is ongoing.

The Authority also admitted that some of the roads in Nairobi are currently in a poor state due to aging infrastructure, maintenance backlog, inadequate solid waste management, and uncontrolled overloading of construction vehicles especially within parts of the City. In addition, the recent rains left notable potholes on some of the roads whose wearing course is old and is due for rehabilitation but are currently under Routine Maintenance due to budgetary constraints.

The Authority informed the Commission that it had undertaken a road condition assessment for roads under its jurisdiction within Nairobi City. The survey had revealed that the roads under KURA are mostly in Fair and Good conditions, which is supported by a report submitted to the Commission.

The Commission had issued a directive to the Director General of KURA, requiring a response within seven days addressing public concerns regarding the worsening conditions of roads in Nairobi City County. Numerous videos circulating on various media platforms had drawn attention to significant potholes, particularly on the routes connecting Jogoo Road to Landhies Road near Muthurwa Market, Soweto Masimba Road, and the Kilimani and Upper Hill areas. Additionally, the Commission noted widespread flooding in Nairobi attributed to blocked, poorly maintained, or inadequate drainage systems.

The Commission noted that the current state of the roads was a major contributing factor to increased road accidents, leading to fatalities, injuries, property damage, and severe traffic congestion. These issues, the Commission noted, have significant implications for the country's economy and the overall welfare of the people.

According to Section 10 (2)(a) of the Kenya Roads Act, KURA is mandated to construct, upgrade, rehabilitate, and maintain all public roads in cities and municipalities across Kenya, except for national roads. Furthermore, Section 16 of the Nairobi City County Transport Act No. 3 of 2020 assigns the responsibility of maintaining county roads to the Nairobi County Government.

In light of these concerns, the Commission requested that the Director General of KURA provide a detailed response within seven days, including:

- i. A comprehensive assessment report on the current state of the roads, detailing the severity of potholes, extent of road surface damage, and conditions of drainage systems and road markings;
- ii. A detailed timeline for planned maintenance and repair works on affected roads, outlining specific actions to address potholes, drainage issues, and inadequate road markings;
- iii. Immediate measures to mitigate risks posed by current road conditions, such as temporary repairs or management strategies; and
- iv. Long-term solutions aimed at improving road safety and ensuring the durability of road infrastructure;



As a mitigating factor, KURA has instructed PBC contractors to undertake emergency repair works to address the poor state of the roads. In addition, the Authority has advertised for works on Jogoo Road, Ladhies Road, and Soweto Masimba Roads. The works are expected to commence in January 2025 as per a copy of the Tender Notice dated 26th November, 2024, submitted to the Commission.

In addressing the concerns raised by the Commission, the Authority has further indicated that as a long-term solution, in collaboration with the County Government of Nairobi City, they have initiated the City Renewal and Regeneration Programme to address the maintenance backlog. The programme, the Authority says, will be financed by both levels of Government.

Further, the Authority has adopted major Performance Based Routine Maintenance in the FY 2025/2026 work plan to ensure a sustainable regime.

OPINION



By Edward Opany

Leadership, Enforcement of Existing Laws Key in Addressing Conflict of Interest

It is not contested that conflict of interest remains one of the commonest forms of corruption in Kenya. While the genesis of conflict of interest has always been traced to the Public Service Structure and Remuneration Commission of 1971, popularly known as the Ndegwa Commission, the vice had already begun taking root in Kenya at that time. Instances of state capture related with conflict of interest had already surfaced in post-independent Kenya. The Ndegwa Commission thus institutionalised conflict of interest although it recommended control measures, including the establishment of the Ombudsman. The control measures were not implemented with the consequence that public servants spent most of their time running their businesses to the detriment of the public. Trading with the Government also became the order of the day.

In the anti-corruption reforms in early 2003 following the defeat of the Kenya National African Union, the new Government enacted the Anti-Corruption and Economic Crimes Act which captured conflict of interest as one of the offences. This was further complemented by other laws such as the Public Officer Ethics Act and the repealed Public Procurement and Disposal Act. The adoption of the new Constitution in 2010 further buttressed the need to address conflict of interest in management of public affairs. Article 75 of the Constitution, for instance, requires state officers to avoid any conflict between personal interests and public or official duties, compromising any public or official interest in favour of a personal interest, or demeaning the office the officer holds. The constitutional provisions have been complemented by the Leadership and Integrity Act and the Public Procurement and Asset Disposal Act among others. The primary institution that has been dealing with the enforcement of conflict of interest provisions is the Ethics and Anti-Corruption Commission.

However, despite the legal and institutional frameworks, Kenya has continued to witness instances of corruption as a result of conflict of interest. Cases of nepotism, tribalism and cronyism in employment, and trading with the institutions have continued to be reported. In some instances, public officers have used the shield of the veil of their professions to continue engaging in acts of conflict of interest and even conceal their corrupt practices. Some public officers who are lawyers, for instance, have been seen taking up matters before the courts to represent clients some of whom they oversight. Similarly, we have had instances where members of the Judicial Service Commission appear before judicial officers over whom they exercise disciplinary control and doctors employed in public hospitals dedicating much of their time for private practice to the detriment of the public.



Whereas the above instances ought to be addressed, one of the most debilitating forms of conflict of interest that is usually not discussed is state capture related conflict of interest. This type of conflict of interest has always been facilitated by concentration of power in the Executive. As such, Government policies, laws, institutions and other administrative frameworks are developed to serve private interests instead of the public. This can be manifested in instances such as allocation of public land, appointment to public offices, initiation and implementation of public projects, and allocation of public resources to projects among others. The debilitating nature of this type of conflict of interest makes it a priority for redress if Kenya is to move forward.

It is worth noting that the challenge in addressing conflict of interest in the country is not the law; instead, it is leadership failure and lack of enforcement of the existing laws. Kenya does not need a new law to address conflict of interest. In fact, the existing laws on conflict of interest are sufficient and additional ones are likely to create confusion and other legal challenges. A new law is also likely to experience the same challenges that we have been experiencing. We need to have an introspection of why the frameworks on conflict of interest are ineffective. The country therefore, needs to look at the gaps in enforcement and leadership.

In addition, there is need for institutional engineering for the oversight and enforcement agencies to work for the public as opposed to private interests. This will also require vigilant citizens who are able to call out of leaders promoting the vice and to hold the institutions to account. Above all, given the role of leadership in societal development, we need effective leaders who practice integrity at all times. It starts with having a core of elected and appointed leaders with strong moral and integrity at the top of the government and in other public offices. The often-cited former Prime Minister of Singapore, the late Lee Kuan Yew, provided this kind of leadership which made Singapore to move from the Third World to the First World. This would call for societal re-engineering where the public not only elect ethical leaders, but also live by the national values beyond the legal prescriptions.

PARTNERSHIPS

CAJ, KNCHR to Partner and Collaborate on Complaints Management

The Commission and the Kenya National Commission on Human Rights will partner and collaborate on complaints referrals with in Isiolo and Garissa, this was discussed when a team from the Commission led by the Director, Public Education, Advocacy and Corporate Communications, Mr. Osman Mohamed, paid a courtesy call on Kenya National Commission on Human Rights, North Eastern Regional Office Coordinator, Mr. Hassan Abdi Omar on Wednesday, October 9, 2024 in Wajir.

The team also utilised the visit to present the Public Inquiry Report on the Problems Kenyan Citizens Encounter when Obtaining Legal Identity Documents in Border Counties: The Case of Wajir County to Mr. Omar.



The Commission and Riara University Discuss Areas of Partnership and Collaboration

The Commission and Riara University will partner and collaborate in promoting Administrative Justice and Access to Information. This was discussed when a team from the Commission, led by the Commission Secretary/CEO, Mercy Wambua paid a courtesy call on the Dean of the Law School at Riara University, Dr. Victor Lando, on Wednesday, November 13, 2024.

During the meeting, the Commission expressed its willingness to contribute to the university's academic programs by offering guest lectures on administrative justice, human rights, and constitutional law.

The Commission also expressed interest in collaborating with Riara University's existing legal aid clinic, offering to provide additional legal aid services to the public in collaboration with the legal aid initiative at Riara.

To actualise the partnership, the two institutions have proposed entering into a Memorandum of Understanding (MOU) to formalise the collaboration and outline specific areas of cooperation.

Also present at the meeting was the Commission's Assistant Director in Charge of the Advisory Unit, Dr. Mary Kimari.



OPINION

Disobedience of Court Orders is the Hallmark of Impunity

By Edward Opany

In February 2024, the Judicial Service Commission issued a statement condemning frequent cases of disregard of the rule of law and deployment of force and intimidation to interfere with the execution or observance of court orders citing the case in Nakuru County where assailants had occupied Nakuru War Memorial Hospital defying court orders and the failure by law enforcement officers in ensuring that court orders are obeyed.

The principle of supremacy of the constitution means that the Constitution is supreme. It requires government officials to obey and work within the framework of the law. Put differently, the constitution must govern the actions of everybody and no branch of government or person is above the law.

The principle of supremacy of the constitution is expressly provided for under the Constitution of Kenya, 2010. This is aptly captured under Article 2 which states that the Constitution is supreme and binds all persons and State Organs at both levels of government, including Parliament, legislative assemblies, the executive at both levels of government and the judiciary.

Further, it provides that no person may claim or exercise state authority except as authorised under the Constitution. This is a reinforcement of the sovereignty of the people, which is captured under Article 1 of the Constitution, and which requires the conformity with the Constitution in the exercise of delegated power. The Legislature, the Executive or the Judiciary only exercise delegated powers, and are subordinate to the Constitution. Their actions must always be in conformity with and within the constitutionally allowed parameters. In this regard, any action or decision made by any of the State Organs that is outside the parameters would be null and void.

The principle of separation of powers is one of the pillars of constitutional democracy which seeks to ensure equilibrium of power among the three branches of government by distributing the legal and political authority of government. Its primary purpose is to prevent the combination, in the hands of an individual or group, of the legislative, executive and judicial functions and powers of government. This, it realises by confining the Legislature to legislative powers, the Executive to executive powers and the judicial powers to the Judiciary. Through this, it ensures checks and balances in the execution of governmental power thereby limiting the authority of one of the branches to arrogate to itself the core functions and powers of another branch. Further, the principle is based on the assumption that the exercise of the powers granted would be for public good alone, and that none of the arms is subordinate to the other, but all are co-ordinate, independent and co-equal.

The principle of separation of powers is embedded in the Constitution of Kenya, 2010. This is reflected under Chapter 8 of the Constitution that gives the legislative authority to the Parliament consisting of the National Assembly and the Senate at the National level [Art. 94(1)]; Chapter 9 that gives executive power to the Executive consisting of the President, Deputy President and the Cabinet [Art. 130(1)]; and Chapter 10 that gives judicial authority to the Judiciary consisting of the courts and tribunals established by or under the Constitution [Art. 159(1)]. This constitutional framework envisages distinct functions of the three branches of government, but which are inter-dependent. This framework did not create ranks or superiority of one branch over the others.

This system provides for checks and balances that is self-executing and although the powers of the three branches may inevitably collide with one another, the Constitution does not envisage a system that is adversarial in nature. In this regard, the Constitution envisages some measure of self-restraint that is determined on the necessity of compromise and accommodation of the legitimate interests and demands of the three branches as they interact. This means that they must act with care and comity having regard to the national values and principles in the Constitution.

The judiciary for example should refrain from overreach in dealing with matters that exclusively fall within the jurisdiction of the other branches of government or matters of public interest. Some of the orders given by the court have had the implication of stopping or injuncting other State Organs from performing their constitutional duties or anticipating the decision of the State Organs. Such action may amount to controlling the other State Organs, which ultimately violates the doctrine of separation of powers. In this regard, I wish to point out that whereas the Judiciary has the powers to interpret the Constitution, this should be done within the parameters of the Constitution, bearing the values and principles of governance (Art. 10) and the sovereignty of the people (Art. 1). Further, the Judiciary should not provide a platform for people to derail the implementation of the Constitution through the court process.



OPINION

Parliament (the National Assembly and Senate) have also formed the habit of treating the Judiciary with disdain, as subordinate to them. They have, for instance, disobeyed court orders on a number of occasions and even failed to appear before the courts where they have been sued. These action by Parliament is unacceptable in a democratic and open society, and which amounts to violation of the Constitution.

Parliament must accept the role of the Judiciary in promoting and protecting the rule of law and constitutionalism. They must, for instance, accept that the Judiciary has the ultimate power in equal in the distribution and exercise of state power. In this regard, they should respect the Judiciary and act with restraint in their engagement with the Judiciary. This undoubtedly means that they must comply with the orders of the court or challenge such orders in higher courts where they disagree with them. In addition, they should appear before the courts in case there is a matter before the courts that affect their operations. Failure to do so, would erode the dignity of the courts and public confidence in the Judiciary.

The President should also be reminded of his duty to respect, uphold and safeguard the Constitution [Arts. 3, 131(2)(a)]. He is obligated under Article 129 to perform his duties and exercise his powers in accordance with the Constitution [Arts. 1, 10 & 129]. Indeed, this is his solemn duty to the people of Kenya captured in the oath of office 'to obey, preserve, protect and defend the Constitution' that he took before assuming office.

In the design of the Constitution, the Judiciary occupies a special position in relation to the promotion and protection of the rule of law. This uniqueness flows from the judicial authority which makes the Judiciary as the custodian of the rule of law and bastion of constitutionalism.

In Kenya, this position is reflected by the power of the Judiciary to interpret the Constitution. In particular, the High Court has been mandated under Article 165(3)(d) to hear any question respecting the interpretation of the Constitution.

It is clear from the foregoing that the Judiciary has the final determination on the constitutionality or otherwise of any action or decision taken by anybody under the authority of the Constitution or any law applicable in Kenya. This includes any action or decision by the Executive at both spheres of government, Parliament or County Assemblies.

It is disheartening when Parliament or any other State Organ or Public Officer disobeys an order of the Court or threatens the Court for performing its responsibility under the Constitution. Disobedience of court orders undermines the Constitution, the rule of law, the authority of the Judiciary and democratic governance. In addition, it is a recipe for anarchy, chaos and sets a bad precedent and sends a wrong signal to the people about the democratic culture and administration of justice in the country. It is worth of note that 'if citizens have respect for the work of the courts, their respect for law will survive the shortcomings of every other branch of government; but if they lose their respect for the work of the courts, their respect for law and order will vanish with it.' Put differently, disobedience of court orders is a hallmark of impunity to disobey court orders which is actionable under the Constitution.

Respect for court orders is not a matter of choice or discretion by anybody. All persons irrespective of their status or position must obey court orders however much they may disagree with the orders. Where they feel that the orders are irregular or disagree with them, they have to either comply or move the court to set aside the order.

6TH AAPSCOMS

Commission Participates in the 6th General Assembly of the Association of African Public Service Commissions

The Commission in November 2024, participated in the 6th General Assembly of the Association of African Public Service Commissions (AAPSCOMS), held at Safari Park Hotel in Nairobi and hosted by the Public Service Commission.

Reflecting on the Annual Conference and General Assembly of the African Association of Public Service Commissions (AAPSCOM) theme, "Driving Public Service Delivery Transformation through Innovation and Technology," the Commission Secretary/CEO Ms. Mercy K. Wambua, highlighted the importance of leveraging technology to improve efficiency in public sector service delivery, thereby reducing cases of maladministration.

This esteemed gathering unites delegates from across Africa, all committed to enhancing the quality,



transparency, and accountability of public service delivery. Together, we are strengthening collaboration among African nations to ensure effective, people-centered governance.

The assembly gathered 100 international delegates from AAPSCOMS member Commissions across Africa, alongside 200 local delegates representing Chapter 15 Commissions, independent offices (CCIOs), and various Ministries and State Departments.

ACCESS TO INFORMATION

The Commission Participates in Access to Climate Information Conference



The Commission on 3rd to 5th December, 2024, participated in the Access to Climate Information and Empowering Gender-Inclusive Governance and Resilience for Vulnerable Communities Conference at the Barsilinga Hotel, Isiolo County.

The Conference was held under the theme; "Rethinking Practice, Policy, and Legal Frameworks to Enhance Gender-Inclusive Climate Governance and Resilience for Vulnerable Communities," and highlighted the critical need for inclusive approaches to climate governance.

The focus was on strengthening access to climate information to empower women and marginalised communities, enabling their active participation in climate governance and advocacy, particularly in Isiolo, Samburu, and Marsabit Counties.

At the conference, senior county officers from the Climate Change Departments of the three counties shared insights on their efforts to facilitate access to climate change information for women and vulnerable groups, showcasing its impact in mitigating the challenges of climate change.

Additionally, the counties presented local initiatives aimed at addressing climate-related issues and promoting resilience within their communities.

The Commission was represented at the conference by Mr. Musa Bashir, a Legal Officer from the Isiolo Regional Office, and Ms. Joyce Kihara, Access to Information Officer.

The Conference was organised by the International Development Law Organization (IDLO).



CAPACITY BUILDING AND PUBLIC OUTREACH

Commission Partners with GIZ to Conduct Public Education Outreach in Kisumu and Uasin Gishu Counties



The Commission in partnership with GIZ, Strengthening Good Governance Programme on Tuesday, October 1, 2024 and Thursday, October 3, 2024 sensitised members of the public in Kisumu Ndogo, Langas, Uasin Gishu County and Manyatta B, Kisumu County respectively. The sensitization aimed at creating awareness of the Office of the Ombudsman and its mandates of promoting administrative justice and oversight of Access to Information Act, 2016.

Wednesday, October 2, 2024, participated in a radio program on Radio Nam Lolwe FM where they discussed the Role of the Commission in Enforcing Administrative Justice and Access to Information.

During the open days, the Commission reached 459 people with 23 complaints being lodged with the Commission. Additionally, the Commission reached 3 million people with the radio program.



The public also learnt how to lodge and track complaints via Complaints Management Information System (CMIS).

Ahead of the Ombudsman Open Day in Kisumu the Commission's Senior Legal and Access to Information Officer, Ms. Amelia Otono and Corporate Communications Officer, Mr. Edward Opanyon

PRISON VISITS

The Commission Visits Lang'ata Women's Prison Remand Section



The Commission on Tuesday, December 17, 2024 visited the Lang'ata Women's Prison as part of the prison visits program. The primary objective of the visit was to provide a platform for inmates to voice their concerns and grievances, enabling the Commission to receive and address their complaints effectively. As part of the outreach, the program also focused on educating remandees about the principles of Administrative Justice and Access to Information, empowering them with knowledge of their rights and responsibilities. This initiative highlights the Commission's unwavering commitment to promoting administrative justice and safeguarding human rights within the prison system. During the visit, over 90 inmates were engaged, and several complaints were formally documented for action.

Some of the issues the persons in custody complained to the Commission about include; delay in clearing of cases, unfair treatment e.g in handling transfer requests, power of mercy petitions and probation decisions, unresponsive official conduct, e.g failure to provide appeal numbers, inefficiency, e.g missing files.

Section 51 of the Commission on Administrative Justice Act, 2011 obligates every person in charge of a prison, remand or mental institution where a person is held in custody, or of any institution where a person is a patient or inmate to ensure, that any correspondence from such person to the Commission is transmitted in confidence and any written communication in that regard shall remain sealed notwithstanding the provisions of any other written law.



The team was received by the Prison Officer-in-Charge, Ms. Fairbairn Ombeva.



CAPACITY BUILDING AND PUBLIC OUTREACH



Enhancing Service Delivery through Complaints Management and Access to Information

To improve service delivery in public service through complaints management and facilitate better access to information, the Commission successfully trained 345 officers from various state Ministries, Departments, Agencies, and Counties (MDACs) on complaints handling and ATI.

Public Awareness and Outreach

The Commission continued its proactive efforts to raise public awareness and educate the public on its mandates in a bid to address inadequate awareness and understanding of its mandates. The Commission employed various strategies in taking its services to the grassroots.

a. Legal awareness week

The Commission participated in the annual Legal Awareness Week organized by the Law Society of Kenya (LSK), held on October 28 to November 1, 2024 at the Milimani Law Courts, Nairobi. During the awareness week, the Commission provided legal aid to over 150 members of the public extending its outreach efforts to the citizens.

b. Advancing Alternative Dispute Resolution

The Commission will review the Private Mediation Guidelines with the view of incorporating them into its Alternative Dispute Resolution Manual and Processes.

This was the commitment made by the Commission Secretary/CEO, Ms. Mercy Wambua during the graduation ceremony for the Training of Trainers program on mediation, held at the Strathmore University on Friday, December 6, 2024 where she was the chief guest.

Ms. Wambua highlighted the Ombudsman's pivotal role in advancing ADR mechanisms within the public sector and recommended the Judiciary, under the leadership of Hon. Justice Martha Koome, for launching the Private Mediation Guidelines. These guidelines she noted, will enable agreements from private mediations to be adopted as court orders marking a significant milestone in enhancing access to justice across the country. Ms. Wambua congratulated the graduating cohort, wishing them success as they apply their newly acquired skills to serve the nation.

The Commission is required to work with different public institutions to promote alternative dispute resolution methods in the resolution of complaints relating to public administration.



CAPACITY BUILDING AND PUBLIC OUTREACH

Commission to Offer Technical Support to County Government of Kilifi on Grievance Redress Mechanism



The Commission will offer technical support to the County Government of Kilifi in developing a comprehensive Grievance Redress Mechanism (GRM) and operationalize Access to Information (ATI) laws within the county in a bid to enhance service delivery transparency, accountability, and streamline processes for all county departments.

This was discussed when a team from the Commission's Mombasa Regional Office led by the Senior Complaints, Legal and Access To Information Officer, Ms. Esha Mohamed, held a meeting with officers from all the departments of the county led by the Chief Officer in the Department of Water, Environment, Climate Change and Forestry, Ms. Zamzam Ali, on Tuesday, December 17, 2024. The meeting aimed at discussing the gaps and establishing a unified policy framework for the Grievance Redress Mechanism (GRM) across the county to improve complaint handling.

The Chief Officer Zamzam Ali expressed her strong commitment to this effort recognising the importance of grievance redress on service delivery and good governance and extended the county's appreciation to the Commission for the ongoing support and guidance to Kilifi County over the years

in various policies noting that the collaboration is invaluable, and committed that they will continue working with the Commission to deliver the best possible GRM policy.

Additionally, discussions focused on sensitising county officials and the public on ATI laws to enhance access to public information and promote citizen participation in governance.

The engagement is part of a continuous collaboration through a dedicated working group comprising the Commission and Kilifi County representatives. The working group aims to provide technical guidance, monitor progress, and ensure the sustainability of these mechanisms.



OPINION



Calls to Protect Women and Girls as we Celebrate the International Human Rights Day 2024

By Consolata Ntongai

The International Human Rights Day, recognized on December 10th, serves as an important reminder of our collective obligation to maintain and protect the rights of everyone, but especially the most vulnerable among us - women and girls. This day not only commemorates the adoption of the Universal Declaration of Human Rights but also highlights current injustices around the world. One of these is the rising incidence of gender-based violence (GBV), a violation that crosses borders and societal barriers. Although Articles 27 and 29 of Kenya's Constitution establish the values of equality and freedom from violence, many women and girls continue to face physical, emotional, and sexual abuse. Therefore, as we mark International Human Rights Day 2024, we must reflect on our involvement in preventing violence against women and girls (VAWG) in our communities. Together we can create a safer future for everyone by increasing knowledge, accountability, and action both personally and collectively.

Gender-based violence refers to a variety of forms of abuse, including physical, sexual, emotional, and financial harm directed at someone based on their gender. It affects millions around the world, with a disproportionate impact on women and marginalized populations. The prevalence of GBV emphasizes the importance of societal transformation and raising awareness about its underlying causes, which are frequently the result of systematic injustice and prejudice.

According to the Kenya Demographic and Health Survey (KDHS), the prevalence of child marriage in Kenya is 23% among girls aged 20-24 years, with 21% of girls having undergone female genital mutilation (FGM) in some parts of the country, particularly in Northeastern, Rift Valley, and Eastern Kenya regions.

UN Women Kenya has reported that during the COVID-19 pandemic lockdowns, cases of domestic violence surged by up to 50%, as lockdown measures trapped victims at home with their abusers. This was a significant spike in domestic violence incidents during the pandemic period, with a particular increase in cases involving physical and emotional abuse.

The International Human Rights Day provides a chance to advocate for survivors of gender-based violence and support prevention efforts. Educational campaigns can educate individuals about their rights and create supportive environments where survivors feel safe speaking out and getting help. Engaging communities in debates about consent, respect, and equality is critical to removing the cultural norms that support gender-based violence.

Here are some of the ways we can prevent violence against women and girls (VAWG):

Education and Awareness

Raising awareness is crucial for preventing violence and reducing its impact. Awareness campaigns should highlight women's and girls' rights and demonstrate that all types of violence are detestable.

Awareness creation around GBV includes challenging social norms that engender gender violence. The gender norms and stereotypes that support violence must be addressed and challenged. Positive improvements in attitudes can result from teaching boys and young men about equality, consent, and respect at a young age.



Support Systems and Resources

Accessible Support Services: Preventing more violence requires ensuring victims have access to shelters, legal assistance, and counseling. Organizations that offer these services need our help and support, as well as adequate funding.

Community Support: Women and girls can live in a safer environment if communities are inspired to stand up to violence by organizing support systems and holding offenders accountable.

OPINION

iii. Legislation and Enforcement

Solid Legal Frameworks: Parliament must guarantee that laws safeguarding women and girls are not only in existence but also successfully implemented. This covers legislation prohibiting sexual harassment, domestic abuse, and human trafficking.

Responsibility: Making offenders answerable for their deeds makes it clear that violence will not be accepted. Additionally, we must assist law enforcement in treating these situations with the gravity they merit.

iv. Promoting Gender Equality

Equal Opportunities: Preventing violence requires gender equality. Women and girls are less likely to experience violence when they have equal access to healthcare, work, education, and decision-making authority. All obstacles that restrict women's potential must be eliminated.

v. Men and Boys as Allies

Involve Men and Boys: Men and boys must take an active role in preventing violence against women and girls. Men and boys can play a crucial part in altering society's perceptions by fostering healthy masculinity, fostering respect for women, and pointing out incorrect behavior.

vi. Strengthening the Call to Action

Personal responsibility and volunteering in Local Shelters: Many shelters and support agencies for survivors of gender-based violence rely on volunteers to provide crucial assistance. Volunteering your time can make a big impact on the lives of survivors by providing emotional support, practical assistance, or simply a safe place to turn. Even a few hours per week can have a significant influence.

Donate to Relevant Groups: Financial support is vital for groups combating gender-based violence. Donations support vital services such as counseling, legal assistance, and advocacy initiatives. By contributing, you may help survivors get the resources they need to rebuild their lives and seek justice.

vii. Speaking Out

Speaking out against violence is a simple yet effective strategy to reduce gender-based violence. Whether you're calling out harmful behavior, teaching people the significance of permission, or posting information on social media, your voice may help change attitudes and combat the normalization of violence. By speaking up for what's right, you can inspire others to follow suit.

vii. Social Media Advocacy

Social Media Advocacy: Social media has become an extremely effective instrument for raising awareness, lobbying for change, and disseminating messages of solidarity. Here's how social media advocacy might help avoid gender-based violence:



Raise Awareness: Social media platforms such as Facebook, Twitter, Instagram, and TikTok enable organizations and individuals to publish educational content, data, and statistics on GBV. This information reaches a large audience, raising awareness about the problem and debunking myths that contribute to violence.

Social media allows survivors to share their stories, giving them a voice that would otherwise go unheard. Stories such as these can motivate others to come out, seek help, and recognize their rights, so helping to reduce the stigma associated with GBV.

Hashtags like, #TimesUp, and #StopGBV can spark worldwide conversations on gender-based violence. These hashtags help to rally support, encourage solidarity, and highlight resources and efforts targeted at reducing gender-based violence.

viii. Addressing Specific Challenges:

Cultural and religious barriers: Gender roles and stereotypes are firmly embedded in some cultures and religious contexts, frequently leading to the normalization of violence against women and children. For example, if a woman goes to her religious leader to report her abusive husband, he prays for her and tells her to fast and pray for her husband and learn to be submissive, which is a common occurrence in Kenya, cultural practices of FGM in North Eastern Kenya, and so on, these beliefs may minimize or justify abusive behavior, making it difficult for victims to seek help or for communities to address the issue. To counteract this, educational and awareness campaigns can promote gender equality, challenge harmful customs, and encourage nonviolent religious interpretations.

On the ground, local advocates continue to question deeply ingrained conventions and propose real alternatives to prevent violence. Jane Njeri, a community leader from Central Kenya, has spearheaded successful local campaigns against child marriage and domestic violence. Her initiatives, in partnership with local authorities, have helped to minimize violent incidents while also providing women and girls with resources to seek justice.

While obstacles continue, these success stories demonstrate the importance of community initiative, government commitment, and global solidarity in preventing and combating gender-based violence. As we celebrate these victories, let us continue to work together to create a future free of violence and fear for women and girls.

NB: Men can also be victims of Gender-based violence.

PICTORIAL

Commissioner's Luncheon



PICTORIAL



Members of the Public visiting the Commission's booth during Ombudsman Open Day in Langas, Uasin Gishu County.



The Commission's Complaints, Investigations and Legal Services Department led by the Director, Mrs. Florence Mumbi, poses for a photo to celebrate the Best Public Sector Legal Department of the Year 2024 Award.



The Commission Secretary/CEO, Ms. Mercy Wambua giving the keynote address at the 5th Annual Conference of the Association of Kenya Professional Insurance Agents (AKPIA).

THE OMBUDSMAN NEWSLETTER

**Head Office**

West End Towers, 2nd Floor, Waiyaki way
 P.O. Box 20414- 00200, Nairobi
 Tel: 0202270000 / 0800221349 (Toll Free)
 Email: info@ombudsman.go.ke (for general inquiries)
complain@ombudsman.go.ke (for complaints)

Kisumu Regional Office

Central square Building, 2nd Floor
 Oginga Odinga Street
 P.O. Box 1967 - 40100, Kisumu.
 Tel: 0572022810 / 0731248906
 Email: kisumu@ombudsman.go.ke

Mombasa Regional Office

Posta Pension Towers (GPO), 4th Floor,
 Digo Road - Mombasa City
 P.O. Box 80979 - 80100, Mombasa.
 Tel: 041 2315411/0731 011116
 Email: mombasa@ombudsman.go.ke

Eldoret Regional Office

Kerio Valley Development Authority (KVDA)
 Plaza, 7th Floor Oloo Street
 P.O. Box 10326 - 30100, Eldoret.
 Tel: 020-8106515
 Email: eldoret@ombudsman.go.ke

Nyahururu Regional Office

Laikipia County
 Next to Laikipia West Constituency Offices
 Opposite Nyahururu Referral Hospital
 P.O. BOX 866 - 20300, Nyahururu.
 Tel: 020 2210657
 Email: nyahururu@ombudsman.go.ke

Isiolo Regional Office

County area, along kiwanjani road,
 Near KRA office
 P.O. Box 860 - 60300, Isiolo.
 Tel: 020 2007671
 Email: isiolo@ombudsman.go.ke

Garissa Regional Office

Hosted by National Gender
 and Equality Commission
 KRA Route, Off Ijara-Lamu Road
 P.O. Box 485 - 70100, Garissa.
 Tel: 020 7868338
 Email: garissa@ombudsman.go.ke

Meru Regional Office

Meru Town
 Royal Business Park, 6th Floor
 Njuri Ncheke Street
 P.O. Box 3222 - 60200, Meru.
 Email: meru@ombudsman.go.ke

Makueni Regional Office

Wote Town
 Red Dot Plaza, 4th Floor
 Machakos Road
 P.O. Box 527 - 90300, Makueni.
 Email: makueni@ombudsman.go.ke

Huduma Centres

Wundanyi, Makueni, Meru, Nairobi(GPO), Embu, Nyeri, Nakuru, Kajjado, Kakamega, Kisii, Bungoma & Kwale.

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