

The

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mbudsman

Newsletter



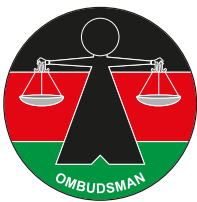
Ogiek Land Rights



AOMA Observer Mission Submits Election Observation Report to IEBC



Our Decades Journey



**Commission on Administrative Justice
(Office of the Ombudsman)**
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THE EDITOR'S NOTE**Taking a Trip Down Memory Lane**

Dear Esteemed Readers,

It is my pleasure to present the eighth issue of the Ombudsman Newsletter on behalf of the editorial team. The editorial team thanks every stakeholder and team member who has contributed to the ongoing development of this publication. Your dedication and team spirit enabled the editorial team to work smoothly throughout the production process.

In this edition, we take a look back at the "10 Years of Service to Citizens in Addressing Maladministration and Access to Information in Kenya" and how we have managed to right administrative wrongs through complaints handling and investigations, as well as our contribution to good governance in Kenya through the issuance of advisories, public interest litigation, and rewarding excellence in public service.

We also bring you news from the DIAR Awards, where the Commission was awarded Best Constitutional Commission and Independent Offices on Diversity, Equality, Inclusion, and Belonging for the third time.

The Commission also hosted a study visit team from the Ombudsman of Malawi, the Kingdom of Eswatini, and the Director of International Relations at the Danish Parliamentary Ombudsman. We also expanded our outreach efforts and held an Ombudsman Open Day, as well as taking part in the 5th People's Dialogue Festival.

In terms of strengthening partnerships and collaborations, the Commission entered into a partnership with URAIA Trust and The African Institute for Development Policy (AFIDEP), which will help the Commission leverage the two organizations' various platforms and activities for awareness creation, promotion of the right to information, and research, among other things.

Have a good time reading.

*Editor*Director -
Public Education,
Advocacy
and Corporate
Communications**Mr. Osman Mohamed**

MESSAGE FROM THE CEO

From Foundations to New Heights: Celebrating One Year of Building Progress

By Mercy K Wambua, OGW, Commission Secretary/CEO

I joined the Commission in March 2022 at a time when the Commission was undertaking a midterm review for its Strategic Plan (2019-2023), the review presented me with an opportunity to appreciate what had already been achieved and where we were at with the implementation of the Strategic Plan. I must appreciate that I found a very supportive Chairperson, Commissioners, Senior Management, and Staff whose support enabled me to settle down fast and get down to work.

My first year at the Commission saw the launch and the rolling out of the public portal of the Complaints Management Information System (CMIS). The system is aimed at strengthening the management of public complaints and enhancing efficiency in public service. The system was developed with the support of GIZ, Strengthening Good Governance Programme. Through the CMIS, we have been able to record over 2,000 cases through the system. The CMIS system allows the public to lodge complaints and track them online to improve complaint management efficiency. The system will also allow Ministries, Departments, and Agencies to submit quarterly reports as a performance contracting indicator on public complaints resolution and to access the Commission's compliance certificate online.

The period saw the Commission conduct eight specific and one systemic investigation: A Systemic Investigation on the Plight of Kenyan Migrant Domestic Workers in Saudi Arabia.

The Commission also conducted spot checks in six county governments including Kisumu, Vihiga, Siaya, Elgeyo Marakwet and Kakamega. The spot check was aimed at assessing the county government against a set of service standard requirements. This was done by employing several evaluation techniques including rapid assessment of service delivery indicators in line with the existing laws and Government policy documents.

The Commission has since shared the reports with the leadership of the said counties and strategies are already in place on how the Commission will build the capacity of the county staff in charge of grievance redress and access to information and will support the counties in establishing an effective complaint handling infrastructure.

In regards to complaints handling under administrative justice, the Commission received and processed 4,102 complaints, out of which 2,563 have been resolved translating to a 62.5 % resolution rate in three quarters.



Furthermore, the Commission received and reviewed 182 access to information applications and processed them, with 4,000 public officers from Ministries, Counties, Departments, and Agencies being trained on effective public complaints management and access to information with the Commission monitoring two important national exercises: National Police Recruitment and the August 2022 general election.

In a bid to take our services to the people, the Commission decentralised its services by launching two regional offices in Nyahururu and Garissa offices which will ensure that more Kenyans in those regions can access our services.

The period also saw increased stakeholder engagements and strengthened partnerships with both existing and new partners. We have signed numerous Memorandum of Understanding and explored new partnerships which will see increased support from the development partners. The Commission is already working with World Bank through the Treasury, other partnerships the Commission entered are with Kituo Cha Sheria, URaia Trust, and African Institute for Development Policy (AFIDEP).

The Commission also won two important awards. The Commission was recognised and scooped the 1st Runner Up under the Public Sector Legal Department Category in the most coveted Legal Awards in Kenya "The Nairobi Legal Awards". The award extended to our Legal Department is a recognition of the good work undertaken by the Commission through the Complaints Investigations & Legal Services Department towards the achievement of our core mandate on public complaints resolution. The Commission emerged as the overall winner in the award category of Best Constitutional Commissions and Independent Offices on Diversity, Equality, Inclusion, and Belonging (DEIB) Category. This was the third time the Commission emerged as the overall winner in the category having been declared winners' in 2019, and 2020.

I commit that the Commission will build on the milestones and the partnerships to continue with the great work of promoting good governance in Kenya.

PARTNERSHIPS

Be Honest and Alert, President Ruto Urges Constitutional and Independent Office Holders



His Excellency Dr. William Samoei Ruto, C.G.H., President of the Republic of Kenya receiving a compendium from the Chairperson of the Forum for Constitutional Commissions and Independent Offices (CC&IOs), Mr. Gerishom Otachi and the Vice Chairperson, Hon Florence Kajuju when he hosted the Commissioners and CEOs of Constitutional Commissions and Holders of Independent Offices at State House, Nairobi.

The Chairperson of the Commission and the Vice Chairperson of the Forum for Constitutional Commissions and Independent Offices (CC&IOs), Hon Florence Kajuju, the Vice Chairperson of the Commission, Mr. Washington Sati, the Commissioner in Charge of Access to Information, Ms. Lucy Ndung'u and the Commission Secretary/CEO, Ms. Mercy Wambua on Tuesday, January 17, 2022, joined the Chairpersons and Commissioners of the Constitutional Commission and Holders of Independent Offices during an engagement meeting with the leadership of Constitutional Commissions and Independent offices hosted by His Excellency Dr. William Samoei Ruto, C.G.H., President of the Republic of Kenya at State House Kenya, Nairobi.

In his remarks at the meeting, H.E. President William Ruto reaffirmed the importance of the Constitutional Commissions and Independent Offices to the country's prosperity, stability, and democracy. He also reaffirmed the importance of their leadership in ensuring their success.

President Ruto further emphasised that since commissions and independent offices are the auditors and watch over the watchmen, the promise of our constitution depends in part on their honesty and alertness.

The purpose of the meeting was to launch a cooperative plan between the Executive, Commissions, and Independent Offices in order to fully implement the Constitution.

Present at the meeting were the Deputy President, HE. Rigathi Gachagua, Prime Cabinet Secretary, Hon. Musalia Mudavadi, Attorney General, Hon. Justin Muturi, Speaker of the National Assembly, Hon. Moses Wetang'ula, Speaker of the Senate, Hon. Amason Kingi, among other leaders.

PARTNERSHIPS

Commission and Uraia Trust Enter into Partnership



The Commission Secretary/ CEO, Ms. Mercy Wambua, and Mr. Paul Wanderi, Director of Programmes, Uraia Trust display the signed MOU between the two institutions.

The Commission on Wednesday, February 15, 2023 signed a memorandum of understanding with Uraia Trust to promote the right to access to information through awareness creation and capacity building. The collaboration is underpinned by the shared interests of the two institutions in promoting human rights through the promotion of access to justice and access to information. The agreement, signed today in Nairobi, provides a working framework for the two institutions to collaborate to achieve their respective mandates.

The memorandum was signed by the Commission Secretary, Ms. Mercy Wambua, and Mr. Paul Wanderi, Director of Programmes, Uraia Trust. It was witnessed by Vice Chairperson, Mr. Washington Sati, the Commissioner in Charge of Access to Information, Ms. Lucy Ndung'u and Civic Education Manager, Uraia Trust, Ms. Mudora Hellen.

The Commission will, where possible, leverage on the existing decentralised structures of Uraia of Civic Educators and County Coordinators for awareness creation, information dissemination, and monitoring public service delivery. The Commission will also be seeking the support of Uraia in the publication and dissemination of key documents for public education, including the Access to Information and Complaints Handling Guidelines.

Uraia Trust on the other hand will work closely with the Commission in planning and implementing programmes on access to justice and access to information and provide a link to Civil Society Organizations (CSOs) to facilitate ease of mobilisation and convening of sensitisation and training on access to justice and access to information.

Commission, AFIDEP Enter into Partnership to Advance Good Governance

The Commission signed a memorandum of understanding with The African Institute for Development Policy (AFIDEP) on Friday, February 17, 2023, to promote good governance.

The agreement, signed in Nairobi, establishes a framework for collaboration between the two institutions.

Ms. Mercy Wambua, Commission Secretary, and Dr. Rose Oronje, Director, Public Policy & Knowledge Translation, and Head of the Kenya Office, signed the MOU.

Partnership and collaboration will include, among other things, capacity and skill enhancement in governance, accountability, and research, research support, and surveys on administrative justice and access to information.



The Commission Secretary, Ms. Mercy Wambua, and Dr. Rose Oronje, Director, Public Policy & Knowledge Translation, and Head of the Kenya Office, The African Institute for Development Policy (AFIDEP) during the signing of an MOU between the two institutions

INTERNATIONAL WOMENS DAY

Together we can forge women's equality. Collectively we can all #EmbraceEquity.

By Elizabeth Musembi



Embracing equity means recognising and valuing the differences between individuals and ensuring that everyone has access to the resources and opportunities needed to thrive, regardless of their race, ethnicity, gender, sexuality, ability, or socioeconomic status. It involves promoting fairness, justice, and inclusivity in all aspects of society, including education, healthcare, housing, employment, and the legal system. To embrace equity, it is essential to acknowledge and address systemic and structural barriers that limit access to opportunities and resources for certain groups. This requires intentional efforts to promote diversity, equity, and inclusion in policies and practices, as well as a commitment to ongoing learning, self-reflection, and accountability.

It also involves recognising and celebrating the diverse perspectives and experiences of individuals and communities. It means valuing and incorporating diverse voices and perspectives in decision-making processes and actively working to dismantle oppressive systems and structures that perpetuate inequality. Overall, embracing equity is about creating a more just and inclusive society where everyone has the opportunity to reach their full potential.

Embracing equity in relation to women's rights means recognising and addressing the systemic barriers and injustices that limit women's access to resources, opportunities, and decision-making power. It also means recognizing and addressing the historical and systemic barriers that have prevented women from fully realising their rights and accessing the resources and opportunities they need to thrive. This includes addressing gender discrimination, violence against women, and unequal pay and employment opportunities.

It is important to engage women and girls in decision-making processes, and to ensure that their voices are heard and their needs are considered in all aspects of society.

This includes promoting women's leadership, participation in politics, and representation in all sectors of society. To embrace equity in relation to women's rights, it is important to promote policies and practices that support gender equality, such as equal access to education, healthcare, and political representation and to working towards a culture of respect, equality, and justice for all women, regardless of their race, ethnicity, or socio-economic status.

There are various legal instruments that advocate for women's rights in Kenya which include both domestic, regional and international instruments:

- i. *The Constitution of Kenya.*
- ii. *The African Charter on Human and Peoples' Rights (ACHPR).*
- iii. *Maputo Protocol on Women's Rights.*
- iv. *The Convention on the Elimination of all forms of Discrimination Against Women.*
- v. *The Universal Declaration of Human Rights (UDHR), 1948.*
- vi. *The International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966.*

Women's rights are human rights and protecting women's rights makes the world a better place. According to the UN, **"gender equality and the empowerment of women and girls is not just a goal in itself, but a key to sustainable development, economic growth, and peace and security"**.



Elizabeth is a human rights lawyer at the Commission, an Advocate of the High Court of Kenya and a mediator.

SPECIAL RIGHTS

Commission Hosts Stakeholders' Consultative Forum on the Implementation of the African Court of Human and Peoples' Rights Decision Regarding the Ogiek Community

The Commission in collaboration with the Ogiek People's Development Program on Wednesday, January 18, 2022, hosted a Stakeholders' Consultative Forum on the Implementation of the African Court of Human and Peoples' Rights Decision Regarding the Ogiek Community at the Sarova Panafric Hotel, Nairobi.

Speaking during the event, the Commission Chairperson, Hon Florence Kajuju cited a letter from the Ogiek community dated 7th September 2022, requesting a meeting with the Commission. On 26th of May 2017, the African Court on Human and People's rights, delivered a judgement in favor of Mau Ogiek community in the case of African Commission on Human and People's Rights.

The court found that the Republic of Kenya, through the forced eviction of the Mau Ogiek, violated the Ogiek's rights to property, natural resources, culture, freedom of religion, development and non-discrimination. The court also ordered the government to take appropriate measures to have a remedy to the violations.

Hon. Kajuju noted that despite the African Court on Human and Peoples' Rights issuing a repatriation judgment in June 2022 the government had not put in place a roadmap of implementing the judgment.

"The government of Kenya has a duty to inform the Commission on how they are going to compensate the rights of the Ogiek community," she maintained.

In June 2022, the African Court on Human and Peoples' Rights issued a reparation judgment in favour of the Ogiek Community in the African Commission on Human and Peoples' Rights vs the Republic of Kenya; application No.006/2012.

The judgment outlined in detail the steps that the Government of Kenya must take to compensate the Ogiek for the various human rights violations suffered. To recognize, respect, protect and consult the Ogiek in accordance with their traditions and customs, on all matters concerning development, conservation, or investment in their lands.

The court ordered that the Government of Kenya;

1. Allocate title deeds to the Ogiek community for their ancestral lands in Mau Forest.
2. Pay compensation to the community of KES 57,850,000 in material damages and KES 100,000,000 in moral damages.
3. Take all necessary measures, in consultation with the Ogiek community and its representatives, to identify, delimit and grant collective land title to the community and, by law, assure them of unhindered use and enjoyment of their land.
4. To recognize, respect, protect and consult the Ogiek in accordance with their traditions and customs, on all matters concerning development, conservation, or investment in their lands.
5. Establish a Community Development Fund within 12 months, in which all funds ordered as compensation, in this case, will be deposited.



Hon. Florence Kajuju with leaders of the Ogiek Community

In line with its mandate of enforcing administrative justice in Kenya, the Commission convened a stakeholders' consultative forum with the relevant government ministries and agencies to develop a roadmap for implementing the ruling.

Present at the forum were the Commission Chairperson, Hon. Florence Kajuju, Vice Chairperson, Mr. Washington Sati, the Commissioner in Charge of Access to Information, Ms. Lucy Ndung'u and CEO, Ms. Mercy Wambua. Other institutions represented included the National Land Commission, the Office of the Attorney General, Ministry of Interior, the Ogiek People's Development Programme, the Kenya National Commission on Human Rights, Katiba Institute, National Gender, and Equality Commission among others.

FEATURE: OUR DECADES JOURNEY

A decade of Service to Citizens in addressing Maladministration and Access to information in Kenya

By Edward Opany

I Suffered for Eight Years

During the production of the Commission on Administrative Justice's second documentary in 2022, I met Rebecca Zakayo, 86, in Mikindani estate in Mombasa county, who could finally enjoy the fresh air and clean environment after suffering for eight years. By the time Ms. Rebecca sought help from the Commission, her sons were considering relocating her from the estate because the stench and the pollution from an illegal dumpsite adjacent to her house was unbearable and had already harmed her health.

Rebecca Zakayo filed a complaint with the Commission on July 26, 2018, about the illegal dumping and disposal of hazardous waste on Plot No. 272, which is located in a residential area. Rebecca stated that the complaint had been unresolved for eight years, despite the fact that it had been reported to the National Environmental Management Authority (NEMA), the Mombasa Office, the then Mombasa Municipal Council, and the Ministry of Environment, among other agencies.

The Commission's intervention resulted in the closure of the illegal dumpsite and the restoration of the area to a habitable state. Ms. Rebecca admits that she suffered and, at her age, had respiratory-related complications as a result of the stench from the dumpsite, which forced some of her neighbors, particularly those with small children, to relocate.

Ms. Rebecca is grateful that the Commission intervened and that the residents of Mikindani can now enjoy a safe and clean environment, despite the struggles and suffering she endured for eight years.



KenGen

Energy for the nation

My Business Closed Down

In 2013, he was hired by KENGEN and assigned to the Human Resource-Training School, Safety, and Liaison Departments at Olkaria Geothermal Power Station. During staff training programs, team building, community meetings, and other company events, he was in charge of photography.

Everything went swimmingly as the company made prompt payments for the services until 2015, when the company began delaying the settlement of outstanding payments. However, because he had a contract with the company, he continued to offer his services in the hope of being paid until April 2017, when he finally stopped when no money was being deposited into his account.

Attempts to have the company pay the outstanding amount owed were futile, subjecting him to difficult economic times. Mr. Onyancha described how it became difficult to support his family and how his business had to close because he couldn't afford to pay rent. His children were also forced to drop out of school because he could not afford to pay their tuition.

"I faced economic hardship as a result of the company's excessive delay in settling my dues; my children were forced to stay at home, and I was forced to close my business; at the time, I owed the landlord six months' rent." Mr. Onyancha stated.

FEATURE: OUR DECADES JOURNEY

My Business Closed Down

Mr. Onyancha's pain was palpable throughout his story as he described how he could no longer support his family and afford the necessities, almost driving him to depression because he had borrowed to pay his bills and even close family members who had supported him were now tired and could no longer do so.

Mr. Onyancha waited for the payment for five years, and when it became clear that he would not receive his dues, he sought the Commission's intervention, which resulted in the payment of his dues totaling Ksh 2.2 million in two installments. He admits that the Commission's intervention restored his dignity, but he is disappointed that the delay in paying his dues resulted in the closure of his business and the death of his photography passion.

He was also disappointed that his children had to stay home longer than others, delaying their graduation. Mr. Onyancha started a poultry farm to sustain himself, and that was his main focus when we interacted with him.

I got my Land Back

Land governance problems remain one of the most complained issues to the Commission. One such case was resolved in September 2019 when property worth approximately Sh100 million that had been fraudulently transferred was returned to the owner.

This is the story of Cecilia Mbugua, a widow from Kiambu. Her story depicts the journey of twists and turns that land owners travel in a bid to secure their property.

Ms. Mbugua had written to the County Government of Kiambu in 2013 seeking approval to develop two plots within Thika Municipality. The general elections had been held that same year, ushering in the devolved government. Now, one of the objects of the devolved government is to promote social and economic development and the provision of proximate, easily accessible services throughout Kenya. However, what followed in the case of Ms. Mbugua is not only ironic but also a negation of this very object.

The approval was granted, and then revoked. The reversal, the county government told her, was because the land belonged to Jua Kali Association. Ms. Mbugua moved to court to challenge the decision and the court ruled in her favour. The court directed the county government to approve the development plan for the properties.

But in yet another attempt to frustrate her, the county government forwarded the matter to the National Land Commission (NLC) for investigations soon after the appeal period for the ruling had expired. The property was listed in a gazette notice by NLC stating the interested party as the County Government of Kiambu. The county government later recalled the case claiming that they did not have any issue with the property.

Meanwhile, Ms. Mbugua received a telephone call from the governor's office informing her that the governor wanted to see her in respect to the planned development. A meeting took place in which Ms. Mbugua says the governor informed her that NLC had no issue with the plots and that the county government would approve her development plan. The approval was to be conditional: she would have to surrender two properties - Thika Municipality/BlockXI/877 and Thika Municipality/BlockXI/878. She gave in to pressure and got the approval. The transfers were effected. The two plots were registered under Esther Nyatu Wamuyu. It is at this point, in March 2019, that she filed a complaint with the Commission.

The investigation by the Commission confirmed her plots were indeed transferred illegally, and that the Governor of Kiambu County had had a hand in it. On the basis of the findings of the Commission, the Thika Land Registrar issued a 30-day notice to all the interested parties in line with the provisions of the Land Registered Act, 2012. The notice period expired without any objection thus the Registrar reverted ownership of the plots to Cecilia Mbugua. Ms. Mbugua received her title documents at the Commission Offices on 26th September 2019.



Ms. Cecilia Mbugua when she received her title deeds from the Commission Chairperson, Hon Florence Kajuju at the Commission's Office

FEATURE: OUR DECADES JOURNEY

My Dreams Crushed

The case of Wycliffe Thirikwa was one of the landmark cases handled by the Commission under the Access to Information Act, 2016. After eight years, the Commission ordered the Kenya National Examination Council (KNEC) to release his Kenya Certificate of Secondary Education (KCSE).

Mr. Wycliffe was in pain as he described how he ended up in the situation that robbed him of eight years of productive life and crushed his dreams of furthering his education outside the country. He also worked hard to persuade anyone that he had ever sat for KCSE exams and that he couldn't easily find work or further his education because his results were pending and the certificate couldn't be released.

According to him, he was named Wycliff Thirikwa Wanjohi at birth, but he sat his Kenya Certificate of Primary Education (KCPE) examination in 2007 under the name Eliud Maina Kinyua due to his mother's decision to change his name when he was young. After finishing his KCPE exams, he enrolled in St. Joseph's Simabira Secondary School for secondary education. However, following his father's intervention, he changed his name back to Wycliff Thirikwa Wanjohi midway through high school via an affidavit in 2010.

Thirikwa obtained a birth certificate under the name Wycliff Thirikwa Wanjohi in 2010 and sat for his KCSE exams under the same name in 2012. However, this was only the beginning of his problems when KNEC withheld his KCSE exams because the name on his KCPE certificate differed from the name he used when registering for KCSE.

After failing to persuade KNEC to release his results, Thirikwa sought the Commission's intervention by lodging a complaint at the Commission's desk at the Huduma Center in Nyeri in March 2018 to have KNEC release his results, claiming that his name change was caused by a lack of cordial relationship between his biological parents and that, as a child, he had no control over the issue.



On March 19, 2018, the Commission met with KNEC's Chief Executive Officer (CEO) to discuss the matter. In its response to the Commission on April 5, 2018, the Council stated that KCSE regulations require candidates to register for the examination using their KCPE certificates rather than birth certificates, and that St. Joseph's Simabira Secondary School registered Wanjohi Wycliff Thirikwa using Kinyua Eliud Maina's KCPE certificate, which was in violation of KCSE registration regulations.

As a result, the KCSE results were pending, and the principal was informed in writing of the decision, and was required to present the KCPE certificate for Wycliff Thirikwa Wanjohi rather than Kinyua Eliud Maina to be submitted to KNEC. The Council also stated that the results would not be released until the KCPE results for Wycliff Thirikwa Wanjohi were presented to them.

To have the matter addressed, the Commission held a meeting with KNEC on 1st October 2019 and each party was tasked with obligations to fulfil to help in resolving the stalemate.

However, KNEC has made no indications addressing the issue since 2019. As a result, the Commission was forced to exercise its authority and issue a determination under the Access to Information Act on August 16, 2021. The Commission's recommendations were as follows:

- i. That the Kenya National Examinations Council do herein forthwith and without delay issue to the Mr. Thirikwa his 2012 KCSE Certificate as duly registered for under the names Wycliffe Thirikwa Wanjohi, and;
- ii. Any party aggrieved with the order has the liberty to appeal to the High Court under Section 23(3) of the Access to Information Act, 2016 within twenty-one days from the date of receipt of the determination.

Consequently, vide the letter of 15th September 2021, KNEC agreed to release the results for and issue the certificate in the name of Wycliff Thirikwa Wanjohi. Wycliffe is relieved to finally have the results because it provides him with the closure he has sought for the past eight years. He regrets that other people's decisions and the exam council's refusal to listen to his plea resulted in him wasting eight years of his productive years. He is relieved that the results have enabled him to determine his next course of action.

FEATURE: OUR DECADES JOURNEY

These are just a few of the hundreds of thousands of complaints addressed by the Commission on Administrative Justice over the last decade. In many countries, the Commission is known as the Ombudsman's office. In Kenya, the concept of an ombudsman is new. Kenya, like many African countries, has accepted this concept as an alternative mechanism for protecting ordinary citizens from powerful state bureaucracies.

The ombudsman was established in Sweden nearly 200 years ago. It then spread to Finland about a century ago, and then to the rest of Europe. It eventually spread to other parts of the world, including Asia, the Americas, and Africa. Today, the ombudsman's office can be found in 75% of African countries. It has evolved into a critical component of good governance in terms of promoting quality public service and administrative justice.

While the mandate and scope of African institutions vary by country, the Ombudsman is rapidly spreading across the continent as a tool for enforcing accountability. Many countries around the world have adopted the Scandinavian ombudsman model. Many African countries, however, have adopted a hybrid of the model to suit their unique political, economic, and social circumstances. Unique circumstances bring about unique experiences, challenges, and responses.

The first attempt to establish the office in Kenya was way back in 1971 through the recommendations of the now famous Ndegwa Commission. The motive was to ensure that civil servants do not go against the law. However, the proposal never saw the light of day, until the enactment of the Constitution of Kenya 2010. This was followed by the enactment of the Commission on Administrative Justice Act 2011 which established the office following the restructuring of the Kenya National Human Rights and Equality Commission.

The office was primarily borne out of the need to address poor service delivery. In particular, service delivery in public institutions was characterized by undue delays, abuse of power, discourtesy, inefficiency, corruption, ineptitude, manifest injustice, and misbehavior among others.

The cost of maladministration and related unethical practices in public service places an enormous burden on the public. Dangerous delays for example in emergencies or negligence in public hospitals or by traffic police in apprehending traffic offenders have made innocent Kenyans pay with their own lives.

The Ombudsman is the designated neutral facilitator who provides confidential and impartial assistance in resolving public service grievances and disputes. The Ombudsman considers complaints in an independent and objective manner, with the goal of correcting injustices caused to an individual as a result of maladministration. He improves public services by ensuring that systemic flaws are identified and corrected.

Since its inception in November 2021, the Kenyan Ombudsman has prioritised public complaints, particularly those from the most vulnerable members of the community. The office's mandate is carried out through investigations, public inquiries, and adjudications. The constitution empowers the ombudsman to conduct investigations in the same way that police do: conduct searches, seize documents, and hold public inquiries. In 2016, the Commission was also given an additional mandate to oversee the implementation of the Access to Information Act, 2016.

There are currently over 40 Ombudsman institutions in Africa. The proliferation of Ombudsman institutions across the continent demonstrates African governments' commitment to embracing democracy and good governance and assisting citizens seeking redress against maladministration in obtaining a reasonable solution. Interactions with the ombudsman should result in quality service, accountable governance and leadership, general improvement in public institutions, and public service integrity.

The work of the Ombudsman necessitates the ability to handle complaints and conduct investigations effectively, as well as the ability to mediate, persuade, cajole, and otherwise seek a fair and reasonable solution to an administrative problem.

FEATURE: OUR DECADES JOURNEY

“Ombudsman institutions in Africa should be protected in law, empowered with resources and supported by governments and the public to succeed. These institutions need skills based programmes tailor-made to their specific needs as well as an enabling environment, structures and resources and goodwill to effectively deliver administrative justice and transform public administration to beat odds that the disadvantaged face in accessing public service in the continent.”

Prof Victor Ayeni, Governance Expert.

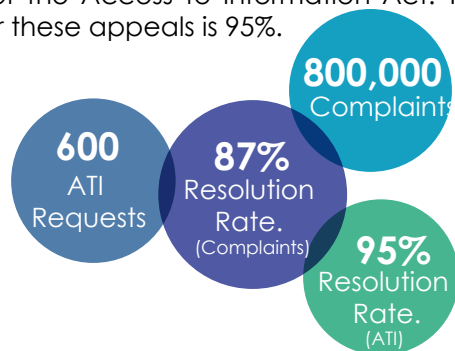


KEY MILESTONES

Complaints Handling

Since its inception in November 2011, the Commission has handled 800,000 complaints about maladministration, with an 87% resolution rate.

The complaints cover a wide range of topics, including, among others, delay, administrative injustice, unfair treatment, unresponsive official conduct, abuse of power, inaction, unlawful official conduct, inefficiency, and discourtesy. Since 2017, the Commission has reviewed over 600 denials of requests against Ministries, Departments, Agencies, Counties, and private entities as part of its oversight and enforcement of the Access to Information Act. The success rate for these appeals is 95%.



Capacity Building of Public Officers

The Commission has contributed to the transformation of public services by building the capacity of officers from various MDCAs. Over 30,000 public officers have been trained by the Commission to improve capacity and service delivery, and it has assisted public institutions in establishing complaints handling infrastructure. As a result, over 1 million complaints have been handled by public institutions in the last five years.

The Commission's efforts in institutionalizing service delivery charters have also resulted in increased accountability and transparency in the public sector. The service charters have made it possible for the public to request services from public institutions.

Advisory Opinions

The Commission has used soft power to sway policy, legal, and administrative decisions in government. In many cases, advisory opinions have influenced policy and legal interventions, resulting in better governance. Over 100 advisory opinions have been issued by the Commission. The Commission is guided by one or more of the following considerations when issuing an advisory: a) Whether the matter is of public interest; b) Whether it has a significant impact on public administration; c) Whether it has serious policy implications; and/or d) Whether it is relevant to the Commission's mandate.

Public Interest litigation

One of the Commission's strategies for advancing administrative justice and constitutionalism is public interest litigation. The significance of public interest litigation stems from the fact that judicial pronouncements are binding, coercive, and conclusive. As such, it is complementary to the Commission's other strategies for enforcing administrative justice and constitutionalism. In this regard, the Commission has participated in 30 matters, greatly contributing to the rule of law through the enunciation of novel jurisprudence and the restatement of national values and governance principles. Nairobi Petition No. 622 of 2014 involved the Commission on Administrative Justice vs. the Insurance Regulatory Authority and the Attorney-General.

The Commission successfully petitioned the court to declare the Insurance Regulatory Authority's Motor Insurance Underwriting Guidelines, issued on November 20, 2009, unconstitutional. The Guidelines outlined a diverse and broad-ranging directive for setting premium prices for motor insurance. The court determined that the Guidelines lacked legal force because they were issued without jurisdiction and were never published.



FEATURE: OUR DECADES JOURNEY

Rewarding excellence in public service (Huduma Ombudsman Award)

Huduma Ombudsman Award is one of the approaches the Commission has adopted to enhance accountability and responsiveness in public service as well as promote compliance with administrative justice standards. The Award is aimed at recognising and rewarding excellence in public service delivery. The broad objective of the Award is to reward contributions of a public officer or institution that lead to a more effective, accountable and responsive public service.

The Award is an incentive for those who have - in their service to the public – aligned themselves to the values and objectives of the Constitution. It also augments efforts designed to restore public trust and confidence in public institutions. The Award is also based on the thinking that rewarding individuals enhances their contribution to organisations as there is a positive correlation between reward and recognition, and performance. Recognising hard work, dedication and innovation in public service will go a long way in motivating public officers and consequently, enhancing service delivery in the public sector.

The Commission has held three editions of the award ceremony with the fourth edition expected to be held in mid-2023. Through the award, the Commission has in the three editions awarded 18 outstanding individuals and 11 institutions.



Looking ahead

Despite the accomplishments, the journey has not been without challenges, such as budgetary constraints, an entrenched culture of impunity in the public sector, and an insufficient enforcement mechanism. Because the Commission's recommendations under the CAJ Act are non-binding, their implementation is contingent on the agencies' goodwill.

Investigations

The Commission investigated various matters that impede public administration. The investigations were prompted by either complaints made by members of the public or the Commission's own initiative. The investigations were either systemic or specific. Whereas the systemic investigations were conducted on issues related to inherent weaknesses in structures and procedures of public institutions, specific investigations focused on improper conduct of public officers.



In order to facilitate access, the Commission has not decentralized its services to all parts of the country. Due to the aforementioned insufficient resource allocation, the Commission's services can only be substantively accessed in Nairobi, Mombasa, Kisumu, Eldoret, Isiolo, Nyahururu, and Garissa. This undermines the Commission's efforts to combat impunity throughout the country.

Moving forward, the Commission will leverage technology to synchronize complaint handling processes and knowledge management, building on previous successes. Strengthen the legal framework by proposing amendments to the Commission on Administrative Justice Act, 2011, to make the Commission's recommendations legally binding, and by completing the development of regulations needed to fully operationalize the Access to Information Act.

Resources allowing, the Commission will devolve Commission services to all counties and increase education and advocacy to raise awareness about the Commission's mandate, particularly the new jurisdiction on access to information.

COURTESY CALLS

The Commission Hosts Ambassador of Ukraine to Kenya, HE Mr. Andrii Pravednyk



CAJ Chairperson, Commissioners and various heads of departments and division pose for a photo with the Ambassador of Ukraine to Kenya, HE Mr. Andrii Pravednyk, when he paid a courtesy call on the Commission

On Wednesday, February 2023, the Commission hosted the Ambassador of Ukraine to Kenya, HE Mr. Andri Pravednyk, who paid a courtesy call on the Commission.

The meeting aimed to discuss issues related to best practices in human rights protection in Kenya, with a focus on lessons learned from the Commission's experiences in safeguarding human rights.

Hon Florence Kajuju, Chairperson of the Commission, thanked Mr. Pravednyk and his team for their visit, as well as Ukraine and Kenya for their continued support and cooperation. Hon Kajuju expressed sympathy for the situation and human rights violations occurring in warring Ukraine, noting that the Office of the Ombudsman, Kenya, and its regional and international affiliations are ready to assist Ukraine in upholding human rights as needed.

The team was taken through the mandate, the Commission's successes and challenges, as well as the Commission's involvement at the regional and international levels. Mr. Pravednyk noted that the Commission's mandate was largely similar to that of the Ukrainian Parliament Commissioner for Human Rights, adding that, unlike Kenya's Office of the

Ombudsman, which was responsible for safeguarding all forms of human rights within the public sector, Ukraine's Commissioner of Human Rights had several commissioners handling different aspects of human rights, such as the Children Rights Ombudsman and the Business Ombudsman.

He also thanked the Kenyan government and people for their support to the Ukrainian government and people thus far. In terms of collaboration and cooperation, Mr. Pravednyk agreed to introduce the Kenyan Ombudsman to Ukraine's Commissioner for Human Rights in order for both institutions to explore areas of collaboration. He also congratulated the Commission on its ongoing contribution to effective public service delivery and pledged his support for the fourth Huduma Ombudsman Award.

Present during the meeting were the Commission Vice Chairperson, Mr. Washington Sati, the Commissioner in Charge of Access to Information, Ms. Lucy Ndung'u, the Commission Secretary, Ms. Mercy Wambua, and various heads of departments and units. Mr. Illa Kuzandas and Ms. Judy Chepkorir from the Ministry of Foreign and Diaspora Affairs accompanied the Ambassador.

COMPLAINTS HANDLING MODEL POLICY DEVELOPMENT

The Commission Hosts an External validation workshop on the Complaints Handling Model Policy for County Governments

The Commission in collaboration with the National Treasury under the Financing Locally Led Climate Action Program (FLLoCA) which is funded by the World Bank Group (DANIDA, SWEDEN, the Kingdom of Netherlands, The German Cooperation (KFW)) in February hosted a two-day external validation workshop for the Complaints Handling Model Policy for County Governments.

The model policy has been developed in accordance with Section 8 of the Commission on Administrative Justice Act of 2011, which requires the Commission to assist national and county governments in establishing and institutionalizing complaint handling infrastructure, also known as grievance redress mechanisms.

The FLLoCA program envisions synergies and cooperation in the implementation of its activities. To that end, the Commission is also collaborating with the Ethics and Anti-Corruption Commission in validating the FLLoCA program's anti-corruption guidelines. The two documents will serve as a resource for the FLLoCA program's grievance resolution and anti-corruption efforts.

The purpose of the Complaints Handling Model Policy is to provide a framework for complaint-handling processes in County Governments in order to ensure responsive service delivery.

The policy's goals are to provide an integrated framework for complaints resolution in County Governments, to strengthen the legal and institutional structures for effective internal and external complaint handling, to ensure learning from complaints management for continuous improvement of County Government services, and to promote an institutional culture that values complaints as citizen feedback for better service delivery.

The Commission Vice Chairperson, Mr. Washington Sati, who opened the workshop which took place at the Westwood Hotel in Nairobi, emphasised the importance of putting in place structures and mechanisms to receive and resolve citizens' complaints arising from service failures in public institutions. He added that for the policy to succeed, the Commission will work closely with county governments.

Participants included officers from the National and County Governments, as well as officers from the Complaints Handling Units/Desk, Climate Change Units, County Attorneys, Climate Officers, National Police, Public Service, the County Executive, County Assemblies, the Council of Governors, and Civil Society Organizations, among others.



The Commission Vice Chairperson, Mr. Washington Sati, making the key note address during the external validation workshop for the Complaints Handling Model Policy for County Governments.

PUBLIC AWARENESS AND EDUCATION

OMBUDSMAN OPEN DAY

The Commission Holds Open Day in Riruta, Dagoretti Sub-County



Members of the public at the Commission's booth during the Ombudsman Open Day

As part of its strategy of investing more time into taking its services to the grassroots to address insufficient levels of public awareness and ensure good governance at the grassroots, the Commission on Friday, February 10, 2023, held an open day in Riruta, Dagoretti Sub-county in Nairobi County.

The Open Day presented an opportunity for the Commission to create awareness, educate the public on its mandate of addressing maladministration and enforcing the right of access to information, and for the public to lodge complaints.

The Commission is currently implementing the Strategic Plan (2019–2023). One of the key strategic objectives in the plan is public education, awareness, and visibility, with enhancing awareness and understanding of the Commission's mandate arising from the strategic theme. One of the challenges with which the Commission is still grappling is insufficient public education on its mandate, hence the need to put in place strategies and activities aimed at enhancing awareness and understanding of the commission's mandate.

During the open day, the Commission reached three hundred and fifty people with three complaints and seven referrals being made.



Corporate Communications Officer, Mr. Edward Opany distributing branded reflector jackets to Bobaboda operators



Complaint Officer, Ms. Elizabeth Fundi (L) with Access to Information Officer, Ms. Maryanne Wanjiru (R) engaging with the public who sought legal advice during the open day

PUBLIC AWARENESS AND EDUCATION

THE PEOPLES' DIALOGUE FESTIVAL

The Commission Participates in the 5th People's Dialogue Festival



The Commission took part in the fifth People's Dialogue Festival held from 8th to 11th March at the Nairobi National Museum. The event organised by the Centre for Multiparty Democracy (CMD) was under the overarching theme "Competition and Collaboration in Democratic Development" and was aimed at providing a platform for political parties and other actors both state and non-state actors to be in political dialogue on governance reforms and socio-economic issues and to safeguard democratic gains.

The Commission leveraged the event to conduct public awareness and education on its mandate of enforcing administrative justice and oversight and enforcement of the access to information law.

The Commission also used the event to showcase the work it has done in the last decade in the promotion of good governance in Kenya.

During the event, the Commission interacted with over four hundred people who visited the stand and distributed various Information Education and Communication (IEC) materials and other publications with two complaints being lodged on-site.

The Commission also took part during the official opening ceremony where Ms. Edith Imunde, Senior Research Mobilisation Officer, and Ms. Eunice Nyabio, a Legal Officer, represented the Commission. The Chief Guest during the Official Opening Ceremony was Hon. Moses Wetangula, the Speaker of the National Assembly.



The Commission staff engaging with the public at The Peoples Dialogue Festival at the Nairobi National Museum.

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(Teleposta Towers)

Visit our offices in:

Nairobi	2 nd Floor, West End Towers Opposite Aga Khan High School off Waiyaki Way – Westlands)
Kisumu	2 nd Floor, Central Square Building, Oginga Odinga Street)
Mombasa	Mombasa Trade Centre, 2 nd Floor, North Wing, Nkrumah Road (Former Am-balal House)
Eldoret	7 th Floor, Kerio Valley Development Authority (KVDA) Plaza, Oloo Street)
Nyahururu	Next to Laikipia West Constituency Offices
Isiolo	County Estate along Kiwanjani Road
Garissa	Hosted by National Gender and Equality Commission, Off Lamu Road)

Using the online Complaint Management Information System(CMSI) cmis.ombudsman.go.ke

For more information about the Commission and it's services visit our website:

www.ombudsman.go.ke



www.ombudsman.go.ke



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SUCCESS STORIES

Personal Information Corrected

A former student of Rift Valley Technical Institute can finally apply for job opportunities after the Kenya National Examination Council (KNEC) corrected his name in a diploma certificate following the intervention of the Commission in a case of correction of personal information under the access to information law.

According to Geoffrey Kiplangat, he pursued a Diploma in Information Technology at the Rift Valley Technical Training Institute. Upon completion, he sat for his KNEC exams in 2021. In November 2022, he received his transcripts and noted that there was an erroneous entry in his name prompting him to seek the intervention of KNEC to have the error rectified for the name to read Korir. G. Kiplangat as opposed to Korir. C. Kiplangat. KNEC failed to correct the information denying him a chance to have his certificate in the said course to be released. His predicament impelled him to complain to the Commission under the access to information law.

The Commission took up the matter with KNEC leading to the correction of the details in the results slip and subsequent issuance of the Diploma certificate.



Former Police Officer Receive Retirement Dues

A former police officer can finally enjoy his retirement following the processing of his retirement benefits by the Pensions Department.

Mr. Johana Kigen sought the intervention of the Commission following the inordinate delay by the Pensions Department to process his pension dues. According to him, he retired from the National Police Service (NPS) in 2021 and the NPS duly computed dues owed to him and forwarded them to the Pensions Department for payment.

The Commission took up the matter with the Pensions Department leading to the processing of his pension benefits and his monthly pension.



Citizenship Granted After Eight Years

The Department of Immigration finally issued Kenyan citizenship following the intervention of the Commission in a case of inordinate delay.

According to Ms. Patel, she applied for Kenyan citizenship in September 2016 by virtue of being married to a Kenyan and submitted all the required documents. She made several follow-ups with the Department of Immigration Services but nothing was forthcoming. In 2019, after a three-year wait, she complained to the Commission.

On January 24, 2019, the Commission initiated an inquiry with the Director General of Immigration Services. The department did not respond to the inquiry, prompting the Commission to refer the matter to the Principal Secretary of Interior and Citizen Services. In a letter dated March 22, 2022, the Principal Secretary raised the issue with the Director General of Immigration Services, requesting that the matter be considered and definitively resolved, and that the Commission and his office be kept up to date on developments by March 31, 2022. On May 10, 2022, the department responded to the Commission, acknowledging that the application was being processed and assuring the Commission that the application would be completed in due course.

Ms. Patel confirmed, in a phone call to the Commission on February 9, 2023, that the matter had been successfully resolved and that she had been granted Kenyan citizenship.

CONTINENTAL RELATIONS

The Commission Play Host to Malawian Ombudsman Delegation

The Commission on Monday, February 27, 2023, hosted a delegation from the Office of the Ombudsman, Malawi led by the Ombudsman, Hon Grace Malera. The team which was in Kenya on a study visit was taken through the structure, function, and key milestones of the Commission on Administrative Justice since its establishment.

The team in the company of the Vice Chairperson of the Commission and the Commissioner in Charge of Access to Information later had an engagement with the National Assembly's Justice and Legal Affairs Committee (JLAC), chaired by Hon. Murugara George Gitonga. The discussion focused on the legal framework for the Commission on Administrative Justice, the collaboration between the Office of the Ombudsman in Kenya and parliament, budgeting, and National Assembly oversight of the Ombudsman's office. At NGECC, the team wanted to understand how the Commission collaborates and works with the Office of the Ombudsman in Kenya and learn more about its mandate and functions.

Hon Grace Malera was accompanied during the study visit by Ms. Chapiliro Mangulama, Director of Legal Services, and Mr. Alinafe Malunga, Executive Secretary.



Mr. Osman Mohammed, Director in Charge of Public Education, Advocacy, and Corporate Communications, with the Ombudsman of Malawi, Hon Grace Malera, and her team during a tour of the Commission's offices at the Headquarters.



CAJ Vice Chairperson, Mr. Washington Sati, the Commissioner in Charge of Access to information Ms. Lucy Ndungu, and various heads of departments and division poses for a photo with the Ombudsman of Malawi, Hon Grace Malera and her team during a visit to the Commission.

CONTINENTAL RELATIONS

The Commission Hosts a Delegation from the Kingdom of Eswatini's Ministry of Justice and Constitutional Affairs



CAJ Commissioners, CEO, and various heads of departments and divisions poses for a photo with a delegation from the Kingdom of Eswatini's Ministry of Justice and Constitutional Affairs, led by Ms. Lindiwe Mbingo, Principal Secretary, Ministry of Justice and Constitutional Affairs.

On Thursday, March 2, 2023, the Commission welcomed a delegation from the Kingdom of Eswatini's Ministry of Justice and Constitutional Affairs, led by Ms. Lindiwe Mbingo, Principal Secretary, Ministry of Justice and Constitutional Affairs. The delegation was in the country as part of a benchmarking exercise to help the ministry gain insights into how to restructure the country's Commission on Human Rights and Public Administration (CHRP) while keeping related issues like human rights, corruption, integrity, and public administration in mind.

Article 59 (4) of the Constitution 2010 mandates Parliament to enact legislation to give full effects to the bill of rights and implementation of the functions of the Kenya National Human Rights and Equality Commission. The constitution allowed parliament to restructure the Kenya National Human Rights and Equality Commission into 2 or 3 separate Commissions.

Further, Article 59 (5) empowers Parliament to assign functions to each Commission established under clause (4). To this end, the Commission on Administrative Justice (Office of the Ombudsman) was created and mandated to tackle maladministration (improper administration) in the public sector.

In this regard, the Commission is empowered to, among other things, investigate complaints of delay, abuse of power, unfair treatment, manifest injustice, or discourtesy. Secondly, the Commission has the mandate of overseeing and enforcing the implementation of the Access to Information Act, of 2016.

The National Gender and Equality Commission on the other hand, was established to promote and ensure gender equality, principles of equality, and non-discrimination for all persons in Kenya as provided for in the Constitution of Kenya 2010 with a focus on the following Special Interest Groups (SIGs): women, persons with disability, children, youth, older members of society, minority and marginalised groups.

Ms. Mbingo was accompanied by Mr. Mkhatswa Maphevu, Deputy Commissioner, ACC, Ms. Nhlengethwa Duduzile, Deputy Commissioner, CHRP, Hon. Dlamini Sibusisi, Member of Parliament, Senator Sasuku Celumusa, Hon Sibandze Macford, Member of Parliament, Mr. Dlamini Phumlani, Legal Advisor- CHRP, Ms. Dlamini Linda, Parliamentary Clerk, and, Ms. Nxumalo Tututu, Senior Management Analyst.

Present from the Commission were; Chairperson of the Commission, Hon Florence Kajuju, Commission Vice Chairperson, Mr. Washington Sati, the Commissioner in Charge of Access to Information, Ms. Lucy Ndung'u, the Commission Secretary, Ms. Mercy Wambua, and various heads of departments and divisions.



ELECTION OBSERVATION REPORT

CAJ and AOMA Present Election Monitoring and Observation Reports to the IEBC

The Chairperson of the Commission and the Secretary General of the African Ombudsman and Mediators Association on Wednesday, March 1, 2023, led a team from the Commission and AOMA in presenting the Commission on Administrative Justice and the AOMA election monitoring and observation report to the CEO of the Independent Electoral and Boundaries Commission (IEBC), Mr. Marjan Hussein Marjan.

The Commission participated in the 2022 general elections in Kenya through monitoring and observation. The exercise was informed by the centrality of elections in the advancement of good governance which forms the basis for the existence of the Commission. This was the third time that the Commission was participating in the elections, the first time having been in the 2013 general elections. The primary focus of the Commission in the exercise was three-fold: Voter Registration Exercise Observation, Election Campaign Monitoring, and observing the general management and conduct of the elections on 9th August 2022.

The Commission also hosted a delegation from the African Ombudsman and Mediators Association (AOMA) which was accredited by IEBC to observe Kenya's 2022 General elections.

Findings by the Commission on Administrative Justice

Voter Registration

- I. The 2021 IEBC voter registration exercise was, by and large, well conducted save for the few challenges observed. Some of the challenges reported: IEBC distributed about three BVR Kits in each ward in an attempt to meet their set target; however, many were denied the opportunity to register primarily due to lack of proper identification documents and awareness of the kit's movements from one centre to another.
- II. The registration exercise was swiftly and efficiently conducted with each person taking an average of 3 – 5 minutes to register. Isolated cases of delays in setting-up the desks and registration start times were observed. IEBC lacked adequate infrastructure suitable for out-door services being offered to enhance the citizens' experience. There were no proper shades for the registration clerks nor seats for expectant women and persons living with disability.

Campaign Monitoring

- I. Generally, there was no significant use/misuse of public resources in the 18 counties covered, however the Commission was able to document a few cases.
- II. During the exercise the Commission observed cases whereby aspirants who were holders of political public offices took advantage of their incumbency to launch and commission different projects during their campaigns. The observations were made in Kisumu, Narok and Kajiado.
- III. Whereas the law prohibits holders of appointive public positions from engaging in partisan political activities, the Commission documented cases of public officers participating in political campaigns.
- IV. The Commission monitored and documented the use of government vehicles in political campaigns at both levels of government. Similarly, there were instances where vehicles belonging to public schools were used to ferry people to campaign rallies.



Election Observation

- I. The Commission noted that preparations by the IEBC for the election was satisfactory
- II. The voting process in the 2022 general election was an improvement from that of 2017. Whereas there were challenges experienced in some polling stations, the process was largely orderly, peaceful, transparent, efficient and smooth.
- III. Whereas the IEBC properly displayed the truncated printed voter register, and urged Kenyans to verify their voter registration details through short messaging service code and the Commission's dashboard iverify, many voters were still unable to identify their names and their polling stations in the register. This pointed out lack of awareness and access to information among the voters.
- IV. In 78% of polling stations observed, KIEMS Kit functioned optimally. However, in 22% of the areas observed, some Kits could not identify the biometrics of the voters, while others totally failed resulting in the use of manual registers.



ELECTION OBSERVATION REPORT

CAJ and AOMA Present Election Monitoring and Observation Reports to the IEBC

Findings by the African Ombudsman and Mediators Association

In its report, AOMA Observation commended the Independent Electoral and Boundaries Commission's handling of 2022 general election. AOMA stated that Kenya's polls agency did not favour any side and conducted the exercise in line with the relevant electoral laws and the Declaration of Principles for international Election Observation. Besides, the report says tallying of results by the returning officers was done procedurally and in a transparent manner. The association also indicated there was a general acceptance of results by the aspirants who vied for different positions and their supporters.

"The mission also observed that some candidates conceded defeat and sent congratulatory messages to their competitors after declaration of the results. Some dissatisfied aspirants, chose to use the constitutional post elections disputes mechanisms and appealed to their supporters to maintain peace," the AOMA observer mission said



Head of AOMA Observer Mission to Kenyan 2022 General Election, Hon Grace Malera making a presentation of the AOMA report during the submission to the IEBC



A team from the Commission, AOMA and the IEBC during the presentation of the AOMA observation report findings at the IEBC offices

According to AOMA, the preparedness of the IEBC was noticeably sufficient in the distribution of the polling materials, preparation of the polling and tallying centers and conduct of IEBC officials. Apart from a few incidences of flaws in logistical preparations by IEBC that led to the postponement of gubernatorial elections in Kakamega and Mombasa Counties, as well as MP elections in Kacheliba, Pokot South, Kitui Rural and Rongai constituencies, the ombudsman says the August 8th 2022 poll was above reproach.

"The Mission took cognisance of the best practices that AOMA member countries could borrow from the Kenya 2022 general election process including: the use of KIEMS kit technology in voter identification; the preparedness of the IEBC despite handling large number of voters and six elections running concurrently; as well as stakeholder engagements by the IEBC," the association noted in its final verdict of the electoral process in Kenya.

Present during the presentation of the reports were the Head of the AOMA Observer Mission and the Ombudsman of Malawi, Hon. Grace Malera, the Vice Chairperson of the Commission, Mr. Washington Sati, the Commissioner in Charge of Access to Information, MsLucy Ndung'u, the Commission Secretary/ CEO, Ms. Mercy Wambua, and the various Heads of Departments from the CAJ and the IEBC.



AOMA Secretary General, Hon Florence Kajuju with the Head of AOMA Observer Mission to Kenyan 2022 General Election, Hon Grace Malera presenting the observation report to IEBC CEO, Mr. Marjan Hussein Marjan.

DIAR AWARDS

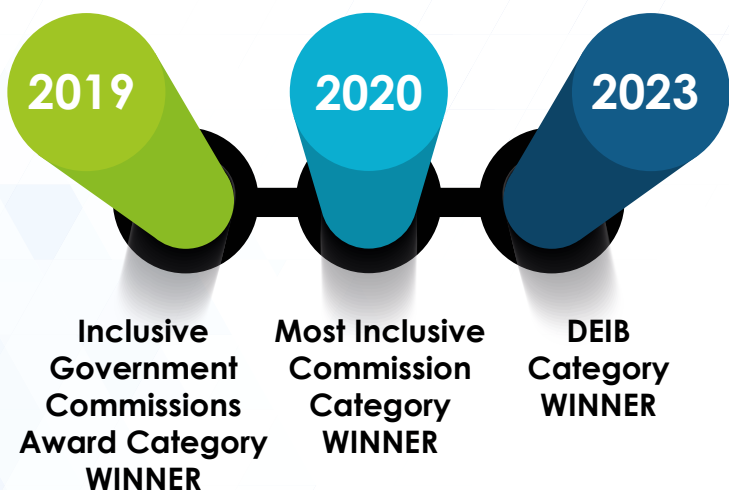
Commission Emerge Winner During the Fifth Edition of DIAR Awards



Commission Secretary/CEO Mercy Wambua with Director of Corporate Services Mr. Dan Karomo and Assistant Director Human Resource Management Ms. Christine Omollo.

The Commission emerged as the overall winner in the award category of Best Constitutional Commissions and Independent Offices on Diversity, Equality, Inclusion, and Belonging (DEIB) Category. This was the third time the Commission emerged the overall winner in the category having been declared winners' in 2019, and 2020.

The 5th Edition of the DIAR Gala Dinner and Awards Ceremony held at the Sarit Centre Expo on Friday, March 4, 2023. DIAR Awards event is built around Disability Inclusion, Gender Equity, Cultural Inclusion, Youth Inclusion, Ethnic Diversity, Leadership and Community Development, Human Rights promotion, Peace, and Cohesion. Join us for this 5th edition celebration.



5th DIAR Awards gala dinner at the Sarit Centre, Nairobi

ACCESS TO INFORMATION

Open Government Partnership Parliamentary Caucus Launched



The Commission took part during the launch of the Parliamentary caucus on Open Government Partnership at Parliament buildings on Thursday, 16th March 2023. The meeting brought together the leadership of both parliaments who gave their commitments to support initiatives that were geared towards opening up parliament to the citizens.

The commitments are all geared towards promoting transparency and accountability by governments, in partnership with all the stakeholders involved. The Commission being the institution mandated by statute to provide oversight on access to Information law has membership both at the steering and technical committee level of the OGP to provide and receive the support needed for success in the implementation of the commitments.

The Commission is also the lead institution in the implementation of Commitment 6 on Access to Information in the Fourth National Action Plan. The Open Government Partnership is an initiative that brings together government reformers and civil society leaders to create action plans that make governments more inclusive, responsive, and accountable. In the spirit of multi-stakeholder collaboration, OGP is overseen by a Steering Committee including representatives of governments and civil society organisation.

To become a member of OGP, participating countries must endorse a high-level Open Government Declaration, deliver a country action plan developed with public consultation, and commit to independent reporting on their progress going forward.

Committee for Development of Access to Information Policy in Kenya Inaugurated

In September 2016, Kenya enacted the Access to Information Act, 2016 pursuant to Article 35 of the Constitution to provide a framework for the full realisation of the right of access to information. This was a bold and unequivocal statement aimed at enhancing good governance in the country. It also enabled Kenya to meet its obligations regarding access to information under various international legal instruments.

The Access to Information Act, of 2016 was passed through a private member's bill in Parliament and thus was not preceded by a policy framework as is the norm with many governments sponsored bills.

The lack of a national policy on access to information has hampered the implementation process since there is no uniform government approach, procedures, and processes for information disclosures. Other challenges brought by the lack of a national policy include inconsistency and incoherency in government policies on information disclosures, inadequate resources, and a lack of enabling procedures and infrastructure.

To address this challenge, a meeting with the Commissioner of the Commission on Administrative Justice and the Cabinet Secretary, of the Ministry of Information, Communications and the Digital Economy, Mr. Eliud Owallo took place on December 16th, 2022.

The Ministry on 4th January 2023 constituted a Multi-Sectoral Stakeholder Committee to develop an Access to Information Policy for Kenya.

The Committee will be co-chaired by the Communication Secretary within the National Communications Secretariat, Eng. Daniel Obam and the CAJ Commissioner in charge of Access to Information, Ms. Lucy Ndungu. The Committee draws its membership from the Ministry of Information, Communication, and Digital Economy; the National Communication Secretariat the Commission on Administrative Justice, Kenya Law Reform Commission, Office of the Attorney General, Office of the Data Protection Commissioner and Open Government Partnership.

The committee which was inaugurated on Friday, March 10, 2023, at the National Communication Secretariat offices is tasked with the development of a national policy on information management and disclosure to deepen citizenry access to information held by the government.

This is a step in the right direction, particularly at this time in Kenya when the government is seeking to have government services digitized and available online. It will also tap into the existing opportunities as well as examine the future of access to information in light of the dynamic information, communication, and technological advancements

ACCESS TO INFORMATION

Commission Participate in Cross County Strategy Working Session

The Commission on the invitation of National Democratic Institute (NDI) participated in the Cross County Strategy Working Session held on 16th to 18th March 2023 in Nakuru County. The meeting brought together beneficiaries under the 'financial transparency and accountability program' in Kitui, Busia and Kisumu counties namely; Community Empowerment and Development Centre (CEDEC), Youth Alive Kenya, Caritas Kitui Catholic Diocese and Transform Empowerment for Action Initiative (TEAMS).

The meeting was aimed at strengthening financial accountability in the three counties and to improve the ability of citizens, civic groups and political actors to advocate for and operationalise greater financial accountability at the county level based on analysis of key budget documents.

The Commission leveraged the opportunity by making a presentation on "Access to Information as a tool for enhancing financial transparency and accountability at the County Level".

Some of the key areas of collaboration identified during the meeting included: collaboration between civil society organisations and the Commission in conducting Training of Trainers (ToT) to community resource persons on access to information, citizen sensitisation workshops on access to information in order to improve financial accountability, and conducting research on barriers to accessing information relating to key budget documents by Special Interest Groups (SIGs).



The Commission Participates in All Kenya Moot Court Competition

The Commission participated in the All Kenya Moot Court Competition held on 14th to 17th March 2023 at the Kenyatta University.

The All Kenyan Moot Court Competition (AKMCC) is an annual moot competition organised by students at the School of Law, Kenyatta University, to address contemporary legal issues in Kenya. The competition brings together students from all universities in Kenya and practitioners from the relevant legal spheres identified in the theme.

The theme for this year's competition was "Socio-Economic Justice: Enhancing Government Transparency and Accountability in the Protection of Human Rights." The Commission, being the oversight and enforcement agency, of the access to information law, seeks to foster government transparency and accountability in all spheres and ensure that citizens optimally use the right to information for the advancement of other rights.

The forum presented an opportunity for the Commission to engage the relevant stakeholders on issues around access to Information and to sensitise the participants on the central role that the Commission plays in the implementation of the access to information law.

During the opening ceremony, the Commission was represented by the Commissioner in charge of Access to Information, Ms. Lucy Ndung'u. Also present at the event were representatives from Article 19 Eastern Africa, a representative of the Hon Chief Justice, and President of the Supreme Court of Kenya.

Ms. Faith Oloo, a Legal Officer in the Complaints Division, represented the Commission as a judge in the moot court competition.



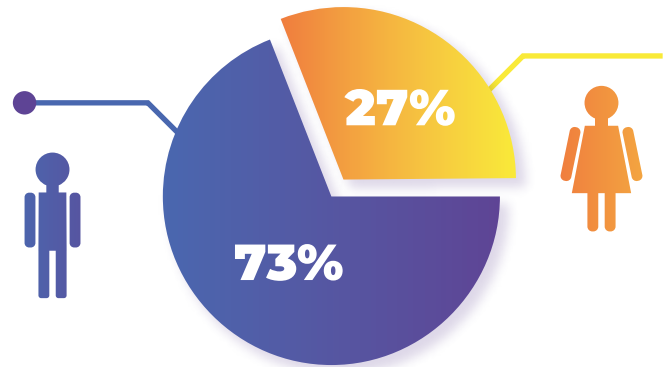
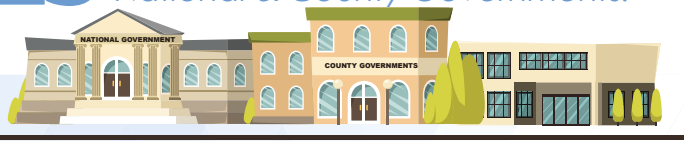
CAPACITY BUILDING

Capacity Building in the Public Sector

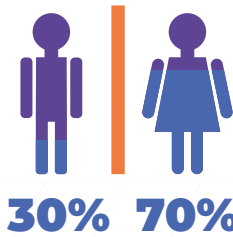
The Commission trained 1,000 public officers drawn from Ministries, Counties, Departments and Agencies (MCDAs) on effective complaint management and access to information and reporting under the performance contracting framework for the third quarter of the financial year 2022/2023.

The Commission plays an important role in ensuring quality public service delivery. To this end, the Commission builds capacity of public officers on complaints handling and good governance, and provides technical support to public institutions to establish complaints handling infrastructure.

23 Institutions trained from both National & County Governments.



Trainee gender distribution in quarter three.



Persons living with disabilities representation in trainings.

The Commission Hosts a Team from the Office of the Deputy President for a Benchmarking Exercise



A team from the Commission with a delegation from the Office of the Deputy President during a benchmarking exercise.

The Commission hosted a team from the Office of the Deputy President on Tuesday, March 28, 2023, to benchmark on the Complaints Management Information System (CMIS).

The CMIS system, which was developed with the support of GIZ, the Good Governance Programme, allows the public to lodge complaints and track them online in order to improve complaint management efficiency.

The system also allows Ministries, Departments, and Agencies to submit quarterly reports as a performance contracting indicator on public complaints resolution and to access the Commission's compliance certificate online.

During the benchmarking exercise, the team was taken through the complaints handling procedures for both complaints on administrative justice and the appeals for review under the access to information law. The team was also taken through the functionality and operations of the CMIS system, including how complaints are received, allocated, and processed, as well as how the system's various portals work.

The two institutions also discussed potential areas of collaboration in complaints management and capacity building. The meeting was attended by the heads of various departments and divisions, complaints officers, and ICT officer. Mr. Joash Aminga, Deputy Director, Library and Information Services, led the team from the Deputy President's Office.

COLLABORATION WITH DANISH PARLIAMENTARY OMBUDSMAN

The Commission Hosts Director of International Relations at the Danish Parliamentary Ombudsman



Vice Chairperson of the Commission, Mr. Washington Sati, presenting a branded clock to Mr. Klavs Kinnerup Hede, Director of International Relations at the Danish Parliamentary Ombudsman

The Commission on Tuesday, March 7, 2023 hosted the Head of the Governance and Health Team Lead Mr. Thomas Nikolaj Hansen at the Denmark Development Cooperation (DANIDA) of the Royal Danish Embassy.

This was the last meeting among a series of partnership discussions with the Director of International Relations at the Danish Parliamentary Ombudsman, Mr. Klavs Kinnerup Hede. Mr. Hansen briefed the meeting on the DANIDA support areas of focus that included Access to Justice, Devolution, Health, and support to civil society organizations working in the democratic governance space.

The visit followed that of Mr. Klavs Kinnerup Hede, Director of International Relations at the Danish Parliamentary Ombudsman who was hosted by the Commission on Monday, March 6, 2023, the Commission. Mr. Klavs was in the country for a two-day peer and learning exchange visit and began his visit by paying a courtesy call on the Commission's Vice Chairperson, Mr. Washington Sati, before meeting with the various departments and unit heads to gain a thorough understanding of the Commission's mandate.

The visit sought to explore areas of collaboration between the Commission and Danish Parliamentary Ombudsman from a point of understanding the similarities and differences in the mandate of the two institutions as well as identify areas of expertise or strengths which either of the institutions can learn from.

These engagements are consistent with the Commission's partnership and resource mobilization strategy, which aims to diversify the Commission's resource base in accordance with Section 45 of the Commission on Administrative Justice Act of 2011, as well as to improve project scope and sustainability.

Mr. Klavs acknowledged that the Commission on Administrative Justice's and the Danish Parliamentary Ombudsman's mandates were broadly similar, but praised the Commission on its concept of community outreach (Ombudsman Mashinani- Widening Services at the Grassroots), citing targeted community outreach as the new direction among global ombudsman institutions, and notably one of the proposed IOI conference's focal points.



Vice Chairperson of the Commission, Mr. Washington Sati and staff of the Commission pose for a photo with Mr. Klavs Kinnerup Hede, and Mr. Thomas Nikolaj Hansen during a meeting at the Commission's office

PICTORIAL



CAJ CEO Ms. Mercy Wambua with the elders from the Ogiek community during a stakeholders consultative forum on the implementation of the African Court of Human and Peoples' Rights decision regarding the Ogiek community.



CAJ Chairperson and CEO poses for a photo with Ms. Lindiwe Mbingo, Principal Secretary, Ministry of Justice and Constitutional Affairs from the Kingdom of Eswatini and Ms. Nhlengethwa Duduzile, Deputy Commissioner, CHRPA.



Director incharge of Public Education, Advocacy & Corporate Communication, Mr. Osman Mohamed with Assistant Director, Complaints, Legal Services & Regional Coordination, Ms. Sarah Muthiga engages with a member of the public during Ombudsman Open Day in Riruta, Dagoreti Sub County.



The Commission Secretary, Ms. Mercy Wambua, and Dr. Rose Oronje, Director, Public Policy & Knowledge Translation, and Head of the Kenya Office, The African Institute for Development Policy (AFIDEP) displays the MOU signed by the two institutions



A delegation from the Commission and the Office of the Ombudsman, Malawi poses for a photo with the chairperson and members of the Justice and Legal Affairs Committee (JLAC) of the National Assembly at Parliament Buildings.



CAJ Commissioners and management team with a team from the Witness Protection Agency (WPA) led by Chief Executive Officer, Jedidah Waruhiu during a meeting at the Commissions' offices.



Officers from various National Government Agencies and County Governments, during an external validation workshop on the Complaints Handling Model Policy for County Governments at the Westwood Hotel Nairobi.



The Chairperson of the Commission and the Vice Chairperson of the Forum for Constitutional Commissions and Independent Offices (CC& IOs), Hon Florence Kajuju with the Chairperson of the National Land Commission and the Chairperson of CC&IOs, Mr. Gerishom Otachi during the 25th council meeting for the National Council on the Administration of Justice (NCAJ)



CAJ Planning Officer, Mr. Mohamed Adan facilitating a training for the complaints and access to information committee of the National Construction Authority (NCA) at the Semara Hotel, Machakos.



National Gender and Equality Commission, Vice Chairperson Dr. Chomba wa Munyi presenting a publication to Hon Grace Malera, Ombudsman of Malawi during a visit to the Commission. Present were NGE Commission and CAJ Commissioner incharge of Acces to Information, Ms. Lucy Ndungu



Assistant Director, Public Education, Advocacy & Corporate Communications, Mr. Sammy Cheboi sharing insights during the First National Dialogue on Disability at the Kenya Institute of Special Education (KISE), Nairobi.



Access to information Officer Ms. Sylvia Chelogoi interacts with members of the public during the Peoples Dialogue Festival at Kenya National Museum, Nairobi.



Principal Secretary, State Department for Correctional Services Ms. Mary Muthoni Muriuki and her team pose for a photo with the Commission Chairperson, Commission Secretary /CEO and staff of the Commission during a courtesy call.



Commission staff marking the celebration of International Women's Day 2023. The theme for this year's celebration was 'DigitALL: Innovation and technology for gender equality.'



Mr. Klavs Kinnerup Hede, Director of International Relations at the Danish Parliamentary Ombudsman having an interaction with Ms. Viola Ochola, Director Access to Information (L) and Ms. Florence Mumbi, Director Complaints, Investigations and Legal Services (R).



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