

ombudsman

Newsletter



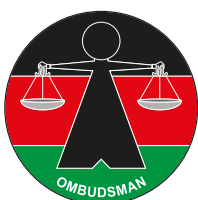
CAJ to Collaborate with International Labour Organisation



Commission Joins in Global Celebration of Fifth Annual Ombuds Day



Ombudsman Investigation Reveals Irregular Recruitment and Promotion Practices at KIRDI



**Commission on Administrative Justice
(Office of the Ombudsman)**
Hata Mnyonge ana Haki



The Ombudsman Newsletter**Commission Chairperson**

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EDITORIAL**Forging Ahead**

As the year comes to a close, it is a time to reflect on the past 12 months and look ahead to the future. Looking back, it has been a challenging year for many people and organizations. The global COVID-19 pandemic has affected nearly every aspect of our lives, from our health and well-being to our economy and daily routines.

Despite these challenges, we have also seen many examples of resilience and determination. People and organizations have adapted to the new reality and found ways to continue providing essential services and support to their communities. In this end-of-year edition, we highlight the winner in the Individual category of the third edition of the Huduma Ombudsman Award held in 2017 and why he stood out. Recognizing and rewarding public servants goes a long way to motivate them and increase productivity. In addition, the Commission also joined in the celebration of the Ombuds Day 2022 which is an important day for recognition of a profession that has existed for centuries yet remains relatively unknown and underutilized by citizens.

The Commission also conducted three specific investigations into allegations of manifest injustice on Ms. Nafula by Kenya University and College Placement Services, alleged service delivery failure at the Kajado Referral Hospital, and allegations of maladministration at the Kenya Industrial Research and Development Institute.

On capacity building and Public education the Commission trained 1,161 public officers and sensitized over 300 members of public in outreach forums.

In the corridors of justice, the High Court sitting in Nairobi issued a judgment which adopted the orders of the Commission as provided under section 23(5) of the Act after the Chief Land Registrar, Ministry of Lands, failed to comply with the orders of the Commission.

As we look ahead to the next year, we must remain optimistic and committed to overcoming the challenges that lie ahead. We must continue to prioritize the health and safety of ourselves and others, and support those who are most vulnerable.

At the same time, we must also embrace the opportunities that the new year brings. This could include pursuing new goals, learning new skills, and exploring new ideas. We must remain open to change and embrace the possibilities that the future holds.

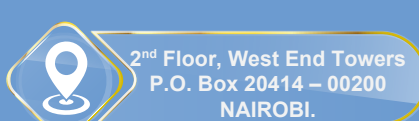
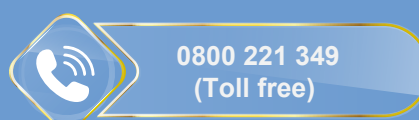
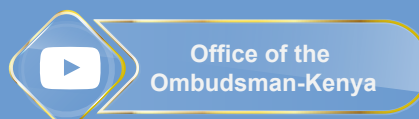
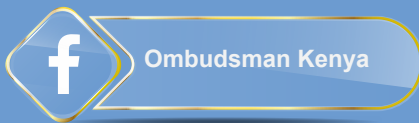
In closing, I want to thank all of the members of our organization for their hard work and dedication in promoting administrative justice and access to information in Kenya through complaints resolution and public education for efficient and effective service delivery. I am confident that, by working together and supporting each other, we will continue to thrive and achieve great things in the years to come.

Wishing you all a healthy and happy Christmas, and prosperous new year!

Editor

Mr. Osman Mohamed

Director - Public Education, Advocacy and Corporate Communications



The Ombudsman Newsletter is an Independent publication by the Commission on Administrative Justice.

COLLABORATION

CAJ to Collaborate with International Labour Organisation in Implementing a Systemic Investigation Report



The Commission Secretary/ CEO, Ms. Mercy Wambua presenting a copy of a systemic investigation report to the national Project Coordinator, Free Movements of Persons and Transhumance in IGAD Countries, Mr. Wycliffe Ouma.

The Commission has agreed to work with the International Labour Organization (ILO) to implement the recommendations of a Systemic Investigation Report on the Plight of Kenyan Migrant Domestic Workers in Saudi Arabia. This was discussed during a meeting on Wednesday, October 19, 2022, at the Commission's Offices between the Commission Secretary/ CEO, Ms. Mercy Wambua, and the National Project Coordinator, Free Movements of Persons and Transhumance in IGAD Countries, Mr. Wycliffe Ouma.

The ILO has also agreed with the report's findings and recommendations and has agreed to work with the Commission on labor migration complaint handling and investigations. Mr. Ouma stated that the ILO is implementing several interventions to improve labor migration for Kenyans and the IGAD region at large, including the legal framework - technical assistance in the development of the Bill, development of policy framework, capacity building of stakeholders in labor migration, and consultation with migrant workers' associations, among other interventions.

While the Commission has not been involved in the majority of these interventions in the past, the ILO has committed to including the Commission in future engagements. The meeting agreed that the two institutions will collaborate in continuous engagement and cooperation in the implementation of the investigation report's findings, that the Commission will participate in the upcoming National Coordination Mechanism on Migration technical working group, that the Commission will participate in joint advocacy for the enactment of the Labour Migration Bill,

and that the Commission will participate in the planned regional training for the labor attache', among other things.

Following several media reports highlighting the mistreatment, injustice, and oppression of Kenyan domestic workers in the Kingdom of Saudi Arabia, the Commission launched an investigation. The Commission conducted a systemic investigation to investigate the gaps in the Kenyan Government's measures to protect Kenyan migrant workers. The investigation uncovered systemic gaps in existing labor policies, processes, and procedures concerning the recruitment and management of Kenyan Migrant Domestic Workers in Saudi Arabia.

Based on its findings, the Commission recommended that the Office of the President establish a multi-agency working platform for all stakeholders in the form of an electronic single-window integrated system.

This will not only ensure that the recruitment process is digitalized, but it will also reduce bureaucracies and promote the credibility of the recruitment and management of migrant domestic workers by improving interagency collaboration, coordination, and cooperation. It is also a sure way to ensure that the country has accurate and verifiable data on migrant workers. The Commission also recommended that the Kenyan government ratify the International Labour Organization (ILO) Convention, which was adopted by the ILO General Conference in 2011 and requires member countries to take measures to ensure the effective promotion of human rights.

ANNUAL OMBUDS DAY

Commission Joins in Global Celebration of Fifth Annual Ombuds Day



OMBUDS DAY

Thursday,
October 13th 2022

Theme: Resilience, Respect, Resolve



The Commission on Thursday 13 October, 2022 joined the world in celebrating Ombudsman Day. In 2018, the American Bar Association Section of Dispute Resolution declared the second Thursday of October as Ombuds Day in recognition of a profession that has existed for centuries yet remains relatively unknown and underutilised.

The theme of this year's Ombuds Day was: "Ombuds: Resilience, Respect, Resolve". The primary goal of the Ombuds Day being to improve public awareness of ombuds, educate the public about the role of ombuds, explain the wide variety of services that ombuds provide, encourage greater use of ombuds programmes and services and highlight the value ombuds bring to the institutions and constituents they serve. The secondary goals of Ombuds Day are to connect ombuds in their respective communities and to recognize their important work.

In Kenya, the establishment of the Office of the Ombudsman (CAJ) was borne out of the need to address poor service delivery in the public sector occasioned by endemic institutional and systemic failures, and poor work ethic. In particular, service delivery in public institutions was characterised by undue delays, abuse of power, discourtesy, inefficiency, corruption, ineptitude, manifest injustice and misbehaviour, among others. The office is also mandated to enforce the implementation of the access to information law.

Promotion of ADR methods for resolution of complaints relating to public administration is one of the key functions of the Commission. ADR mechanisms offer an effective and efficient way of resolving public complaints. Alternative methods of resolving complaints have become increasingly preferable owing to backlogs in the courts that continue to escalate.

Since its establishment in November 2011, the Commission has received more than 800,000 complaints against public entities with a resolution rate of 83 per cent.

The ombudsman is an important mechanism for the realisation of good governance. It assures good governance by providing a platform for public participation in governance and realisation of civil liberties. The redress of grievances and systemic audits by the ombudsman democratises the administrative system thereby engendering fairness, transparency, and accountability in public administration.



OMBUDSMAN AWARD FEATURE

Corporal David Kipng'etich Chumo, Winner Individual Category, 2017

By Edward Opany



Corporal David Chumo during a media interview after emerging winner in the individual category during the third edition of the Huduma Ombudsman Award in 2017

“When the police (especially Traffic Police officers) are mentioned, what comes to mind is corruption. As I stand before you, I have served in the police service by doing the unimaginable: declining bribes. I have on several occasions turned down bribes offered to me by motorists ferrying illegal forest and wildlife products, and those who flout traffic rules. As a result of my stand against corruption, poachers and charcoal dealers have threatened me with death for standing in the way of their illegal activities. What I have learned is that being firm in your work and doing the right thing attracts both hate and appreciation from the public. I have sought to entrench patriotism among my colleagues in the Police Service and hope that many can emulate me”

these were the words of Corporal David Chumo during the award ceremony.

Corporal Chumo emerged the winner in the individual category during the Huduma Ombudsman Award Ceremony held on 9th March 2017. Corporal Chumo was awarded for upholding integrity in public service, selflessness, and going beyond his call of duty to promote the rule of law.

Citation to Corporal David Chumo

“You have, for years, remained true to your calling and served the people diligently. You have undertaken your duties with honesty and with integrity demonstrating that it is possible to live a life of honour and serve the people as a traffic police officer. You have gone beyond the call of duty to promote the rule of law. You have arrested poachers who continue to pose a threat to one of our main revenue earners – tourism; and illegal loggers who are a threat to the preservation of our ecosystems. You have courageously confronted these issues despite the dangers involved, for the love of your country. You have put your life at risk so that you may offer your services to the people of Kenya. Indeed, you have been recognised by the Kenya Wildlife Service and the Kenya Forest Service for your efforts

You have earned yourself a place many can only covet: “the incorruptible, humane officer”. Indeed, you are the epitome of what police service is all about.”

Before his nomination for the Huduma Ombudsman Award, Corporal Chumo had received a commendation from the Kenya Police, Kenya Wildlife Service, Kenya Forest Services, Ecosystem Conservator, and the County Government of Narok.

OMBUDSMAN AWARD FEATURE

Corporal David Kipng'etich Chumo, Winner Individual Category, 2017

Having been enlisted in the service in August 1998, Corporal Chumo worked in North Eastern, Nyanza, and Central and was stationed in Bomet at the time of the award. Some of his notable achievements include being a diligent traffic cop with a humane face and a good record of non-corruption which has at times put him at loggerheads with his superiors.

Hosting a mentally challenged man who was hostile to his house. It turned out that the man had been lost for three years after the media highlighted the story which alerted the relatives. While serving in Narok he was known for being incorruptible for he would never let poachers go scot-free. He was thus commended by the Kenya wildlife service four times.

Furthermore, he assisted the Kenya Forest Services in capturing illegal lodgers, which earned him praise for

upholding ethics and dedication to duty, as well as spirited efforts in environmental conservation.

Despite his outstanding performance and even being described by the police vetting board as a role model and being awarded Head of State Commendation, Corporal Chumo is yet to be promoted even as other institutions promoted their staff who were awarded during the third edition of the Huduma Ombudsman Award.

The Commission recommended to the National Police Service Commission to promote him for professionalism, making the police accountable to the public thereby securing the rights of citizens, and enhancing trust in the police service.

NAIROBI LEGAL AWARDS

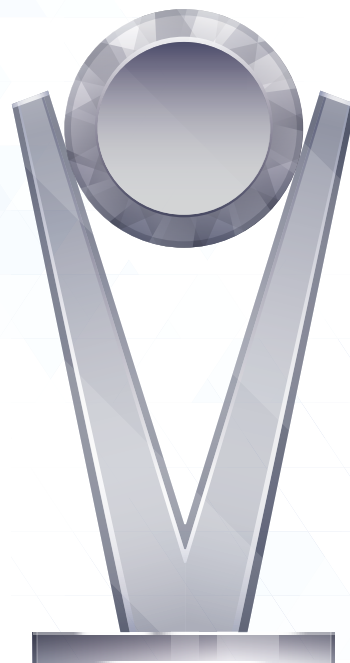
Commission Emerges First- Runners Up During 5th Edition of the Annual Nairobi Legal Awards

The Commission emerged as first runners-up at the 5th Edition of the Annual Nairobi Legal Awards under the Public Sector Legal Department of the year category. The 2022 awards were dubbed "The Legal Tech Edition" where the Commission was feted for the use of the Complaints Management Information System (CMIS).

The CMIS system enables the public to lodge their complaints and monitor them online to enhance efficiency in complaints management and is also accessible to the Ministries, Departments and Agencies to streamline their complaints handling procedures.

Present at the gala dinner held on Friday, November 25, 2022, at the Panari Hotel to receive the award were the Commission CEO, Ms. Mercy Wambua, Assistant Director Complaints, Legal and Regional Coordination, Ms. Sarah Muthiga and Legal Officer, Ms. Samantha Argwings Kodhek.

The Nairobi Legal Awards is an initiative of Law Society of Kenya, Nairobi Branch to recognise legal practitioners who continue to make a remarkable difference in the profession. This includes public sector legal departments who promote outstanding standards of practice and legal service delivery in an effort towards encouraging excellence in practice.



NAIROBI
LEGAL AWARDS
TRUST



Law Society of Kenya
NAIROBI BRANCH

PUBLIC EDUCATION AND TRAININGS

Commission hosts webinar on CMIS

By Faith Jesca

The Commission on 7th December, 2022 held a Webinar for Ministries, Departments and Agencies (MDAs) and Civil Society Organisations (CSOs) on the Complaints Management Information system (CMIS).

In its endeavour to strengthen the management of public complaints, and to enhance efficiency in the public service, the Commission through the support of GIZ, Good Governance Program, developed the CMIS to enable the public to lodge their complaints and track them online at their convenience.

The system also enables online submission of quarterly reports by MDA's as the performance contracting indicator on resolution of public complaints and online access to compliance certificates issued by the Commission at the end of each financial year to public institutions that have fully complied with the Commission's requirements.

The webinar which was facilitated by the ICT Assistant Director, Ms. Flora Ngonze and attended by 468 participants, was aimed at unpacking the system so as to equip the officers on its operations.

Since the launch of the system, on May 24, 2022, two thousand complaints have been filed through the system.

Public institutions trained on legal and Performance Contracting obligations



Director In-Charge of Access to Information facilitating a webinar on the Legal and PC obligations of Public Agencies

In a bid to ensure compliance and effectiveness in the implementation of the Access to Information law, the Commission through the Access to Information Department, hosted a webinar under the theme: Unpacking the Legal and PC obligations of Public Agencies on Wednesday, November 16, 2022.

During the webinar attended by 194 officers from various public institutions and facilitated by the Director In-Charge of Access to Information, Ms. Viola Ochola, the participants were sensitised on the obligations of public bodies under the Access to Information Act and the Performance Contracting obligations.

Under the ATI law, public bodies have a duty to implement the Act by proactive and reactive disclosure where they are required to publish certain information on their website and other platforms and to process information requests from citizens.

Additionally, under Performance Contracting, institutions are required to report quarterly on number of information requests received and processed, timelines for processing every request, fees collected for processing requests, number of full time staff devoted to processing requests, total expenditure for processing the requests, and measures taken and progress made to digitize its system.

Public bodies are also obligated to keep and maintain accurate, authentic and credible records and to protect persons making disclosure in public interest in good faith. This includes information relating to violations of the law, including human rights violations, mismanagement of funds, conflict of interest, corruption, abuse of public office, dangers of public health, safety and the environment.



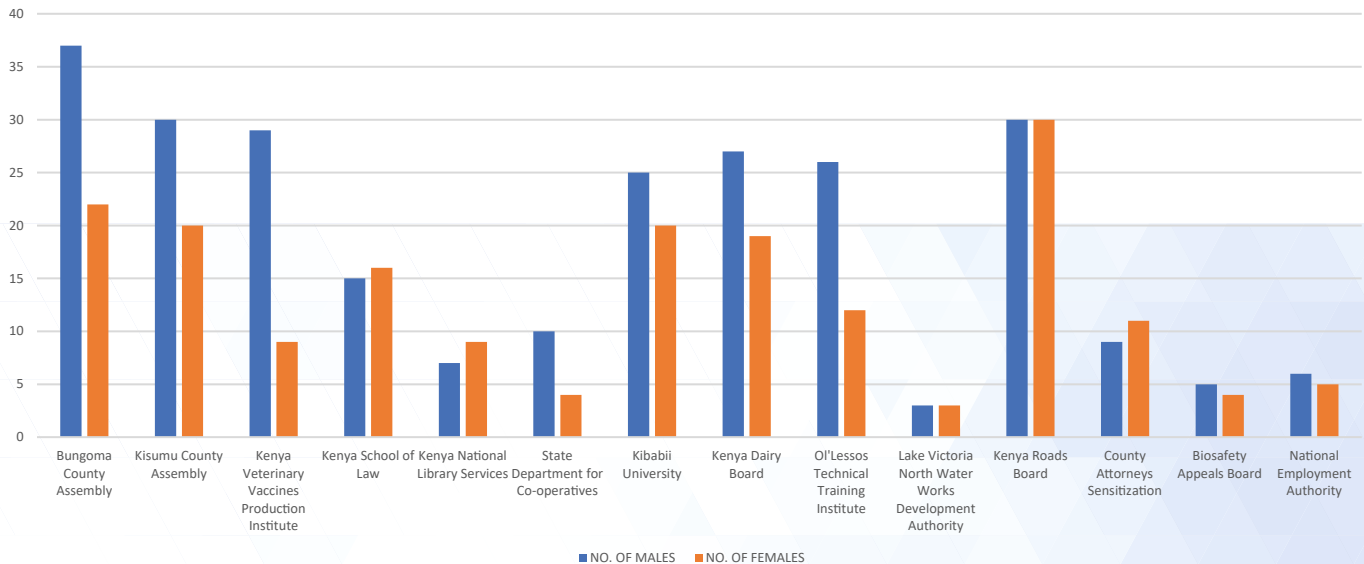
PUBLIC EDUCATION AND TRAININGS

1,161 Public Officers Trained

In the Commission's pursuit to enhance effective public service delivery, complaints management and processing of information requests, the Commission trained 1,161 public officers drawn from MDAs and two county assemblies.

Additionally, the Commission undertook to enhance the reporting capacity in the public sector and resolution of public complaints by issuing the 12th edition guideline and sensitising public officers and institutions on the same.

INSTITUTIONS TRAINED/SENSITISED ON COMPLAINTS MANAGEMENT AND ACCESS TO INFORMATION



Commission participates in Legal Awareness Week

To address inadequate public awareness on the Commission's mandate, and to take its services closer to the people, the Commission participated in the Legal Awareness Week organised by the Law Society of Kenya.

During the week-long event, the Commission interacted with the public at the Mlimani law courts grounds in Nairobi, Makadara Grounds in Mombasa, Kibos Maximum Prison, Nyalenda and Kisumu law courts ground in Kisumu, Eldoret law courts, and at the Nyahururu law courts.

The Law Society of Kenya's Legal Awareness Week aimed at providing legal aid services to the public in all areas while also educating them on the mandates and services of various agencies.

Widows Sensitised

The Commission through the Mombasa Regional Office on Wednesday, November 2, and Tuesday, December 6, 2022, participated in widows' forums organised by Come Together Widows and Orphans Organization, in Bura Taita Taveta County and Mariakani in Kilifi County respectively.

The forums were organised to sensitise the widows on maladministration, access to Information, succession and property rights and on economic empowerment to enable them to manage their social economy and uplift their lives.

During the forums, six complaints were lodged with the Commission. Some of the issues raised included, seeking advice to institute succession proceedings in court, how to pursue their deceased husbands' NSSF and pension benefits and or delay in payment of such benefits, land disputes, insurance claims, boundary disputes on un-surveyed land, assault cases against widows by their deceased husbands' relatives, cases of malicious damage to property among many others.



CORRIDORS OF JUSTICE

Court Enforces Commission's Access to Information Decision

The High Court of Kenya has issued a judgment that adopted the decisions and orders of the Commission on Administrative Justice under the Access to Information Act, 2016.

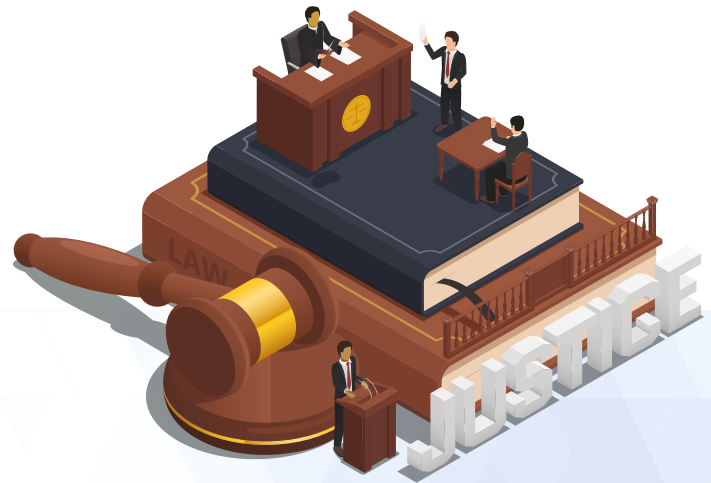
The Court's Constitutional and Human Rights Division, sitting in Nairobi on Tuesday, November 15, 2022, issued the judgment following a court case where Paragon Electronics Limited moved to court to have the Commission's order adopted by the court as provided under section 23(5) of the Act after the Chief Land Registrar, Ministry of Lands, failed to comply with the orders of the Commission.

The case arose out of a complaint where Paragon Limited, through AKO Advocates, made a request for information under section 8 of the Access to Information Act, 2016, to the Land Registrar on 18th May, 2022. In the request, AKO Advocates indicated that their client had an ongoing court case vs I&M Bank and that I&M Bank was ordered by the court to avail and execute a discharge of charge which was registered on 17th January, 2008 between the parties.

According to the law firm, the duly executed discharge of charge was lodged on 25th January, 2002 but the Office of the Land Registrar rejected or refused to register the discharge of charge duly executed by I&M Bank on grounds that the details and specifics of the current charge registration on the property and the discharge of charge presented for registration were not corresponding.

The law firm in a letter dated 18th May, 2022 informed the Office of the Land Registrar that the discharge of charge duly executed by I&M Bank and presented to its office aligned with the discharge which was registered on 17th January, 2008. Regarding the comments made by the Lands Registrar on the discharge document rejecting the request of the law firm, the firm made a request for information to the Office of the Lands Registrar to provide them with the full particulars of the charge it was referring to in its comments to their discharge of charge request including the names of the parties to such other charge, the date of the charge, the amount charged, and the underlying loan.

The Office of the Land Registrar failed to respond to their information request and did not avail the information requested, prompting the law firm to appeal for review with the Commission.



In their appeal for review dated 20th June 2022, AKO Advocates stated that the requested information was essential to their client and their right to protect its property from any unlawful or illegal charge that may be placed over it. Further, they noted that the refusal by the Land Registrar to provide information and documents was, therefore, unlawful and unconstitutional and itself a breach of their client's constitutional right of access to information and protection of its rights to property. The firm requested the Commission to invoke its powers under section 23(3) of the Access to Information Act, 2016, and order the Office of Registrar to release the copies of charged documents and records.

The Commission considered the matter and on 4th July, 2022, requested the Land Registrar to respond to the information request in line with section 9 (4) of the Act relating to full particulars of the charge referred to by the Land Registrar in comments for discharge of charge request on the land parcel in question.

The Land Registrar did not respond to the Commission's letter prompting the Commission to invoke its powers under section 23(2) of the Access to Information Act, 2016, on 4th October, 2022, and ordered that;

1. The Land Registrar; Ministry of Lands, does facilitate access to information and records held relating to the request for information made by AKO Advocates on behalf of Paragon Electronics Limited on 18th May, 2022.
2. That compliance with No. 1 be within seven days hereof.

The Land Registrar failed to implement the decisions and orders of the Commission and failed to appeal the decision within twenty-one days, prompting Paragon Limited to move to court to have the Commission's orders adopted as orders of the court.

In her judgment, Hon. Justice Hedwig Ong'udi granted leave to enforce the orders of the Commission as an order of the court.

WAYS OF LODGING A COMPLAINT WITH THE COMMISSION

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Ombudsman

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Huduma Centres:
Kakamega, Nyeri, Embu,
Kajiado, Nakuru, Kisii,
Kwale, Meru, Makueni,
Wundanyi, and Nairobi
(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



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Office of the Ombudsman-Kenya

HOW WE HELPED – SUCCESS STORIES

Search Certificate Issued

A resident was finally issued a search certificate in a case of inaction by the Land Registrar, Bomet County, following the intervention of the Commission.

Mr. John Sang complained to the Commission alleging that the Lands Registrar had failed to furnish him with the search certificate for a land parcel which was registered in the name of his deceased father, Mr. Kimitei Arap Sambo, and he was apprehensive that someone wanted to unlawfully acquire the same.

Following the Commission's intervention, Mr. Sang was issued with the search certificate for the land parcel and the green card entries for the piece of land.



Boundary Dispute Resolved

"Kindly note that the boundary dispute has been determined by the County Land Registrar and the complainant can further be advised to inform the relevant department concerned in the County Government of Uasin Gishu to implement the ruling." These were the words of the Assistant Director of Land Surveys, Uasin Gishu County, in a letter to the Commission.

Mr. Wilson Mudiri had complained against the Uasin Gishu County Survey Office alleging that the office had delayed in addressing their complaint on boundary reestablishment for two land parcels in Kipkenyo, Eldoret Municipality.

Following the Commission's intervention, the dispute was determined by the Uasin Gishu County Land Registrar, and the ruling thereto was furnished to the complainant to enable its implementation by the Uasin Gishu County Government.



Apology Issued

Public officers are servants of the people and should serve the public diligently while upholding high standards of professional ethics. However, this was not the experience of Mr. Nicholas Seur when he sought a service at the Directorate of Criminal Investigations (DCI) desk at the Eldoret Huduma Centre.

Mr. Seur complained to the Commission alleging that on 15th July, 2021 he visited the DCI desk to apply for a certificate of good conduct and was served by two officers. He further alleged that the officers were discourteous to him and they refused to identify themselves.

According to Seur, the public officers should observe professionalism which he said lacked in the two officers. The predicament impelled him to complain to the Commission's Eldoret Regional Office.

The Commission took up the issue with the Centre Manager to investigate the matter and report back. The Manager undertook the investigations and held a meeting with Mr. Seur and the officers and reported to the Commission.

"I wish to hereby inform you that we had a meeting with the complainant in my office. Following the meeting, the issue raised by Mr. Nicholas was conclusively addressed and the matter was successfully and amicably resolved. He is satisfied with the response and has unconditionally withdrawn the complaint he has since held against Eldoret Huduma Centre in general and the concerned members of staff," read a letter from the Centre Manager.

To ascertain the facts in the response, the Commission reached out to Mr. Seur who reiterated his satisfaction with the resolution of the matter.



HOW WE HELPED – SUCCESS STORIES

Tuition Fee Refunded



A former student of Egerton University was finally refunded the fee paid to the university following his discontinuation, thanks to the intervention of the Commission.

According to Mr. Silvano Koech, Egerton University, had delayed in refunding him Kshs 28,000 and caution money upon his discontinuation from the university on 3rd October 2012. According to Koech, he paid Ksh 20,000 to the university to cater for tuition fees through the university's Cooperative Bank Account and Ksh 8,000 which was paid to the university by the Higher Education Loans Board (HELB).

He, therefore, demanded a refund of the tuition fee and the caution money as he was no longer a student of the University. However, six years later, the university had not processed the refund pushing him to complain at the Commission's desk at the Huduma Centre, Nakuru.

The Commission by way of inquiry took up the issue with the Registrar, Academic Affairs, who confirmed that Mr. Koech's refund of Ksh 30,000 had been processed and the payment made through payment voucher number MB001-03661-18/19.

However, Mr. Koech, in a rejoinder to the Commission confirmed that he had not received the cash prompting the Commission to make a further follow-up with the University.

The Commission in a letter dated 18th July 2022 to the Vice Chancellor requested for a substantive response to the issue. In their response, the University in a letter dated 26th July 2022 confirmed processing the payment and issuing a cheque to Mr. Koech.

"Kindly note that this matter has been fully resolved and the complainant has collected the cheque from the university as per the enclosures," read a letter from the university.

Teacher Transferred on Medical Grounds Following Ombudsman Intervention

The Teachers Service Commission (TSC) finally transferred a teacher after the Commission intervened in a case of excessive delay by TSC in responding to his transfer request.

The teacher filed a complaint with the Commission, alleging that TSC had delayed responding to his transfer request due to medical reasons. According to the teacher based in Central Kenya, he made a transfer request in accordance with Section 65 (2) of the Code of Regulations for Teachers, requesting to be transferred from one school to another that is closer to his home. TSC's failure to respond to his transfer request prompted him to seek Commission's intervention.

"My tribulations continue even when I have obtained a letter from a psychiatrist that I should be transferred to a station near my family for immediate care. The disability has made my life miserable and depressing through living alone and worried for any eventuality that may occur," read a complaint letter from the teacher to the Commission.

The Commission, through an inquiry, raised the matter with the Chief Executive Officer of TSC, resulting in the transfer of the teacher to xxx Girls Secondary School.

"Following your transfer request dated February 12th, 2022, I am pleased to inform you that the Commission has approved your transfer request. As a result, you will be transferred from xxx Mixed Day School to xxx Girls' Secondary School with effect from October 17, 2022," read a letter to the teacher from the TSC, with a copy to the Commission.



INVESTIGATION

Ombudsman Investigation Absolves Joint Admission Board, Moi University of Wrong Doing in Student Placement

The Commission on Administrative Justice (Office of the Ombudsman) has cleared the Joint Admissions Board (JAB), the predecessor of the Kenya Universities and Colleges Central Placement Service (KUCCPS), and Moi University of wrongdoing in the case of a student's placement to the university in 2007.

The Commission launched an investigation on its own initiative in response to media reports alleging that Ms. Milly Nafula Barasa was denied admission to the university despite scoring an A- grade of 74 points in the Kenya Certificate of Secondary Education (KCSE) in 2007. According to media reports, an unknown person impersonated Ms. Nafula and used her details to enroll for a course at Moi University, and that JAB did not place her at any university, and that Moi University did not send her the admission letter.

Due to the veracity of the allegations, the Commission recommended investigation pursuant to Section 8 of the Commission on Administrative Justice Act, 2011. The Commission considered the following issues for investigation;

- i. Whether Ms. Milly Nafula Barasa was placed or considered for a university slot by the defunct JAB. If so, what transpired?;
- ii. Whether any other person used her details to join, register, and pursue a Tourism Course at Moi University as alleged in the media report; and
- iii. Culpability on any relevant Government agency for failure to act as per their legal obligations.

The Commission notified the Principal Secretary Principal Secretary for University Education and Research and the Chief Executive Officer of KUCCPS of its decision to investigate the matter on December 20, 2021. The Commission's findings revealed the following:

a. Whether the defunct JAB placed or considered Ms. Milly Nafula Barasa for a university position. If so, what happened?

- i. According to the investigation, Ms. Milly Nafula attended Manor House High School from Form 1 in 2003 to Form 4 in 2007, when she sat for her KCSE. Her KCSE certificate stated that she sat her exams under the index number 503209014.



- ii. Ms. Nafula stated that she applied for courses and universities through the central application while attending Manor House High School, and that her application was submitted to JAB by the Principal. Her top three choices were Bachelors of Medicine at the University of Nairobi, Bachelors of Commerce at the University of Nairobi, and Bachelors of Tourism at Moi University.
- iii. According to her KCSE certificate, Ms. Nafula scored an A- with 74 points in the exams. When she sat for her KCSE, the defunct JAB, which was in charge of student placement to universities, considered her application and placed her at Moi University for the Bachelor of Tourism Management course, which was her third choice.
- iv. KUCCPS, a successor to JAB, made available a document titled D2c, dated 4th March 2009, which is a selection list containing the names of students who were placed at Moi University to study Bachelor of Tourism Management in the Academic year 2008/2009, and a review of the document revealed that JAB placed Ms. Nafula at Moi University to study the stated course.
- v. Further, the document showed that JAB had allocated Ms. Nafula serial number 22 in the University's Bachelor of Tourism Management selection list of 2008/2009.
- vi. A Senior Assistant Placement Officer at KUCCPS who previously worked as a clerk at the defunct JAB stated that back then, JAB would submit the document D2c along with the addresses of successful students to the respective Universities, and it was the responsibility of the university to communicate with the students who had been placed in their institutions. According to the officer, the most common mode of communication back then was the use of students' secondary school postal addresses.



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vii. The Commission obtained a copy of a letter from Moi University, dated 13th May 2009, inviting Milly Nafula to pursue a degree in Bachelor of Tourism Management, which was scheduled to begin on Monday, July 27th, 2009. The program would be based at Moi University's Chepkoilel Campus, now known as the University of Eldoret, according to the letter.

b. Whether any other person used her details to join, register, and pursue a Tourism Course at Moi University as alleged in the media report

According to the investigation, no one registered or was admitted to Moi University using Ms. Nafula's details. According to the Moi University Graduation List for the Bachelor of Tourism Management Cohorts of September and December 2012 and September and December 2013, no one registered and graduated using Ms. Nafula's details. Her information/details were not found in the lists of students who graduated during the two academic years.

Furthermore, it was discovered that Moi University had generated an admission letter and sent it to Ms. Nafula through the address she had used during the central application while in form four at Manor High Secondary School.

c. Culpability on any relevant Government agency for failure to act as per their legal obligations.

Contrary to the media reports that JAB did not place Ms. Milly Nafula at any university and that Moi University did not send her the admission letter, the investigation revealed the following:

- i. Even though Ms. Milly Nafula Barasa did not receive any communication or report regarding admission to any university, Moi University sent her admission letter via postal address 63-30205, Matunda. According to Moi University's Acting Deputy Registrar of Admissions, the practice back then was that after receiving form D2c from JAB, the University would inform or notify the successful students of their admissions through letters that were posted to the postal addresses provided by the students in the university application form. A certified copy of a letter that accompanied her admission documents was provided by the University.

- ii. The Commission requested that the Postal Corporation of Kenya (PCK) establish the post office box details for Address 63-30205, Matunda. The PCK indicated that the letter was sent as ordinary mail, which entails delivering the letters or emails to the registered owner's or key holder's private letterbox for pickup. According to the PCK, one Hudson Wasike Isacson owned the above address from 2009 to October 26th 2020. Ms. Milly Nafula confirmed that she used the address in her university application while attending Manor House Secondary School and knew the above person who owned the postal address at the time.

The investigations exonerated KUCCPS (formerly JAB) of any fault or failure to place Ms. Milly Nafula in a university, as well as Moi University of any alleged failure to send her admission letter.

Based on the investigation's findings, the Commission concludes that;

- i. The JAB placed Ms. Milly Nafula at Moi University to study Bachelor of Tourism Management, which she had listed as her third choice during the central application at Manor House Secondary School.
- ii. There is no evidence that anyone used Ms. Nafula's details to enroll in the Bachelor of Tourism Management programme at Moi University's Chepkoilel Campus as claimed.
- iii. Though Ms. Nafula claimed she did not receive the admission letter, Moi University sent it to her at Postal Address 63- 30205, Matunda, which was owned at the time by one Hudson Wasike Isacson. Ms. Nafula confirmed that she included the address in her university application while attending Manor House Secondary School and that she knew the person.

The Commission also made the following observations:

The KUCCPS has improved communication channels by providing an online platform where KCSE students can log in and select their preferred courses and universities. Following application and placement, they are notified about admission and reporting details via the same student portal. The KUCCPS system is interconnected and serves students as well as higher education institutions. As a result, the likelihood of students failing to receive their admission letters is low.



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- ii. Most institutions of higher learning notify students of the courses they will be taking and where they will be taking them via SMS and email. Admission letters and other joining instructions are uploaded to their websites for successful candidates to download by entering their form four index numbers for admission.
- iii. Ms. Nafula went to her former high school to inquire about her admission to university, but the principal informed her that the school had not received her admission letter from JAB;
- iii. she then went to the then-District Education Office, which wrote to the school about it. It was noted that her efforts to obtain answers were futile.
- iv. Mt. Kenya University has since offered to sponsor Ms. Milly Nafula for a Bachelor of Medicine programme beginning in September 2022.

KUCCPS consider communicating to KCSE graduates updates on university and course revision deadlines and placement instructions via text message platforms, email addresses, social media pages, and mainstream media.

KUCCPS should consider notifying Heads of Schools about their candidates' placements and using online platforms to inform students about their placements.

In accordance with the Access to Information Act, 2016, all universities must post on their websites the names of students placed by KUCCPS in their universities, as well as the names of their secondary schools, KCSE index numbers, courses or programmes considered for, and reporting dates.

Given that not all Kenyan students have easy access to online platforms (due to poor network coverage in some areas, remoteness, or poverty), the Ministry of Education considers guiding students in filling in the correct contact details (addresses, phone numbers, and email addresses of guardians) during course application through Heads of Schools.

The Commission recommends the following based on the investigation's findings:

INVESTIGATION

Systemic and Human Factors led to Service Failure at Kajiado Referral Hospital, Ombudsman Investigation Reveal

An investigation by the Commission on Administrative Justice (Office of the Ombudsman) has revealed that the recruitment of casuals working at the Kajiado County Referral Hospital was improperly carried out.

The investigation established that the casuals did not have clear terms and conditions, and that majority of them were paid Kshs. 7,500, which is less than the minimum wage. And at the time of the casuals' industrial action in July 2021, their salaries had been delayed for five consecutive months, totaling KSh. 3,750,000.

The investigation also revealed that the National Treasury's and the National Hospital Insurance Fund's (NHIF) delays in disbursing funds to the county and the hospital, respectively, had an impact on the hospital's operations.

The Commission launched an investigation on its own initiative in response to media reports featuring industrial action by casual workers from 7th to 9th July 2021. The Commission sought to identify both systemic and human factors that may have contributed to the strike, including dereliction of duty on the part of county officials and the Hospital Management.

According to media reports, the hospital wards were in disrepair due to the striking workers leaving litter, dirty bedsheets, and bandages all over the wards, causing a serious stench that hampered hospital services.

Furthermore, patients were allegedly left to fend for themselves in the wards, with the majority of them sleeping on uncovered beds and relying on relatives to bring them food from home because there was no food in the hospital. There was no water for drinking or bathing at the facility, so they had to rely on their caregivers to bring them water from outside. Drugs were also unavailable at the hospital's pharmacy, forcing patients to buy them at higher prices at pharmacies outside the hospital.

Due to the veracity of the allegations, the Commission recommended investigation pursuant to Section 8 of the Commission on Administrative Justice Act, 2011.

The following issues were considered for investigation:

- i. Alleged public service failure at the hospital;
- ii. Circumstances surrounding the industrial action by casual workers; and
- iii. Drug availability at the hospital; how the County orders drugs and other medical supplies from the Kenya Medical Supplies Authority (KEMSA); and whether drugs were available in the County during the casual workers' strike.

The Commission notified Governor, County Government of Kajiado, of its decision to investigate the matter on July 6 2021.

The investigation revealed the following:

a. Alleged public service failure at the hospital

- i. The Chief Officer, Medical Services, confirmed that the industrial action took place at the Kajiado Referral Hospital between July 1st and July 7th, 2021. Casual workers took part in the strike to protest the delayed payment of wages that had accrued for more than five months (February to June 2021).
- ii. The workers' representative stated that they informed the hospital administrator, Mr. David Matiko, of their intention to strike. Following that, on July 1, 2021, the workers began their strike by scattering litter, dirty bedsheets, used bandages, and other used medical waste throughout the wards, ostensibly to draw the attention of the authorities, who were allegedly unwilling to come out and listen to their grievances.
- iii. Medical officers were unable to provide services to patients due to the litter. As a result, the Chief Officer of Health had to intervene to persuade the workers to clear the litter, and they did so. Nonetheless, they remained in the hospital to guard against any external people being brought in to replace them.
- iv. The workers continued their strike until July 6, 2021, when they met with CECs Health and Finance, who assured them that they would be paid that day. It was not until the following day, July 7, 2021, that they received all their salary arrears totaling to Ksh. 3,457,116.



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b. Circumstances surrounding the industrial action by casual workers

- i. The investigation established that industrial unrest was caused by the failure to pay salaries that had accrued for more than five months. Mr. Jacob Sempeke, Chief Officer of Medical Services, acknowledged the delay in payment of the workers' salary arrears and blamed it on the National Treasury's failure to disburse funds to the County. Furthermore, the problem was exacerbated by a delay in NHIF reimbursement, which the hospital finally received on July 22, 2021. The Chief Officer explained that the NHIF reimbursement is intended for operational costs such as wage payment. According to him, the flow of money had been an issue affecting service delivery in the County.
- ii. The arrears were caused by the delay in reimbursement of NHIF funds, according to Susan Wairimu Kirubi, an accountant at the Ministry of Medical Services and Public Health in Kajiado County. On July 22, 2021, the hospital received the final NHIF disbursement for the fiscal year 2020/2021. The hospital's financial crisis prompted the County to enact the Facility Improvement Fund (FIF) in May 2021, allowing hospitals to use collected revenue.
- iii. It was determined that the casual workers' strike had a significant impact on service delivery at the hospital. Furthermore, the striking workers were rowdy as they sought the attention of the appropriate authority to listen to their grievances. The hospital medical officers were unable to attend to patients due to the unsanitary conditions in the hospital and the unruliness of the casual workers.

c. Drug availability at the hospital

- i. The investigation revealed that the County's procedure for ordering drugs was bureaucratic and complicated.
- ii. The investigation established that once KEMSA delivers commodities, the county has a 90-day window in which to pay its debts in full. After that time, the county's account is deactivated and orders are barred until the debts are cleared. However, despite the timely submission of all relevant documents from the County Department of Health to the County Finance Department for payment facilitation, there have been consistent delays in the disbursement of funds to KEMSA and other medical suppliers. As a result of the delay, only one order was placed with KEMSA for FY 2020/2021, resulting in a shortage of medical commodities in the county.

- iii. It was discovered that there was a drug crisis at Kajiado Referral Hospital and other facilities. The Chief Officer of Medical Services stated that there was a drug shortage. According to the County Pharmacist, KEMSA had stopped supplying drugs and other medical commodities to the hospital due to a pending bill of KSh. 61.8 million that had accumulated for the year. She also stated that KEMSA does not process orders for medical supplies, including drugs, until counties pay outstanding bills.

Based on the investigation's findings, the Commission recommends the following:

- i. The County should conduct an audit of all casual employees in order to formalise their employment and establish clear terms and conditions of service, particularly minimum wage remuneration.
- ii. Casual recruitment should be delegated to the Hospital Management by the County Public Service Board. On a need basis, the Hospital Management should hire casuals in a competitive manner.
- iii. Because healthcare is a critical service, the county should prioritise settling KEMSA and MEDS outstanding debts in order to continue ordering drugs and other medical commodities. To ensure efficiency, the process of ordering drugs within the county should be streamlined.



INVESTIGATION

Ombudsman Investigation Reveals Irregular Recruitment and Promotion Practices at the Kenya Industrial Research Institute (KIRDI)

An investigation by the Commission on Administrative Justice (Office of the Ombudsman) has revealed that the recruitment for the positions of Deputy Director of Research, Technology and Innovation, Deputy Director of Technology Transfer and Extension Services, Assistant Director Finance, and Principal Internal Auditor at the Kenya Industrial Research and Development Institute (KIRDI) in 2019 was done irregularly and in violation of section 36 (1) of the Public Service Commission (PSC) Act, 2017 as well as Section B.5 of the KIRDI Human Resource Policies and Procedures (HRPP) Manual, 2018.

The investigation also revealed that promotions and appointments to the positions of head of divisions, sections, and centers were irregular, given that the positions did not exist in the KIRDI Career Progression Guideline and were made at the Director's discretion. Furthermore, it was established that acting appointments were made unfairly and at the Director's discretion.

Following an anonymous complaint against the Director KIRDI, the Commission launched an investigation on allegations of administrative injustice in disciplinary cases, irregular appointment and reinstatement of staff, irregular promotion of staff, irregular payment of leave allowances, impropriety involving an official vehicle, unfair implementation of SRC recommendations, unfair transfers, insubordination of the Board of Directors, and violation of transport policy, as well as COVID-19 Regulations.

Due to the veracity of the allegations, the Commission recommended investigation pursuant to Section 8 of the Commission on Administrative Justice Act, 2011. The Commission considered the following issues for investigation;

- i. Alleged administrative injustice on two disciplinary cases;
- ii. Alleged impropriety involving an official vehicle;
- iii. Alleged irregular employment of staff;
- iv. Alleged irregular reinstatement of an officer;
- v. Alleged improper promotions;
- vi. Alleged deployment of staff to new positions using fake certificates;
- vii. Alleged irregular payment of leave allowance, and;
- viii. Alleged contravention of transport policy upon bereavement of staff.

On July 12, 2021, the Commission notified the Chairperson and Chief Executive Officer of the Public Service Commission (PSC), as well as the Cabinet Secretary of the Ministry of Industrialisation, of its decision to investigate the matter.

i. Administrative Injustice in Disciplinary cases

The complaint alleged that Dr. Patrick Kuloba, a senior officer at the institute, was unfairly subjected to disciplinary proceedings. It was also alleged that the disciplinary matter should have been handled by the KIRDI Board of Directors, but instead, a committee of junior officers was formed to hear his case, which resulted in his suspension on malicious grounds by the Director. It was also claimed that Ms. Christine Ombuna was unfairly subjected to disciplinary action, which resulted in her dismissal.

The investigation revealed that;

- a) Dr. Kuloba challenged the disciplinary action taken against him in court, and the court ruled in his favor. The Director of KIRDI filed an appeal at the Court of Appeal in Nairobi, and the case is still pending. Section 30(c) prohibits the Commission from pursuing the matter further. Dr. Kuloba's complaint against his supervisor, which prompted the disciplinary action, was not addressed.
- b) According to the evidence records, the disciplinary process that led to Christine Ombuna's dismissal was procedural and in accordance with the Discipline Manual for Public Service, 2016 as well as section K2 of the KIRDI Human Resource Policies and Procedures Manual, 2018.



ii. Impropriety Allegation Involving an Official Vehicle

It was alleged that on January 14, 2021, a KIRDI vehicle was involved in an accident and was towed to Tigoni Police Station. It was also alleged that the vehicle was driven on an unauthorized route by an unauthorized driver, and that the occupants of the accident succumbed to the injuries. It was also alleged that Mr. Stephen Kamau, a KIRDI driver, was used to conceal the facts of the accident because it was falsely reported that he was driving the vehicle at the time of the accident.

The investigation revealed the following;

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- a) A copy of the vehicle work ticket obtained by the Commission revealed that Stephen Kamau was driving the vehicle on the relevant day and that the trip had been authorized by the Director. A report from Avenue Hospital Parklands was also obtained, confirming that Stephen Kamau was treated at the facility on January 15, 2021 at 7 a.m. for minor injuries to his right hand and was discharged the same day.
- b) Documents obtained revealed that Stephen Kamau had applied for leave from the 11th to the 30th of January 2021, which had been approved. Despite the fact that the leave had been approved, the Director claimed that he had recalled Kamau back to work on the material day.

The allegations that the vehicle KBT 255N was on an unauthorized journey and that some occupants succumbed to injuries in an accident involving the vehicle were unsubstantiated.

iii. Allegation of irregular staff recruitment

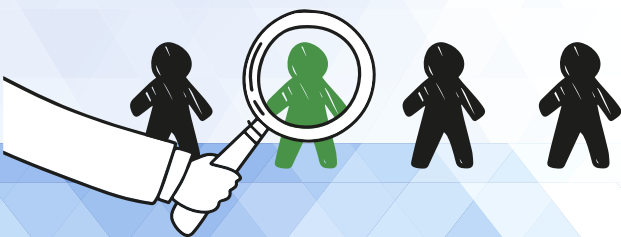
It was alleged that senior staff were irregularly recruited in 2019 without meeting the minimum requirements for their respective positions, specifically without holding certificates in a senior management course. The employees were allegedly recruited and then taken for senior management training. It was also claimed that Vitalis Kiplagat was improperly hired as a research scientist/technician.

The Commission's investigation revealed that;

- a. In June 2019, advertisements were placed publicly for six positions, including the following five senior positions:
- Deputy Director, Technology Transfer and Extension Services
 - Deputy Director, Research, Technology, and Innovation
 - Deputy Director, Finance, Human Resources, and Administration
 - Principal Internal Auditor
 - Assistant Director, Finance
- b. According to the job indents obtained from KIRDI, one of the requirements for the positions of Deputy Directors was that a candidate ought to have completed a six-week strategic management course. The requirement for the positions of Assistant Director Finance and Principal Auditor was a four-week strategic management course.

- c) According to the minutes of the Board's Human Resource and Administration Committee meeting on June 18, 2019, the Committee resolved to reduce the requirement of a minimum of six weeks of training for the position of Deputy Directors to four weeks of training. It was also decided that the same be changed as part of the ongoing review of the Career Progression Guideline (CPG).
- d) According to the same minutes, the committee recommended that all those appointed to the four senior positions attend the Senior Management Course at the Kenya School of Government before taking up their positions. The training was completed, according to the Director.
- e) It was also established that one of the requirements for appointment to the position of Principal Internal Auditor was that a candidate have ten years of experience as an auditor or accountant, three of which must have been in a senior position. Thomas Sitienei, who was named Principal Internal Auditor in a letter dated November 25, 2019, had previously been promoted to Senior Accountant at KIRDI on November 16, 2018. He had previously held the position of Accountant I. As a result, he had only served in a senior position for one year, rather than the three required. As a result, his appointment to the position of Principal Auditor was irregular.
- f) The investigations further revealed that Mr. Vitalis Kiplagat was appointed to the position of Artisan I in the KIRDI's Chemical Engineering Division. The job was not advertised, and it was not filled competitively. According to records, he applied for the position on March 25th, 2019 and was hired on April 1st, 2019 on a one-year contract. On March 3, 2020, he requested a change in employment terms, which was granted in a letter dated July 8, 2020 and signed by Mr. Jairus Ombui, the former Assistant Director of Human Resource and Administration (ADHRA), which changed his terms from contract to permanent and pensionable.
- g) According to records, Mr. Vitalis Kiplagat only had a Kenya Certificate of Secondary Education at the time of his appointment to the position, which was not the requisite qualification under the KIRDI Career Progression Guidelines 2011.

As a result of the investigations, it was determined that the 2019 recruitments for the positions of Deputy Director Research Technology & Innovation, Deputy Director Technology Transfer and Extension Services, Assistant Director Finance, and Principal Internal Auditor were conducted irregularly and in violation of Section 36 (1) of the PSC Act, 2017 as well as Section B.5 of the KIRDI HRPPM, 2018.



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In addition, the appointment of Mr. Vitalis Kiplagat to the position of Artisan I in 2019 was found to be irregular. The State Department for Industrialization Taskforce also noted the irregularity and recommended that the recruitment be canceled, but the KIRDI board did not follow through.

iv. Alleged irregular employee reinstatement

The complaint alleged that one Jonathan Kandu allegedly resigned from KIRDI and was reinstated to his previous position after two years under mysterious circumstances.

The investigations revealed the following:

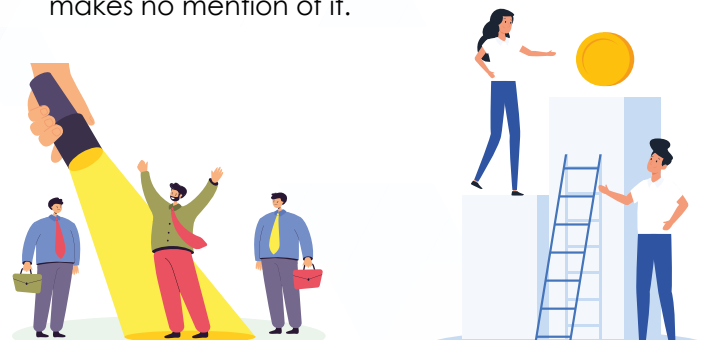
- a) That Mr. Jonathan Kandu had been a KIRDI employee since 2006, when he was appointed as a Senior Artisan at the leather department in Nairobi. He received a letter in October 2019 transferring him from the KIRDI Headquarters in Nairobi to the Western Region Centre. He was dissatisfied with the transfer and, as a result, tendered his resignation, as evidenced by a letter signed by him dated October 8, 2019. The resignation was accepted, as evidenced by a letter dated November 13th, 2019, signed on behalf of the Director by the then ADHRA. As a result, the position became vacant.
- b) According to Mr. Jonathan Kandu's statement, he approached the then-ADHRA in mid-2020, requesting reinstatement to his previous position at KIRDI. He later discussed the matter with the Director, who informed him that he would submit the request for consideration by the KIRDI Board. He stated that in September 2020, the ADHRA informed him that his request had been granted and that he should formally submit his request in writing, which he did. Following that, he was officially reinstated to his previous position.
- c) The Director confirmed that the decision to reinstate Jonathan was based on his unique leather industry skills, which were required at KIRDI. He stated that advice from the then-ADHRA influenced his decision. It is worth noting that the State Department Taskforce found Jonathan's reinstatement to be irregular and recommended that his employment be terminated, but the Director claimed he was unaware of this recommendation.

Mr. Jonathan Kandu's reinstatement as a Leather Technician in the year 2020 was thus deemed irregular. The task force report also noted the irregularity and recommended that his reinstatement be revoked.

v. Allegation of Irregular Promotions

It was alleged that several staff were promoted to various positions based on tribalism and nepotism. The Commission found that with regard to the allegations, the following promotions and appointments were irregular:

- a) The appointment of Mr. Thomas Sitienei to the position of Principal Internal Auditor was found to be irregular.
- b) Mr. Vincent Ngetich Cheruiyot, whose substantive designation is Quality Assurance Officer, was appointed as Head of Quality Assurance Division for a two-year term on May 29, 2020. According to the letter that appointed him to that position, he was entitled to responsibility, airtime, and entertainment allowance. The KIRDI organogram indicates the position, but the Career Progression Guidelines (CPG) do not specify the position or appointment criteria.
- c) Ms. Odilia Chepkoech Chirchir, Accountant I, was appointed as Acting Centre Head, KIRDI Eldoret on April 29, 2020, for an unspecified period. According to her appointment letter, she was entitled to acting, responsibility, air time, and entertainment allowances. Because this position does not exist in the KIRDI CPG or organizational structure, no clear criteria for appointment are provided.
- d) Mr. Jackson Mutai is a KIRDI Research Scientist. According to records, he was appointed as Acting Head of Engineering Development and Service Centre on May 9, 2016, for an unspecified period, with acting, responsibility, airtime, and entertainment allowances. He was appointed Head of Engineering Development Service Centre in the department of Technology Transfer and Extension Services for a two-year term on March 19, 2019. He was assigned to the Mechanical and Electrical Research Division on July 11, 2019, but his responsibilities as Head of Engineering Development Services Centre remained unchanged. On April 30, 2021, he was reappointed as Head of Engineering Development Services Centre for a two-year term. There are no clear criteria for how the appointments were made, and the CPG makes no mention of it.



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- a) Ms. Joan Bett, who holds the substantive position of Human Resource Management Officer II, has been appointed by the Director as Acting Senior Human Resource Management Officer with effect from October 6, 2020, for an unspecified period. She was appointed to act in the same capacity once more in a letter dated September 21, 2021, for a period of six months. Section C.15 of the KIRDI HPPPM states that one will be called upon to act in a higher post if he or she is eligible for appointment to that post. According to the CPG, one of the requirements for appointment as Senior Human Resource Management is to have served as a Human Resource Officer I for three years or have seven years of continuous relevant experience three of whom must be in a senior position Joan did not meet this criterion.
- b) Mr. Alfred Kipsang Kitiyo's substantive designation is Driver II. According to records, on September 2, 2019, he was appointed Acting Assistant Head, Transport Section for a six-month term, with acting and airtime allowances. The position is not mentioned in the KIRDI CPG or organizational structure.
- c) Mr. Ronald Kipchumba Kemboi's substantive designation is Senior Marketing Officer. He was appointed Head of Marketing Division for a two-year term in a letter dated May 29, 2020. Similarly, the position is present in the organogram but not in the CPG.
- d) Mr. Johnstone Kibet Lagat's substantive designation is Research Scientist I. He was named Head of Laboratory Services Centre in a letter dated April 30, 2021. The position is not mentioned in the CPG.
- e) The official title of Mr. Charles Maiyo Kimurgor is Senior Laboratory Technician. He was appointed Head of the KIRDI Malindi Centre for a one-year term beginning December 1, 2020. The position is not mentioned in the CPG.
- f) Mr. Ronald Ngososey's job title is Clerical Officer. According to records, he was appointed by the Director to the position of Acting Head of Payroll on December 7, 2021. This position is not in the CPG, nor are the appointment criteria.
- g) Mr. Vitalis Kiplagat's designation is Artisan I, and records obtained show that he has not been promoted to the position of senior researcher. His appointment to the position of Artisan I, on the other hand, was irregular.

As a result, the investigation determined that promotions and appointments to the positions of head of divisions, sections, and centers were irregular, given that the positions do not exist in the KIRDI CPG and appointments were made at the Director's discretion. Furthermore, it was established that acting capacity appointments were made unfairly and at the Director's discretion.

vi. Deployment Allegation Based on Fake Certificates Allegation

It was alleged that Mr. Paul Chirchir was promoted from auxiliary staff to head of honey processing without the necessary qualifications. He was also accused of forging his Kisii University certificate. It was further claimed that Mr. Ronald Ng'osey was promoted from auxiliary staff to payroll manager under mysterious circumstances and that he also forged a certificate from Kisii University, which helped him get the promotion.

The investigations revealed that;

- a) Mr. Paul Chirchir is currently employed as an Artisan I at KIRDI grade 4. He previously held the position of senior support staff in grade 3, and he was promoted to job grade 4 during the 2018 mass promotions. According to a letter dated September 4, 2020, he was translated to Artisan I and assigned to the Food Division, Honey Processing Section. His appointment to the position of Head of Honey Processing, as claimed, was not reflected in the records.
- b) It was also established that Mr. Chirchir's Diploma certificate in Business and Management from Kisii University, dated December 18, 2013, was genuine. This was confirmed by his course registration documents, Kisii University letter of offer, letter of acceptance of the offer, fees invoices and receipts, clearance letter, and transcripts. Further, the Acting Registrar of Academic Affairs, Kisii University, confirmed the authenticity of the certificate.
- c) It was noted on Mr. Chirchir's transcripts that the date of graduation was initially listed as December 19, 2014, but he graduated on December 18, 2013. Mr. Chirchir stated in his statement that he sought rectification from the University and that it was corrected. However, another error was made when his date of admission was listed as 31st December 2012 rather than 31st March 2012, which is the correct date on file. This indicated that Kisii University was careless in printing the transcripts.

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- d) Ronald Ng'osey was employed as a senior support staff member at Job grade 3. During the November 2018 mass promotions, he was promoted to job grade 4. On December 19, 2019, he was re-designated to clerical officer job grade 4 and assigned to the payroll section. On December 7, 2021, he was unexpectedly appointed Acting Head of Payroll.
- e) It was also established that his Diploma Certificate in Business and Management from Kisii University is genuine. Fee receipts from the institution, a letter of offer to pursue the course, and clearance documents were used to verify this. The certificate's authenticity was also confirmed by the Ag. Registrar Academic Affairs.
- f) Investigations revealed that Mr. Chirchir's and Mr. Ng'osey's re-designations violated section B.21 of the KIRDI HRPPM, which states that "the Director shall have power to re-designate officers from job grade IR3 to IR8, subject to suitability interview to those moving to non-related cadres." The re-designations were neither recommended nor subjected to a suitability interview by the KHRMC.

As a result, the investigation revealed that Paul Chirchir's and Ronald Ng'osey's Kisii University diploma certificates are genuine. However, their re-designations to Artisan and Clerical Officer, respectively, were irregular. Ronald Ng'osey's appointment as Acting Head of Payroll was also irregular.

vii. Irregular Payment of Leave Allowance Allegation

Mr. Jairus Ombui, the former ADHRA, was allegedly illegally paid leave allowance.

- a) According to the records, on December 8, 2020, Mr. Ombui applied for an annual leave of 93 days, which was the total leave days that he was entitled to at the time. Only 13 days were approved, and the form stated that he must carry forward the remaining 80 days. Mr. Ombui requested that the eighty leave days be converted for cash in a memo to the Director on December 22, 2020. He stated that this was due to service requirements.
- b) The Director later approved the commutation, and he was paid. On August 10, 2021, the DDFRHA requested the commutation of Mr. Ombui's twelve leave days, which was approved by the Director, and he was then paid according to a copy of the payment voucher obtained.

- c) The Director stated that he had authorized Mr. Ombui to carry forward his leave days from previous years because there was a gap in the Human Resources Department and his skills were constantly in demand. Section E.4 of the KIRDI HRPPM states that the Director is responsible for authorizing the commutation of leave for cash when leave is not taken due to service exigencies. As a result, the commutation was merely procedural.

The investigation thus revealed that the Director authorized the commutation of leave for cash in the case of Jairus Ombui. He had pending leave days due to service exigencies, so the commutation was purely procedural.

viii. Allegation of Transport Policy Violation

Staff were allegedly denied official transportation to the burial of two of their colleagues, in violation of policy and previous practice.

Section D.14 (5) of the KIRDI HRPPM states that an officer who will represent KIRDI at the deceased's burial will be provided with official transportation. In his statement, the Director stated that the office only provides transportation to representatives of his office during an officer's burial. The Director's office is in charge of selecting 30 representatives and approving transportation. As a result, this allegation was unsubstantiated.

The Commission recommends the following based on the investigation's findings:

- a) The KIRDI Board of Directors to ensure that Dr. Patrick Kuloba's complaint against his supervisor is dealt with appropriately. The Board to take additional steps to strengthen internal complaints handling mechanisms and report back to the Commission on progress within six months of the release of this report.
- b) KIRDI Board to cancel all appointments as Heads of Centers, Divisions, and Units because these positions are not covered by the Career Progression Guidelines and thus no clear cut criteria for appointment to these positions are provided. Following the release of this report, the board is required to report back to the Commission on actions taken within six months.
- c) The PS, State Department of Industrialization, to ensure that the cost of Senior Management training undertaken by the following senior staff is surcharged from Board members who improperly approved the training:



INVESTIGATION

- Dr. Arthur Steven Onyuka is the Deputy Director of Technology Transfer and Extension Services.
- Dr. Martha Khasiala Induli is the Deputy Director of Research, Technology, and Innovation.
- Stanley Abonyo is the Assistant Director of Finance.
- Thomas Sitienei Kazungu is the Principal Internal Auditor.

- d) The KIRDI Board should annul the appointments of Vitalis Kiplagat and Thomas Sitienei, as well as the reinstatement of Jonathan Kandu, because they were made in an irregular manner. Following the release of this report, the board is required to report back to the Commission on actions taken within six months.
- e) KIRDI Board to overturn Joan Bett's appointment as Acting Senior Human Resource Officer because it was done improperly. Following the release of this report, the board is required to report back to the Commission on actions taken within six (6) months.

**Administrative Injustice
in Disciplinary cases**

**Allegation of irregular
staff recruitment**

**Allegation of Irregular
Promotions**

**Irregular Payment of
Leave Allowance Alle-
gation**

**Impropriety Allegation
Involving an Official
Vehicle**

**Alleged irregular em-
ployee reinstatement**

**Deployment Allegation
Based on Fake Certifi-
cates Allegation**

**Allegation of Transport
Policy Violation**

PICTORIAL



Former Commission Staff Naserian Karlobo and Abdi Mohammed cut a cake at a farewell ceremony hosted by the Commission on Administrative Justice Staff Welfare Association (CAJSWA).



The Commission Vice Chairperson, Mr Washington Sati, led a team from the Commission during a courtesy call to the Hanns Seidei Stiftung Foundation. Mr. Daniel Serbeling, Foundation's Resident Representative, and Mr. Robert Kabucho, Head of Programmes, met with the team.



A team from the Commission led by the Commission in Charge of Access to Information, Ms. Lucy Nd'ungu during a meeting with a team from Katiba Institute led by the Executive Director, Christine Nkonge.



A medical team from Sasa Doctor during a medical camp at the Commission hosted by the Human Resource Department.



A team from the Commission's Complaint, Investigation, and Legal Services Department led by the Director in Charge, Ms. Florence Mumbi with assessors from the Nairobi Legal Awards, during the verification and vetting exercise.



CAJ Office, Mr. Moses Sukali during training on effective public complaint management for Kenya Dairy Board Officers.



Commission's Senior Legal Officer for Kisumu Regional Office, Ms. Amelia Otono interacting with a member of the public during the Legal Awareness Week at the Kisumu Law Courts grounds.



CAJ Officers during a three-day Leadership and Conflict Management Skills Training for Electoral Stakeholders organised by the European Centre for Electoral Support (ECES) in association with Arma dei Carabinieri.



A team from the Department of Complaints, Investigations, and Legal Services during a working retreat to develop the departmental Alternative Dispute Resolution Manual.



The Commission Secretary with representatives from Cooperative Bank of Kenya when they paid a courtesy call on the Commission.



His Excellency Dr. William Samoei Ruto, C.G.H interacting with Chairpersons of various Constitutional Commissions and Holders of Independent Offices during the launch of the National Council of Administrative Justice report at Safari Park Hotel, Nairobi.



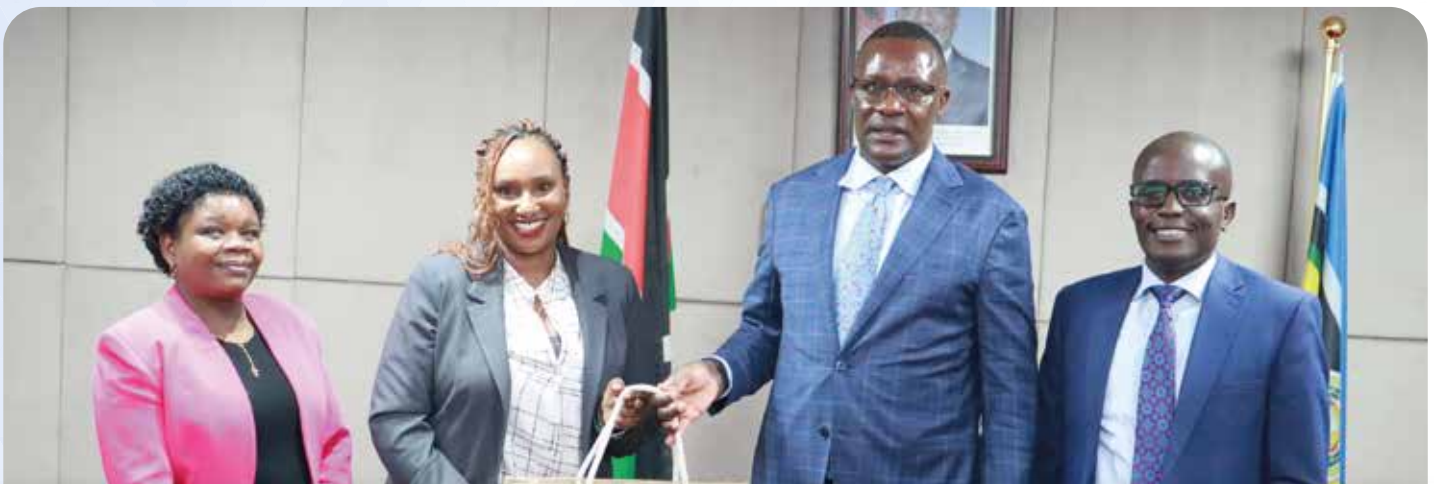
Director in-Charge of Public Education, Advocacy and Corporate Communications, Mr. Osman Mohamed, and the Assistant Director ICT, Ms. Flora Ngonze, facilitating a Webinar on the Complaints Management Information System for MDAs.



Director in-Charge of Public Education, Advocacy and Corporate Communications, Mr. Osman Mohamed, and other participants during a planery discussion at the Kenya National Theatre to commemorate the Human Rights Day.



Outgoing and newly elected officials of the CAJ Staff Welfare Association cut a cake in celebration of the new office bearers.



CAJ commissioners led by the Commission Chairperson Hon. Florence Kajju, during a courtesy call to the Cabinet Secretary, Ministry of Information, Communication and the Digital Economy Mr. Eliud Owalo at his Office.



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