

THE COMMISSION ON ADMINISTRATIVE JUSTICE ANNUAL REPORT 2014



Annual Report 2014 © The Commission on Administrative Justice (The Office of the Ombudsman)

West End Towers, 2nd Floor, Waiyaki Way

P.O. Box 20414 - 00200, Nairobi

Tel: 020-2270000/020-2303000/020----263765

Email..info@ ombudsman.go.ke (for general inquiries) complain@ombudsman.go.ke (for complaints)

Website: www.ombudsman.go.ke Annual Report 2014 No. 16/2014

| Page

TABLE OF CONTENTS

ABBREVIATIONS AND ACRONYMS.....	iii
STATEMENT FROM THE CHAIRPERSON	iv
FOREWORD.....	vi
EXECUTIVE SUMMARY	vii
1.0. HISTORY, MANDATE AND STRUCTURE.....	1
1.1. INTRODUCTION	1
1.2. OMBUDSMAN: HISTORICAL CONCEPT.....	1
1.3. THE RISE OF THE AFRICAN OMBUDSMAN INSTITUTION.	2
1.4. HISTORY OF THE OMBUDSMAN IN KENYA	2
1.5. ESTABLISHMENT OF THE COMMISSION ON ADMINISTRATIVE JUSTICE.	3
1.6. MANDATE OF THE COMMISSION.....	3
1.7. THE STRUCTURE OF COMMISSION	5
1.8. VISION, MISSION AND CORE VALUES.....	7
1.9. THE LOGO OF THE COMMISSION	8
2.0. TACKLING MALADMINISTRATION IN THE PUBLIC SECTOR.....	10
2.1. INTRODUCTION	10
2.2. COMPLAINTS HANDLING.....	10
2.3. CASES HANDLED IN PERSPECTIVE.....	13
2.4. REPORT FROM THE BRANCH OFFICES.....	24
2.5. INTERGRATED PUBLIC COMPLAINTS REFERRAL MECHANISM.....	28
2.6. SUCCESS STORIES AND SAMPLE CASES HANDLED	29
2.6.1. SUCCESS STORIES.....	29
2.6.2. SAMPLE CASES HANDLED	35
2.7. SAMPLE LETTERS OF APPRECIATION.....	44
2.8. INVESTIGATIONS AND RESEARCH	54
2.8.1. INTRODUCTION	54
2.9. UNRESPONSIVE AND MALFEASANT PUBLIC OFFICERS	61
3.0. BUILDING COMPLAINTS HANDLING CAPACITY IN THE PUBLIC SECTOR	66
3.1. INTRODUCTION	66
3.2. BUILDING AND STRENGTHENING COMPLAINTS HANDLING CAPACITY.....	66
4.0. PUBLIC EDUCATION AND ADVOCACY	78
4.1. INTRODUCTION	78
4.2. COUNTY VISITS PROGRAME	78
4.3. AWARENESS THROUGH AGRICULTURAL SOCIETY OF KENYA SHOWS.....	79
4.4. OMBUDSMAN COMMITTEES.....	80
4.5. MEDIA-BASED ADVOCACY AND EDUCATION.....	81

4.6. LEVERAGING ON SOCIAL MEDIA	82
5.0. PROMOTING CONSTITUTIONALISM AND GOOD GOVERNANCE IN THE PUBLIC SECTOR	84
5.1. INTRODUCTION	84
5.2. ROLE OF THE COMMISSION IN CONSTITUTIONALISM AND	84
GOOD GOVERNANCE	84
5.3. ADVISORY OPINIONS	84
5.4. LEADERSHIP AND INTEGRITY	86
5.5. PROMOTION OF ALTERNATIVE DISPUTE RESOLUTION	87
5.6. OMBUDSMANSHIP IN THE COUNTIES	88
5.7. HUDUMA OMBUDSMAN AWARDS	88
5.8. PUBLIC INTEREST LITIGATION	91
6.0. PARTNERSHIPS, COLLABORATIONS AND LINKAGES	94
6.1. INTRODUCTION	94
6.2. FORUM OF CHAIRPERSONS OF CONSTITUTIONAL COMMISSIONS AND HOLDERS OF INDEPENDENT OFFICES	94
6.3. NATIONAL COUNCIL FOR THE ADMINISTRATION OF JUSTICE	94
6.4. LEGISLATIVE REVIEW	95
6.5. SHAPING THE GOVERNANCE AND PUBLIC ADMINISTRATION AGENDA	95
6.6. MEMORANDA OF UNDERSTANDING WITH OTHER INSTITUTIONS AND JOINT ACTIVITIES	96
6.7. ENGAGEMENT WITH REGIONAL AND INTERNATIONAL OMBUDSMAN INSTITUTIONS	97
7.0. INSTITUTIONAL CAPACITY BUILDING AND DEVELOPMENT	99
7.1. INTRODUCTION	99
7.2. HUMAN RESOURCE	99
7.3. TRAINING	99
7.4. INFORMATION AND COMMUNICATION TECHNOLOGY (ICT)	100
7.5. PROCUREMENT	101
7.6. FINANCES	101
8.0. CHALLENGES AND WAY FORWARD	103
8.1. CHALLENGES	103
8.2. LOOKING AHEAD: 2015 AND BEYOND	104

ABBREVIATIONS AND ACRONYMS

AOMA	African Ombudsman and Mediators Association
CAJ	Commission on Administrative Justice
MDAs	Government Ministries, Departments and Agencies
ICT	Information, Communication and Technology
IEBC	Independent Electoral and Boundaries Commission
IEC	Information, Education and Communication
IPCRM	Integrated Public Complaints Referral Mechanism
IOI	International Ombudsman Institute
MOU	Memorandum of Understanding
NCAJ	National Council for Administration of Justice
NLC	National Land Commission
TSC	Teachers Service Commission
KNCHR	Kenya National Commission on Human Rights
PCSC	Public Complaints Standing Committee
ASK	Agricultural Society of Kenya
IEC	Information, Education and Communication
DPP	Director Public Prosecution
KICD	Kenya Institute of Curriculum Development
JSC	Judicial Service Commission
UNDP	United Nations Development Programme

STATEMENT FROM THE CHAIRPERSON

It is with great pleasure and sense of pride that I present the third Annual Report of the Commission on Administrative Justice in accordance with Article 254 of the Constitution and Section 53 of the Commission on Administrative Justice Act, 2011 (Chapter 102A of the Laws of Kenya). The report is an accountability statement to Kenyans on the progress made by the Commission and covers the period January to December 2014. As you may be aware, the Commission, also known as the Office of the Ombudsman, is mandated to enforce administrative justice and promote constitutional values by addressing maladministration through effective complaints handling and dispute resolution.

I am delighted to report that the year 2014 was a phenomenal period for the Commission that witnessed the consolidation of the achievements of the previous two years. The milestones were made possible through institutional strengthening, strategic leadership and direction, enhancement of complaints management, awareness creation, strategic partnerships and innovation. This is manifested by the significant increment of complaints and contacts to 86,905 out of which 70,806 were resolved in comparison with 18,257 complaints and contacts handled in 2013. Similarly, the complaints from branch offices and the Integrated Public Complaints Referral Mechanism increased from 666 to 1,067 and 73 to 151 respectively during the reporting period. I am also pleased to report that in the same period, the Commission escalated its investigations in relation to specific and systemic issues in public administration.

Further milestones were manifested in key programmatic areas such as awareness creation, building complaints handling capacity in the public sector, promotion of constitutionalism and partnerships and institutional development. In particular, the Commission enhanced its outreach activities to create awareness about its mandate and administrative justice; trained 2,762 public officers; escalated spot checks and impromptu audits; escalated its activities in relation to public interest litigation and alternative dispute resolution; and reviewed guidelines on public complaints indicator to strengthen the complaints handling capacity of public institutions. In addition, the Commission enhanced its presence at the international level which climaxed in Kenya hosting the Secretariat of the African Ombudsman and Mediators Association due to my election as the Secretary General during the Association's 4th General Assembly in Addis Ababa, Ethiopia in November 2014. Above all, the Commission employed innovative ways to attaining its mandate mainly through the Huduma Ombudsman Awards for the most responsive and outstanding public institutions and officers; and Ombudsman

Committees in informal settlements in Nairobi. These milestones were anchored on strong institutional capacity manifested in improved infrastructure through institutional growth and presence in the Huduma Centres.

Discharging our mandate has not been without challenges; there were a number of institutional and operational challenges we faced in the execution of the Commission's mandate. Key among them was budgetary constraints, low staff capacity and impunity in the public sector. Moving forward, the Commission has adopted a number of strategies to overcome the challenges and deepen its activities. In this regard, the Commission intends to enhance its capacity through recruitment of additional staff, leverage on technology and countrywide presence; diversify funding sources; and partnerships with stakeholders in the governance process at the national and county levels.

The achievements outlined above would not have been possible without the innovation, resourcefulness, commitment of the Commissioners and staff who have lived the slogan of the Commission, '*Hata Mnyonge ana Haki.*' I take this opportunity to commend them for work well done. As always, I assure Kenyans that we will continue to challenge ourselves with high expectations and demanding goals in the execution of our mandate. In this regard, I invite all stakeholders to partner with us in this endeavour

DR. OTIENDE AMOLLO, EBS
CHAIRPERSON OF THE COMMISSION

FOREWORD

It is my sincere delight to forward the third annual report of the Commission on Administrative Justice. It details the activities of the Commission during the year 2014, achievements, challenges, and the way forward.

A key strength of the Commission is accessibility to members of the public and providing opportunity to raise concerns on service delivery. The commission continued during the reporting period to create awareness of its role in improving service delivery. Our outreach activities were extended to the counties where our services were availed to the rural areas.

A major achievement in the year was the inaugural Huduma Ombudsman Awards which recognised the most outstanding public servants nominated by the public. This sent a message to public servants that the Commission not only rights wrongs but recognizes effort and commitment to work. The Commission intends to hold this awards ceremony on an annual basis.

I wish to acknowledge the support provided by various stakeholders during the reporting period. In particular, I wish to thank the Government and the United Nations Development Programme (UNDP) for the budgetary support that enabled the Commission to actualize its mandate. It would not have been possible to have executed our functions without their involvement and those of our other numerous partners.

I wish to salute the Commissioners and members of staff for their dedication to deliver and meet the expectations of the public, which is to realise an efficient public service. This is a common interest for both Government and the Commission. I hope that in the near future, this common interest will be achieved.

LEONARD NGALUMA
COMMISSION SECRETARY

EXECUTIVE SUMMARY

The 2014 Annual Report comes mid-way the term of the first set of Commissioners since establishment. The Commission has come of age as reflected in the management of affairs and implementation of mandate.

In line with its mandate, the Commission continued to tackle maladministration through complaints handling, training of public officers and monitoring systemic investigations.

TACKLING MALADMINISTRATION IN THE PUBLIC SECTOR

The chief responsibility of the Commission is the traditional role of the Ombudsman as known in many countries as captured under Article 59(2)(h)&(k) of the Constitution and Section 8(a-d) of the Act which mandate the Commission to deal with maladministration in the Public Sector. Towards this end, the Commission is empowered to receive, inquire and investigate instances of maladministration such as unreasonable delay, administrative injustice, discourtesy or misconduct, incompetence or ineptitude, misbehavior in public administration, improper or prejudicial conduct, manifest injustice, abuse of power, unlawful, oppressive, unfair treatment or unresponsive official conduct and failure to adhere to the constitutional principles that all sovereign authority of the state is drawn from the people. In performing this function, the Commission provides oversight across the entire public sector, acting as a check on processes, systems and procedures.

Complaints Handling

Complaints handling remains one of the main approaches the Commission employs to address maladministration. Under the reporting period, the Commission handled a total of 86,905 complaints with 79,693 new cases. There has been an increase in the number of complaints in the last three years having handled 18,257 complaints in 2013 and 4,062 in 2012. The gradual increase is attributable to a number of factors: first, there is increased awareness on the existence of the Commission, and secondly, there is growing appreciation of the Ombudsman as an alternative avenue to getting redress.

The prominent service issues in 2014 are unresponsive official conduct (19.91%), delay (19.08%), unfair treatment (13.58%), abuse of power (11.54%), maladministration (10.81) and administrative injustice (7.21). With respect to institutions, most of the complaints were directed against the National Police Service (12.94%), Ministry of Interior and Co-ordination of National Government (9.28%), the Judiciary (8.04%), and Ministry of Lands, Housing and Urban

Development (7.63%). Save for differences in the number of cases, the issues and institutions complained against have remained the same.

INVESTIGATIONS AND RESEARCH

In line with Article (59)(h-k) of the Constitution and Section 8(a-c) of the Act empowers the Commission to investigate any conduct in state affairs or any act or omission in public administration in any sphere of Government in regards to abuse of power, unfair treatment, manifest injustice or unlawful, oppressive, unfair or unresponsive official conduct. The investigations may be founded on a complaint by the public or own motion (*suo motu*) initiative by the Commission. To this end, the Commission conducted targeted investigations on specific and systemic complaints.

The first investigation relates to investigations on a complaint of encroachment on private land by the Embu County Government. Specifically, it was alleged that the County Government had constructed a bridge and road on land parcel numbers Gaturi/Nembure/4348 and 4349 belonging to Margery Marigu without her consent or compensation. The investigations revealed the following:

- i) That there was a road diversion into the complaint's land occasioned by re-routing of the original public access road as captured in the Register Index Map (RIM), Sheet Number 61 for Central Province.
- ii) That the Embu County Government had constructed a bridge on the road traversing the complainant's land, which also destroyed trees and crops valued at KES 1,411,970.
- iii) That the road was later re-aligned to its original position, the new road still passed through the complainant's land.

Based on the findings, the Commission made the following recommendations:

- i) That the complainant be compensated for loss of use of the land for thirty years and destruction of trees and crops.
- ii) That the portion of the complainant's land still occupied by the constructed bridge be assessed for compensation.
- iii) That the National Environment Management Authority should take action against the Embu County Government for failing to comply with the law on environmental impact assessment.

The second investigation was occasioned by reports in the media which indicated that certain officers at Industrial Area Police Station in Nairobi had

failed to act on a report by a security guard made on 15th May 2014. It was also alleged that the officers had threatened the security guard with criminal action if he failed to withdraw the accusations for an amicable settlement. The investigations revealed the following:

- i) That the officers at the Station failed to act on the report by the complainant. Specifically, they failed to open a case file, record statements from the complainant and three suspects who had been arrested, visit the scene of crime, enter the case in the Crime Register, capture the case in the crime statistics from the Station for May 2014 and arrest the main suspect.
- ii) That there was negligence in the performance of duty by the Officer Commanding Police Division for Makadara who had issued a wrong statement to the media.
- iii) That there was abuse of power by the Officer Commanding Police Station of Industrial Area Police Station for directing the Investigating Officer to refund the cash bail for the suspects without any reasonable ground and in contravention of Section 176 of the Criminal Procedure Code.
- iv) That the Deputy OCS in charge of crime at the Station acted in dereliction of duty by failing to supervise the investigation process to ensure the opening of a file, recording of statements, entry of the case in the Crime Register and arrest of suspects.
- v) That there was inordinate delay by the Station to act on the report.

The Commission, therefore, recommended the following:

- i) That another team of investigators be assigned to promptly and conclusively investigate the matter and take appropriate action.
- ii) That disciplinary action be taken against the officers who failed to perform their duties in respect of this matter.
- iii) That there is need to develop guidelines for investigation of cases, including timelines for conclusions of investigations.
- iv) That the National Police Service should provide refresher courses on investigations for police officers and bring their attention to Chapter Six and Article 244(b) of the Constitution

Another investigation undertaken relates to the conduct of the principal of Ngara Girls' High School in Nairobi with respect to misuse of school van and presence of ghost students and workers. There were also allegations that the principal had also failed to convene the 2012 annual general meeting for the School. The investigations revealed the following:

- i) That there was misuse of the school van by the Principal of the School who had converted it for conducting her private business of supplying eggs to other schools and establishments.
- ii) That there was a discrepancy in the list of additional students submitted by the School to the Ministry of Education, Science and Technology, and the actual number of students at the School. This pointed to the existence of ghost students.
- iii) That there were no ghost workers at the School

Based on the findings, the Commission recommend as follows:

- i) The Teachers Service Commission should caution the Principal of Ngara Girls High School over misuse of the school van
- ii) The Ministry of Education, Science and Technology should surcharge the Principal for misuse of the van and take any other appropriate action against her.
- iii) The Ministry of Education, Science and Technology should develop a policy on the management of vehicles owned by educational institutions, in particular the hiring and implement a vehicle tracking system.
- iv) The Teachers Service Commission should undertake further investigations into this matter and take appropriate action as per the Code of Regulations for Teachers and any other applicable law.
- v) The Ministry of Education, Science and Technology should cause specific audit on FDSEF allocation in all schools to control abuse of the fund by school principals, in particular at Ngara Girls High School
- vi) The Kenya National Audit Office should examine the ordinary student enrolment lists submitted by the Ngara Girls' High School for 2014 FDSEF allocation and ascertain whether the FDSEF released for the year correspond to the actual number of students.

Following the recommendation of the Commission, the Teachers Service Commission since deployed the said principal to teach at Nairobi Technical

Training Institute where she is not involved in the day to day running of the affairs.

The Commission also conducted investigations into alleged irregular acquisition of land belonging to Kisii Municipal Market by private individuals. The investigations revealed that:

- i) The land for the Market did not have a plot number and therefore not registered.
- ii) The land was later subdivided into eight plots: Kisii Municipality/Block III/258, Kisii Municipality/Block III/259, Kisii Municipality/Block III/260, Kisii Municipality/Block III/261, Kisii Municipality/Block III/418, Kisii Municipality/Block III/334 and Kisii Municipality/Block III/376.
- iii) Seven of the plots were subsequently irregularly acquired by private individuals, some of whom proceeded to develop them.

The Commission, therefore, recommended as follows:

- i) The County Government of Kisii should survey and register the land for the Market as per the Approved Master Plan of 1971.
- ii) The National Land Commission should take appropriate action in regard to the land for the Market, including repossession of the seven plots.
- iii) The County Government of Kisii should ensure that public land within the County is surveyed and registered with the Ministry of Lands, Housing and Urban Development.
- iv) The Ministry of Lands, Housing and Urban Development should take disciplinary action against the officers at the Ministry who facilitated the acquisition of the seven plots for the Market.

Further, the Commission carried out investigations relating to a complaint of impropriety in the procurement procedure for the Tassia II Infrastructure Development Project by the National Social Security Fund (NSSF). Specifically, it was alleged that the acting Managing Trustee and the NSSF Board Chairman had improperly and irregularly awarded a tender for the above Project work over five billion shillings. On receipt of the complaint, the Commission conducted investigations which revealed the following:

- i) The design, cost of estimates and advertisement of the Project was done without the requisite budget in disregard of the Public Procurement and Disposal Act, 2005.

- ii) The approval of the revised cost of the Project at KES 5.053 was improper and irregular since the same was done through an e-mail which was not provided for by law.
- iii) The Finance, Social Security and Investment Committee as well as the representative of employees on the NSSF Board were side lined in the approval of the revised cost in contravention of the law.
- iv) The administrative management of the tender process was fraught with irregularities and impropriety in that the tender processing was rushed and the tender awarded before approval. For instance, the opening of the tender, evaluation, and award apparently took place on the same day, the 17th December 2013, while the approval of the Project was sought and granted via email on the 18th December 2013.
- v) The Project was awarded without a budget and meeting the pre-approval conditions set by the Nairobi City County Government
- vi) The Nairobi City County Government did not receive the money (KES 11,244,000) from NSSF for inspection and approval of the Project Plan

Based on the findings, the Commission recommended as follows:

- i) The award of the Project to China Jiangxi International (K) Limited should be cancelled based on the irregularities
- ii) The Ethics and Anti-Corruption Commission should conduct investigations to determine the possibility of corrupt intent in the tendering process of the Project
- iii) NSSF should develop and implement proper internal procedures for transacting official business including a policy on the use of email communication
- iv) The acting Managing Trustee and the Board who participated in the process should be held jointly and severally responsible for any losses incurred by NSSF in the Project.
- v) The Kenya National Audit Office should undertake audit of NSSF to ascertain the alleged payment of 11 million shillings to the Nairobi City County Government for approval, and recommend recovery.
- vi) A properly and legally constituted forum of the NSSF Board should look into the Project to ascertain its viability
- vii) whether there is value for money in the entire project Board should reconsider the

- viii) The procurement regime in Kenya should be re-examined to ensure quality, fair pricing, value for money, procedural fairness and alignment to MTF and multi-year approach (for capital projects).

Lastly, the Commission carried out investigations on a complaint of abuse of power and unfair treatment in the recruitment of Clerical Officer II at Rachuonyo North Sub-county in Homa Bay County in 2012. It was alleged that the officers involved in the exercise disregarded the recommendation of the interview panel and appointed another person for no justifiable reason. On receipt of the complaint, the Commission launched investigations which revealed the following:

- i) The complainant was the top candidate for the position of Clerical Officer II at Rachuonyo North Sub-County after attaining a score of 382 marks and was, therefore, recommended for appointment.
- ii) The person who was eventually appointed to the position was number eight out of the ten candidates after attaining 325 marks.
- iii) The results of the interview were forwarded to the defunct Ministry of Immigration and Registration of Persons by the Deputy County Commissioner for Rachuonyo North vide a letter of 16th January 2013 and the then District Registrar of Persons both of which recommended the complainant for appointment.
- iv) The minutes and other documents were, however, doctored to indicate that the eventual successful candidate was the top candidate and that the complainant could not be traced.

On the basis of the findings, the Commission made the following recommendations:






- i) The appointee to the position should be retired in public interest since his appointment was irregular.
- ii) The complainant should be appointed to the since she was the top candidate for the said position.
- iii) Action should be taken against the officers who participated in the unlawful process, including penal and administrative sanctions.

UNRESPONSIVE AND MALFEASANT PUBLIC OFFICERS

The Commission encounters cases of unresponsiveness, thereby resulting to undue delays in resolution of complaints lodged. To mitigate against this, the

Commission established a citation register for unresponsive public institutions and officers. This is in line with its strategy of sanctioning unresponsive public officers.

The parameters for determining unresponsiveness of public institutions and officers which include:

-  Failure to respond to inquiries on complaints (by the Commission),
-  Failure to implement any determination or report of the Commission without any reasonable cause,
-  Public officers found to have improperly conducted themselves after due investigations by the Commission,
-  Failure to honour summonses issued by the Commission, and
-  Public officers determined by the court to have been guilty of abuse of office and in respect of whom no appeal has been successfully lodged or determined.

In 2014, the Commission cited 31 public officers and one institution under this register.

BUILDING COMPLAINTS HANDLING CAPACITY IN THE PUBLIC SECTOR

The Commission plays a critical role in developing capacity of public officers and institutions in national and county governments. Specifically, the Commission is a lead agency in performance contracting system in the resolution of public complaints indicator. In this regard ministries, departments and agencies are certified and rated on compliance with the set guidelines on resolution of public complaint indicator. Further, the Commission endeavours to strengthen the capacity of public institutions through provision of technical support in areas such as development of citizen service delivery charters and internal complaint handling procedures.

During the reporting period, the Commission trained 2762 public officers. Consequently, the number of complaints received through MDAs increased from 9,196 in 2013 to 48,538 in 2014.

PUBLIC AWARENESS AND ADVOCACY

The Act mandates the Commission to promote public awareness on policies and administrative procedures on matters relating to administrative justice. In

line with the principles of transparency and accountability, CAJ not only deems it necessary to create public awareness on its existence and mandate, but also finds it essential to ensure the public has access to information on its operations. The outreach strategy of the Commission is multi-pronged and includes the following facets: county visits, community initiatives and media-based advocacy.

During the period under review, the Commission visited eight counties, namely: Homa Bay, Baringo, Kajiado, Trans Nzoia, Bungoma, Makueni, Kitui and Samburu. 59 complaints were received, about 400 public officers trained on various aspects of performance contracting and good governance, with the public forums on awareness creation reaching about 2,000 people. Further, sharing of findings of the spot checks during public fora has – albeit progressively – prompted the public to demand accountability from public officers and thus improving service delivery. Moreover, a number of institutions wrote back to the Commission upon sharing of spot checks findings to highlight corrective measures taken. They include establishing of complaints desks, establishing feedback tools, improving accessibility to their offices, developing service charters and curbing absenteeism.

Another key initiative is the Ombudsman Committees designed to enhance reach in informal settlements in Nairobi. The initiative – now running in Kiambui, Huruma Mukuru Kwa Njenga and Mathare – employs use of existing structures to create awareness on the mandate of the Commission, and enable the public to file complaints at their door-steps. During the engagement, the Commission reached about 12,600 people and received 101 complaints.

The Commission continued to employ media as a tool for encouraging public discourse on administrative justice agenda, and educate people on its mandate as well as how to file complaints. The Commission employed media to publicise recommendations of its findings and outcome of cases handled to fulfil its obligation to the people of Kenya, and to send a signal that the Ombudsman is watching. Because of the shame that goes with the “exposure” public officers make an effort to operate within the law. Media-based advocacy has compelled compliance and speedy action from various public agencies. Further, the Commission trained about 60 radio journalists and news correspondents to promote understanding of its mandate for accurate and responsible reporting.

The Commission has also leveraged on social media to harness its interactive power to promote discourse on administrative justice issues enabling citizens to demand for greater efficiency, courtesy and accountability. Through CAJ’s Facebook page, Ombudsman Kenya, and Twitter handle,

@Kenyasombudsman, the Commission has enhanced interactive communication and public engagement. Many people also used the platforms to lodge and follow-up on the progress of their complaints. The audience size on Twitter stands at 700, and 1,990 for Facebook up from 790 in January 2014 an increase of 126 per cent.

PROMOTING CONSTITUTIONALISM AND GOOD GOVERNANCE IN THE PUBLIC SECTOR

The Commission employed a multi-faceted approach focusing on a number of strategies which included advisory opinions, alternative dispute resolution (ADR), public interest litigation, an awards scheme for public institutions and officers.

Section 8(h) of the Act mandates the Commission to provide advisory opinions or proposals on the improvement of public administration including review of legislation, codes of conduct, processes and procedures. Pursuant to this function, the Commission issued two advisory opinions during the reporting period. The first advisory was on expenditure by county governments on foreign trips where the Commission recommended as follows:

- a) County Governments to exercise fiscal discipline by ensuring that public money is used in a prudent and responsible manner.
- b) County Governments to embrace a participatory approach to identifying the specific areas requiring interventions in terms of best practices from other countries, and the nature of interventions to bridge the gaps.
- c) County Government to ensure prudent allocation of resources during the budgeting process based on the constitutional and statutory requirements.
- d) County Governments to use alternative ways of learning about the best practices in other countries through the use of available literature or engaging local and international experts.
- e) That speakers and members of county assemblies could be held liable for misuse of public funds.
- f) That there should be proper co-ordination and co-operation between the county and national governments in relation to the foreign trips by the county governments.

- g) That where it is necessary to conduct foreign study tours, reports of such visits should be prepared and tabled in the County Assemblies.

The Commission on Revenue Allocation has since issued a circular putting ceilings on allocations to county governments.

The second advisory was in relation to ADR for credit information sharing in Kenya. The Commission provided an Advisory Opinion to the Association of Kenya Credit Providers who had sought advice on the following:

- i) The structure of the proposed ADR mechanism as documented in Chapter 3 of the CIS ADR Handbook.
- ii) The possibility of a representative of the Commission sitting in the proposed Steering Committee of the CIS ADR office.
- iii) The inadequacy of the Draft CIS Bill and Regulations.

The Commission considered the issues and the Draft CIS Bill and Regulations and advised as follows:

- 1) That the proposed Ombuds office should be independent and satisfy international principles.
- 2) That the composition of the Steering Committee be lean to enhance its effectiveness.
- 3) That there should be a reporting obligation of the activities of the proposed office to Parliament.

With respect to leadership and integrity, the Commission participated in the vetting of police officers by providing information that fed the vetting process by the National Police Service Commission.

The Commission also contributed to promotion of the rule of law by making interventions, either on complaint or its own initiative, on allegations of breaches of the principles of leadership and integrity. The interventions related to issues such as non-compliance with the law on appointments and promotions to public offices, misuse of public resources, disobedience of court orders, abuse of power, and unethical, improper or unlawful conduct.

Further, the Commission conducted ADR which took the form of mediation and conciliation. Some of the matters handled include:

- a) Mediation involving the former employees of the Kenya Railways Corporation. This was conducted jointly with the Inspectorate of State Corporations, Kenya Railways Corporation and the Ministry of Transport and Infrastructure and involved complaints by over 200 former employees of the Corporation on retirement benefits. The process resulted in the successful redress of the complaints.
- b) Mediation involving a retired public officer and the Public Service Commission on alleged failure to review the terms of employment. The mediation was unsuccessful and the matter is still ongoing.

Another major undertaking in line with promotion of good governance is an awards scheme to recognise and reward outstanding public officers and institutions. The scheme titled Huduma Ombudsman Awards was held in May 2014. The broad objective of the Award is to reward contributions of a public officer or a public institution that lead to a more effective, accountable and responsive public service.

Lastly, the Commission participated in a number of matters of national importance before the court as a way of promoting public administration. The main aim was to advance constitutionalism and democratic governance in Kenya, particularly, from the administrative justice perspective. Some of the cases are listed below.

- a) Nairobi, Judicial Review Application No. 171 of 2014; the Commission on Administrative Justice vs. the Principal Secretary, Ministry of Interior and Coordination of National Government & the Attorney General.
- b) Nairobi Industrial Court Constitutional Petition No. 23 of 2014, Severine Luyali vs. the Ministry of Foreign Affairs and International Trade & the Attorney General.
- c) Commission on Administrative Justice versus John Ndirangu Kariuki versus Independent Electoral and Boundaries Commission (Nairobi High Court Petition No. 408 of 2013).
- d) Martin Wambora Nyaga & Others vs. Embu County Assembly & Others; Nairobi High Court Petition No. 7 & 8 of 2014, Prof. Paul Musili Wambua vs. Attorney General & Others.
- e) Nairobi High Court Petition No. 542 of 2013, Justice Philip K. Tunoi & Another vs. Judicial Service Commission & Others; Nairobi High Court Petition No. 244 of 2014.
- f) The Judicial Service Commission vs. Gladys Boss Shollei; Nairobi Court of Appeal No. 39 of 2013 (Formerly High Court Petition No. 528 of 2013)

PARTNERSHIPS COLLABORATIONS AND LINKAGES

To enhance partnerships and linkages, the Commission participated in a number of strategic activities including the Third Annual Congress for Constitutional Commissions and Independent Offices held in Kisumu in August 2014. The congress came up with resolutions on issues of national importance. The Commission also participated in activities of the National Council for the Administration of Justice (NCAJ, specifically, quarterly meetings of NCAJ and its Working Group on Land. The Working Group was tasked to interrogate framework for regulation of professionals in land matters, Regime of renewal of leases, digitisation of records and processes at the land registries, and complaints and dispute resolution mechanisms.

The findings of the Committee included weak legal and administrative frameworks for professionals dealing with land, inadequate resourcing, limited knowledge and accessibility of regulatory frameworks, missing data and poor state of land registries among others.

The Commission also participated in the development of the Rules of Court under the Witness Protection Act to guide proceedings for protected witnesses in line with section 36(2). To this end, the Commission provided input to the draft Rules and participated in the validation workshop.

Further, on legislative review, the Commission gave input to the Access to Information Bill, Fair Administrative Action Bill, and Public Service (Values and Principles) Bill. The Commission also reviewed the draft Code of Regulations, and Code of Conduct and Ethics of the Teachers Service Commission as well as the draft Standing Orders for the National Police Service to ensure that they complied with the principles of administrative justice.

Moreover, the Commission participated in a number of trainings and workshops and made contributions in the subjects of governance and public administration.





Finally, the Commission bolstered its standing as a key Ombudsman institution through collaboration with regional bodies such as the International Ombudsman Institute, African Ombudsman and Mediators Association (AOMA), and the African Ombudsman Research Centre (AORC).

CHALLENGES

During the period under review, the Commission experienced a number of challenges, key among them, inadequate funding which has hampered staff establishment and infrastructural development to the optimal levels, and decentralization of ombudsman services. Other challenges are indiscriminate freeze on recruitment in the Public Service which did not consider the newly created institutions such as CAJ that required staff to be able to execute its mandate effectively, and delays in releasing the Revised Estimates and Exchequer Issues, a matter that hindered timely implementation of some of the planned activities hence affecting absorption rate.

2015 AND BEYOND

Since its inception the commission has continued to execute its mandate in a bid to enhance service delivery in public offices in Kenya. In the year 2015 the Commission seeks to:-

-  Decentralize ombudsman services by opening three more branch offices in Mombasa, Eldoret and Isiolo. It will also establish desks in other Huduma Centers in Nakuru, Kakamega, Embu and Kisii.
-  Optimize time taken on investigations and make follow ups on implementation of the Commission's recommendations
-  Forge partnership with county governments. To establish County Ombudsman offices. Phase I will cover; Bomet, Siaya, Makueni, Kajiado and Kiambu.
-  Leverage on technology to increase accessibility and efficiency in complaints handling through use of toll free numbers and other ICT platforms.

CHAPTER ONE

1.0. HISTORY, MANDATE AND STRUCTURE

1.1. INTRODUCTION

This section details the historical origin of the concept of Ombudsman globally and in Kenya. It also covers mandate, powers, establishment, and structure of the Commission.

1.2. OMBUDSMAN: HISTORICAL CONCEPT

The word 'Ombudsman' is derived from a Swedish word meaning agent or representative of the people. The evolution of the Ombudsman institution can be traced to the Greek cities of Sparta and Athens when Ephor and Euthynoi oversaw the activities of Government employees and Municipal activities between 700 BC and 500 BC. This was later adopted by the Roman Empire where an equivalent institution was created around 300 BC to protect and defend fundamental rights. In China, during the Han Dynasty from 3 BC to 220 AD, the Emperor assigned a civil employee, the Yan, to exercise a systematic and permanent control of the imperial administration and its civilian employees. He also received petitions from the public for administrative injustices. These earlier 'Ombudsmen,' however, had limited functions and powers.

The Ombudsman institution as we know it today can be traced to the Ombudsman in Sweden when the Justitie Ombudsman was created in 1809 as a representative of Parliament to control the observance of the law by courts and government employees. The Ombudsman was empowered to take action against those who committed illegal acts or failed to do what was expected of them. The Ombudsman also acted as a protector of peoples' rights. The success of the Ombudsman in Sweden led to the establishment of similar institutions across the world with Finland adopting it in 1919, Norway in 1952, Denmark in 1953, New Zealand in 1962, Guyana in 1966, the United Kingdom in 1967 and Tanzania in 1968.

Presently, Ombudsman institutions have been established in at least 150 countries even though they have been christened differently. For example, the Ombudsman institution is known as the 'Public Protector' in South Africa, the 'Comptroller of the State' in Israel, the 'Supplier of Justice' in Portugal, the 'Mediator' in France, 'Civic Defender' in Italy, the 'Parliamentary Commissioner' in the United Kingdom and the 'Defender of the People' in

Spain among others.

The Ombudsman institutions are important instruments for ensuring accountability in public administration. The Institution brings all the elements of good governance such as transparency, objectivity, efficiency, accountability, economy and human touch. By striking at the root of maladministration, the Ombudsman promotes good governance thereby improving the delivery of public services.

1.3. THE RISE OF THE AFRICAN OMBUDSMAN INSTITUTION.

The growth of the Ombudsman in Africa has been exponential, particularly, in the last three decades. This was precipitated by Constitutional changes aimed at enhancing democratic governance. The establishment of the Ombudsman in Tanzania in 1968 marked the beginning of the spread of the Institution in the continent. 37 countries have since established the Office. Further, the African Ombudsman and Mediators Association (AOMA) has been established as a continental umbrella body for the African Ombudsman institutions.

The gains made by the various African Ombudsman institutions has been attributed to a number of factors, including mode of establishment, scope of jurisdiction, appointment, facilitation, independence and political environment.

Despite the foregoing, the development of the Ombudsman has not been rosy; very few countries have been able to tackle the central challenges facing the Ombudsman. In a number of African countries, the Ombudsman has not been appropriately anchored within the legal system and the structure of the state which has hindered their effectiveness.

1.4. HISTORY OF THE OMBUDSMAN IN KENYA

The establishment of the Office of the Ombudsman in Kenya can be traced back to 1971 when the Commission of Inquiry (Public Service Structure and Remuneration Commission), commonly known as the Ndegwa Commission, recommended that the office be established. This was primarily borne out of the need to address poor service delivery in the public sector occasioned by endemic systemic failures and, poor work ethic. The recommendation to establish the Office was however not implemented.

It was not until 2007 that the President established the standing committee

on public complaints (PCSC) vide Gazette Notice Number 5826 of June 2007 as a Department within the Ministry of Justice, National Cohesion and Constitutional Affairs. The core mandate of the committee was to receive, inquire into, address and deal with complaints against public officers and public institutions concerning maladministration. However, PCSC body lacked essential characteristics of the Office of an Ombudsman due to the nature of its establishment.

1.5. ESTABLISHMENT OF THE COMMISSION ON ADMINISTRATIVE JUSTICE.

The Commission Administrative Justice also referred to as the Office of the Ombudsman is established by the Commission on Administrative Justice Act (No. 23 of 2011) pursuant to Article 59(4) of the Constitution. Article 59 (4) of the Constitution empowers Parliament to enact such legislation that may restructure the Kenya National Human Rights and Equality Commission into two or more separate Commissions. Pursuant to this provision, Parliament created three separate Commissions which included the Commission on Administrative Justice, the Kenya National Commission on Human Rights and the National Gender and Equality Commission. The Commission is, therefore, a Constitutional Commission within the meaning of Chapter 15 of the Constitution and the successor Commission to PCSC. The Commission is comprised of three Commissioners and a secretariat.

1.6. MANDATE OF THE COMMISSION

The mandate of the Commission is to enforce administrative justice in the public sector by addressing maladministration through effective complaints handling and alternative dispute resolution. In addition, the Commission has a constitutional mandate to safeguard public interest by promoting constitutionalism, securing the observance of democratic values and principles, and protecting the sovereignty of the people of Kenya.

The Commission draws its mandate from the constitution, the CAJ act and regulations, and relevant Government policy document. The mandate of the Commission is summarized,

a) Maladministration

Maladministration is the proper province of any Ombudsman. In the Kenyan context, it includes service failure, delay, inaction, inefficiency, ineptitude, discourtesy, incompetence and unresponsiveness.

b) Administrative Injustice

The Commission is mandated to inquire into allegations of administrative

injustice, which includes an act, or decision carried out in the Public Service or a failure to act when necessary.

c) Misconduct and Integrity Issues

The Commission investigates improper conduct, abuse of power and misbehavior in the Public Service. Thus, the Commission has a complimentary mandate to ensure compliance with the integrity requirements in the law by public Officers.

d) Advisory Opinions and Recommendations

The Commission provides Advisory Opinions or proposals on improvement of public administration and makes recommendations on legal, policy or administrative measures to address the specific concerns. This may be published or confidential, and covers offices and processes in National and County governments.

e) Capacity development in Government

The Commission develops capacity of National and County government officials in Ministries, Institutions and Departments on effective methods of handling complaints in-house. Additionally, we assist the County and National governments, and independent state institutions to set-up Complaints Handling facilities.

f) Performance Contracting

Resolution of public complaints is an indicator in performance contracting. Public institutions submit quarterly reports detailing complaints received and action taken. The Commission rates institution and issues a certificate showing performance in percentage, which guides the overall national rating of the Institution.

g) Mediation and Conciliation

The Commission is mandated to work with different public institutions to promote alternative dispute resolution through mediation, Conciliation or negotiation on matters affecting public administration.

h) Promotion of Special Rights

Apart from the complimentary duty to secure protection and promotion of human rights and freedoms in public administration, the Commission serves to promote compliance with the rights of Minority and marginalized groups rights in the context of public service.

i) Promotion of Constitutionalism

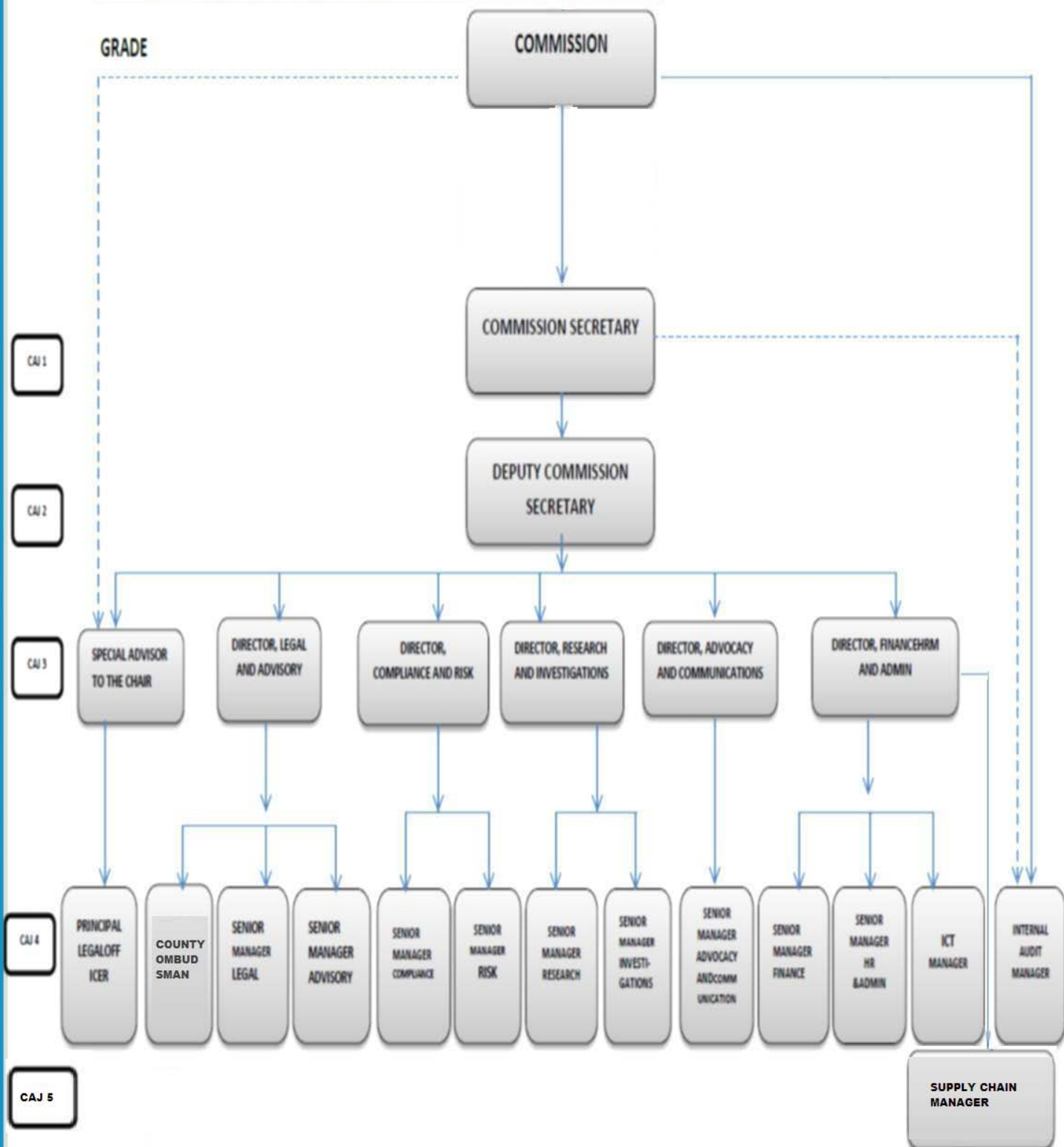
CAJ together with other Constitutional Commissions, serves to protect the sovereignty of the people by ensuring all state organs observe the principles of democracy, the constitutional values and respect the supremacy of the Constitution.

1.7. THE STRUCTURE OF COMMISSION

The Commission comprises the Commissioners, and staff members categorized in six key directorates, spread across various offices in Kenya.

ORGANIZATIONAL STRUCTURE FOR THE COMMISSION ON ADMINISTRATIVE JUSTICE

GRADE



KEY

HR&ADMIN
ICT

HUMAN RESOURCE MANAGEMENT AND ADMINISTRATION
INFORMATION COMMUNICATION TECHNOLOGY

1.8. VISION, MISSION AND CORE VALUES

1.8.1. Vision

To be an effective overseer of responsiveness and servant-hood in public offices at national and county levels.

1.8.2. Mission

To enforce administrative justice and promote constitutional values by addressing maladministration through effective complaints handling and dispute resolution.

1.8.3. Core Values

Values are an integral part of an organization's culture and create a sense of identity, belonging and purpose. The following are core values of the Commission:

- ***Fairness***

The quality of treating people with equality in a way that is reasonable. It includes courtesy, impartiality, justice and equity.

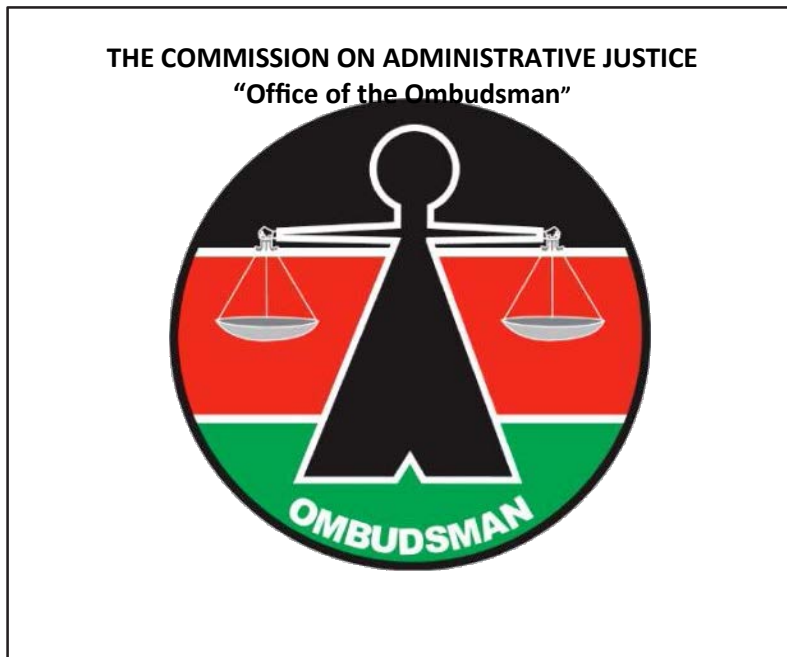
- ***Accountability***

The obligation of a public officer or public institution to act with integrity, account for activities, accept responsibility for them and disclose results in a transparent manner.

- ***Diversity***

The commitment to recognize and appreciate individual uniqueness such as age, cognitive style, culture, disability (mental, learning, physical), economic background, education, ethnicity, gender, geographic background, language, marital status, physical appearance, political affiliation, race or religious beliefs. Diversity refers to acceptance, respect and recognition of individual differences.

1.9. THE LOGO OF THE COMMISSION



The Commission's Logo captures four essential features:

The *background* depicts the colors of the flag of Kenya. Nothing perhaps represents unity and patriotism of Kenyans more than the flag. Thus, the flag stands for sovereignty. Our logo, therefore, captures the sovereignty of the people of Kenya for whom the Commission was established.

Astride the flag is Mwananchi, the enduring personification of the ordinary citizens.

The citizens, irrespective of gender, are central to the work of the Commission. A responsive and accountable public service is the right of Mwananchi, and the Office of the Ombudsman is mandated to enforce it.

The Scale of Justice has since time immemorial represented the objectivity and neutrality of justice as balanced between competing claims. The "Administrative Justice" mandate of the Commission requires careful balancing of competing rights, as viewed from the Mwananchi's (citizen's) perspective. In other words, "Mwananchi's Justice", hence Mwananchi is shown balancing the scale of justice.

The Logo is circumscribed in one perfect "O", representing the word 'Ombudsman'.

All over the world, the office of the Ombudsman, as originally developed in Scandinavian countries, deals with maladministration in all its forms, from the highest ranked public officer (head of government), to the lowest level officers. Thus, the easiest way to understand the work of the Commission is to understand the workings of the office of the Ombudsman in various jurisdictions.

CHAPTER TWO

2.0. TACKLING MALADMINISTRATION IN THE PUBLIC SECTOR

2.1. INTRODUCTION

The primary responsibility of the Commission is the traditional role of the Ombudsman as known in many countries. This is expressly captured under Article 59(2) (h) & (k) of the Constitution and Section 8(a-d) of the Act which mandate the Commission to deal with maladministration in the Public Sector. Towards this end, the Commission is empowered to receive, inquire and investigate instances of maladministration such as unreasonable delay, administrative injustice, discourtesy or misconduct, incompetence or ineptitude, misbehavior in public administration, improper or prejudicial conduct, manifest injustice, abuse of power, unlawful, oppressive, unfair treatment or unresponsive official conduct and failure to adhere to the constitutional principles that all sovereign authority of the state is drawn from the people. The overall goal of the Commission in this regard is to nurture a public service that upholds fairness, responsiveness, accountability, efficiency. The primary redress mechanism employed by the Commission in addressing maladministration in Kenya is through complaints handling. In performing this function, the Commission provides oversight across the entire public sector, acting as a check on processes, systems and procedures.

2.2. COMPLAINTS HANDLING

2.2.1. Lodging a Complaint

A complaint may be lodged at the Commission's offices or at such place or places as the commission may from time to time designate. A complaint may be lodged by an aggrieved person or by a person acting on their behalf or by any other person authorized by law. Complaints may also be instituted by the commission on its own initiative or by an anonymous person. A complaint may be received in writing-letter, email etc. - telephone or referrals from other agencies.

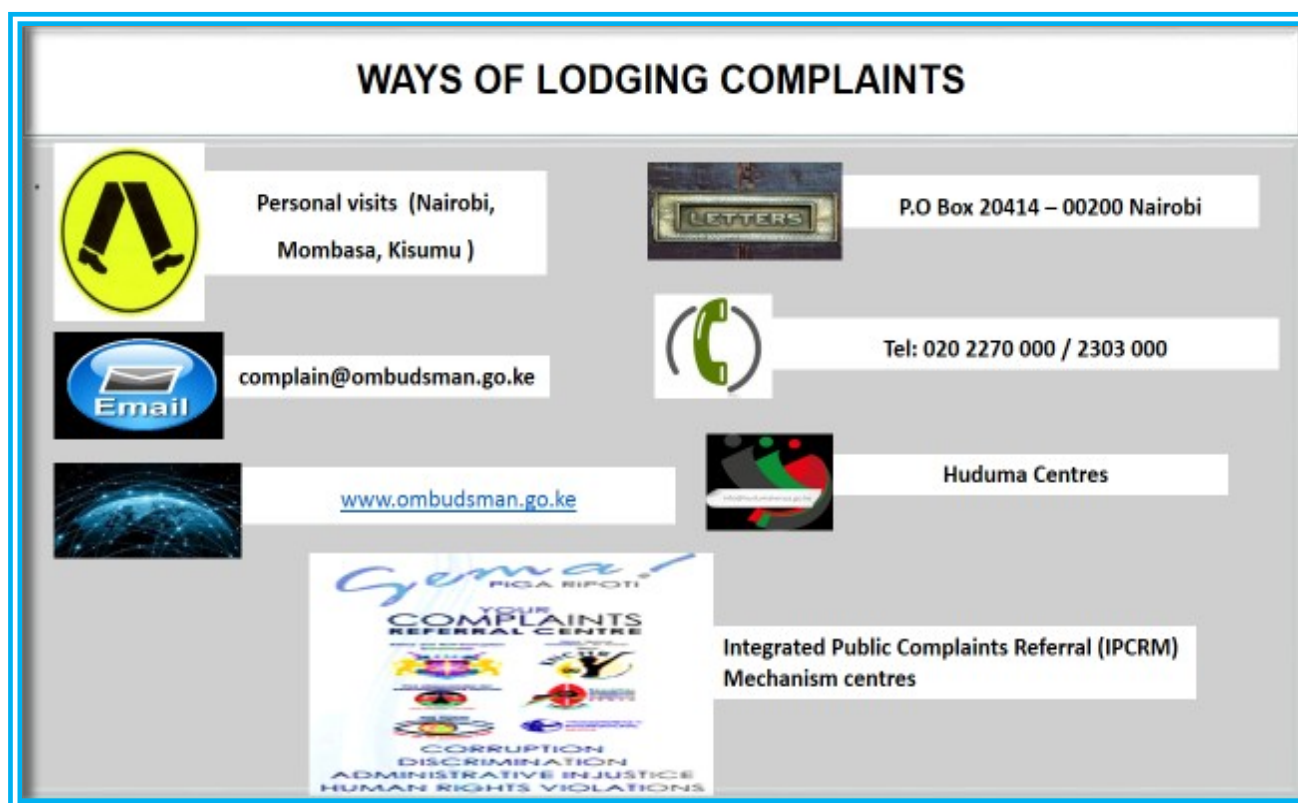


Figure 1: Ways of Lodging Complaints to the Commission

The languages of communication are the two national/official languages namely, English and Swahili. However in the event a complainant cannot communicate in the said languages, he or she may lodge a complaint in his preferred language for which the Commission engages an interpreter. It is worth noting that the Commission does not charge any fee in processing and determining complaints, and observes the principles of natural justice so as to uphold high levels of fairness.

Below is the Commission's complaints handling process. It is however important to note that a complaint must not necessarily go through all levels. A complaint may be resolved at any stage depending on its circumstances.

Level I

1. Complainant fills in a Complaint Form
2. Complaint is assessed for admissibility.
3. If admissible, CAJ commences inquiries and updates the complainant.
4. If inadmissible, Complainant is advised accordingly and/or referred to appropriate agencies.

5. If a response is not received from the respondent after 14 working days, CAJ sends a first reminder giving the respondent 7 days to comply.
6. If no response is received after this, a final reminder of 7 days is sent.
7. If there is still no response after the 7 days, the Respondent is issued with a 14-day notice to show cause and thereafter if still unresponsive he/she is summoned.

Level II

1. Proceed to determine the complaint in the absence of the Respondent.
2. Institute legal proceedings against the Respondent.
3. Cite the respondent as an unresponsive State or Public Office or Officer, and/or declare such State or Public Officer to be unfit to serve in the Public Service.

Level III

In resolving a complaint, the Commission may:

1. Conduct investigations.
2. Demand and obtain information or documents.
3. Conduct an inquiry.
4. Undertake mediation, negotiation or conciliation.
5. Conduct a hearing.
6. Invite or summon any person or persons to attend the Commission.
7. Obtain warrants of arrest for breach of any summons or orders of the Commission.
8. Obtain orders from the Court authorizing Searches or Seizures.

Level IV

The Commission may:

1. Make a formal determination that the Respondent is in breach of the Constitution, the Commission on Administrative Justice Act 2011 or any other legislation;
2. Declare the Respondent to be a person ineligible to hold a public office.
3. Enter the name of the Respondent in the Commission's Citation Register which shall be signed and sealed by the Chairperson and shall include the nature of the complaint and the determination made.

Level V

In resolving the Complaint, the Commission may:-

1. Recommend an appropriate remedy including compensation.
2. Recommend the removal of the Respondent from public office.
3. Issue a formal caution or warning to the Respondent.
4. Publish the action taken in the Commission's Statutory Report.

2.3. CASES HANDLED IN PERSPECTIVE

During the period under review, the Commission handled a total of 79,693 new cases and 7,004 complaints carried over from the previous reporting period totaling to 86,905. The breakdown is as presented in the table 1 below.

TABLE 1: STATISTICAL SUMMARY OF CASES HANDLED

DESCRIPTION	NUMBER
Complaints where formal inquiries commenced	3,768
Contacts & inquiries (on-spot resolution)	27,387
Complaints handled under the Commission's performance contracting Obligation	48,538
Sub-total for new cases in 2014	79,693
Complaints from previous reporting period	7,004
Total cases handled	86,905
Total cases resolved	70,806
Total cases carried forward to the next reporting period (ongoing cases)	9,016
Average monthly cases handled in 2014	6,641

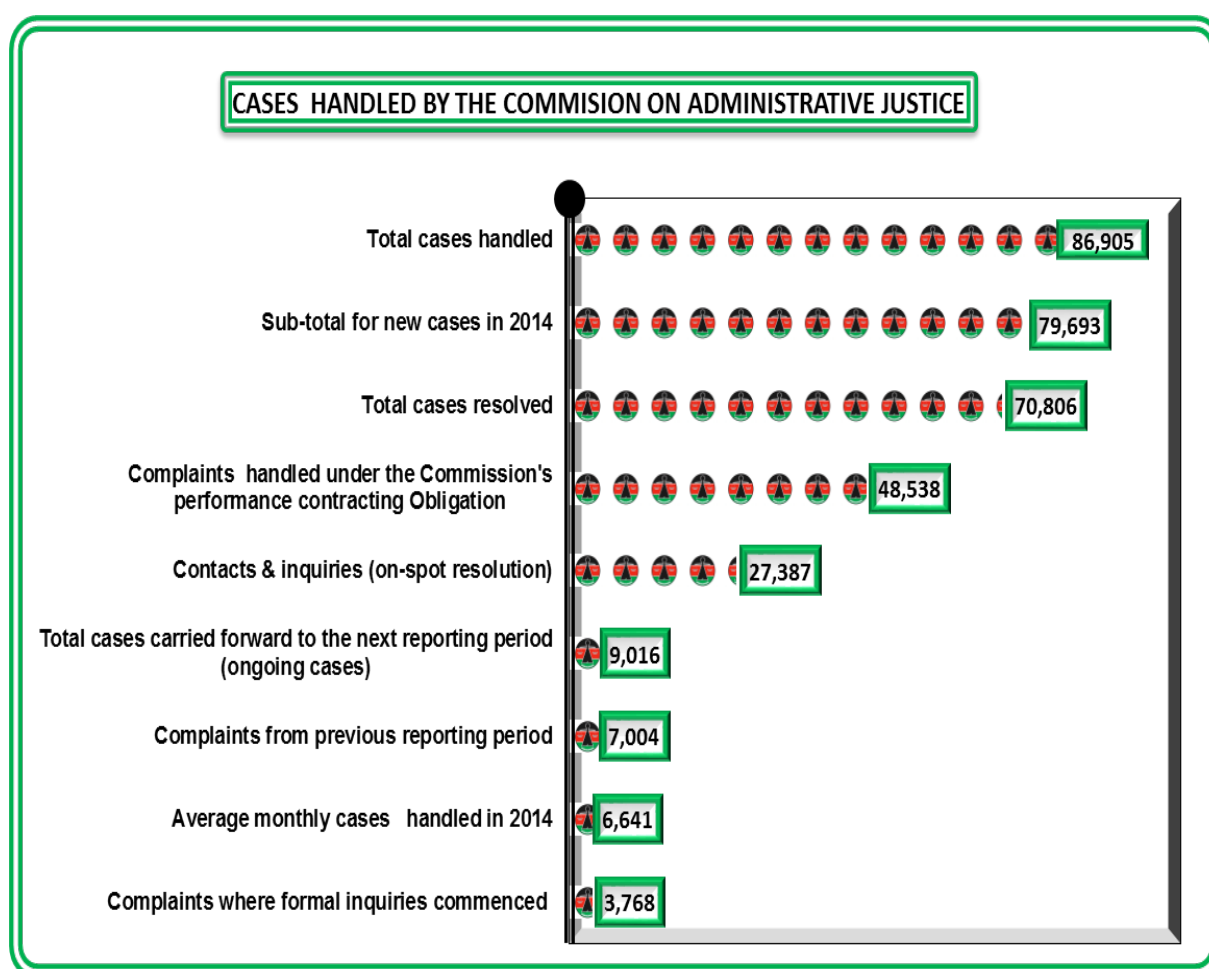


Figure 2: Cases Handled by the Commission on Administrative Justice.

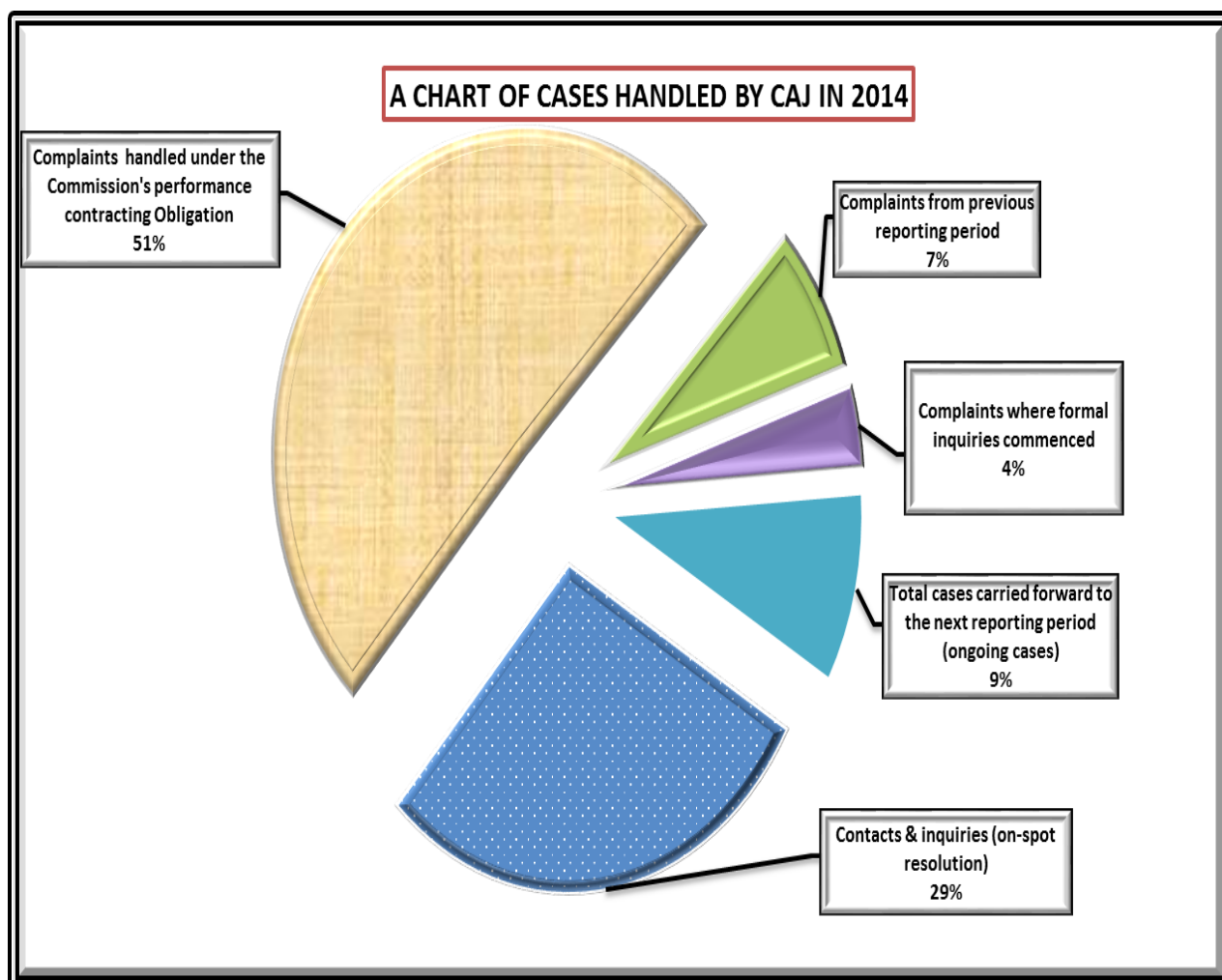


Figure 3: A chart of Cases Handled by the Commission on Administrative Justice

The increase in the number of complaints and contacts in 2014 is attributable a combination of factors including enhanced awareness of the existence of Commission ,appreciation by the members of the public by successful resolution of their complaints and strengthened role of the Commission in the national government performance contracting process.

2.3.1. ANALYSIS OF CASES RECEIVED BY ACTION TAKEN

During the period under review, the Commission through various channels received complaints, enquiries and contacts. The resolution rate was as shown in the Table 2.

TABLE 2: SUMMARY OF CASES BY ACTION TAKEN

DESCRIPTION	TOTAL RECEIVED	NO. RESOLVED
<i>Complaints where formal inquiries commenced</i>	3,768	2,449
<i>Complaints handled under the Commission's performance contracting Obligation</i>	48,538	40,970
Contacts & inquiries handled - (on-spot resolution)	27,387	27,387
<i>Cases carried forward to the next reporting period</i>	9,016	-

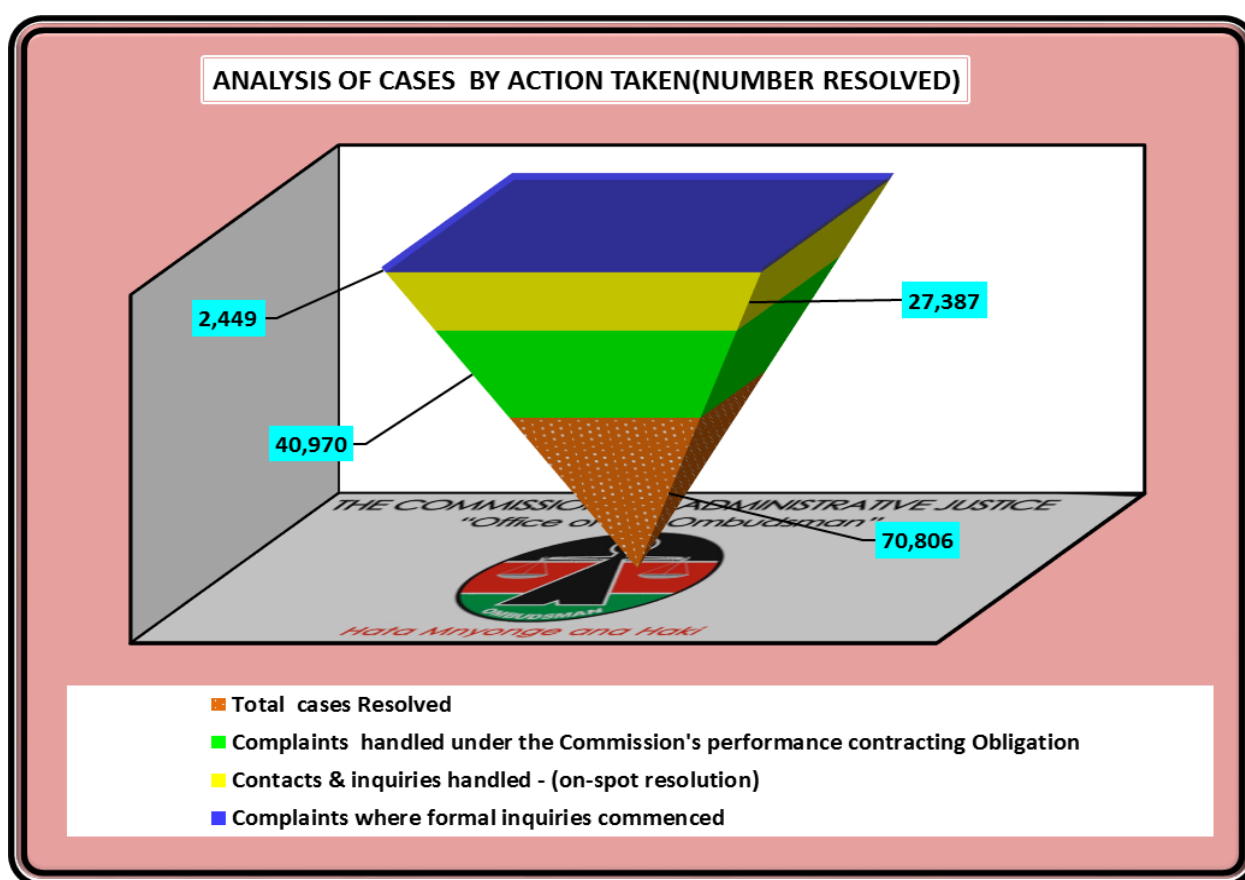


Figure 4: Analysis of Cases by Action Taken

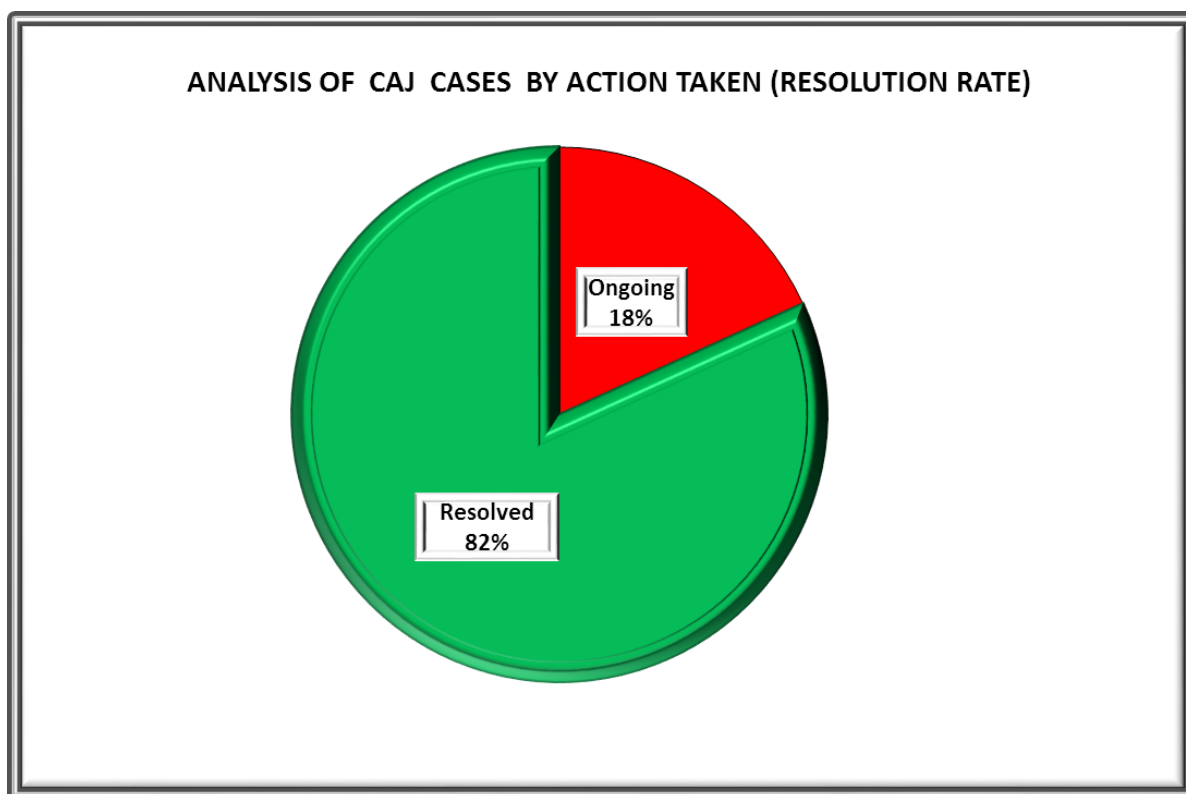


Figure 5: Analysis of Cases by Action Taken (Resolution Rate)

2.3.2. ANALYSIS OF CASES LODGED AGAINST GOVERNMENT MINISTRIES, DEPARTMENTS AND AGENCIES

The new cases handled during the reporting period involved a wide range of public institutions and private entities. The Table below provides synopsis of the number of new complaints handled against various Government Ministries, Departments and Agencies

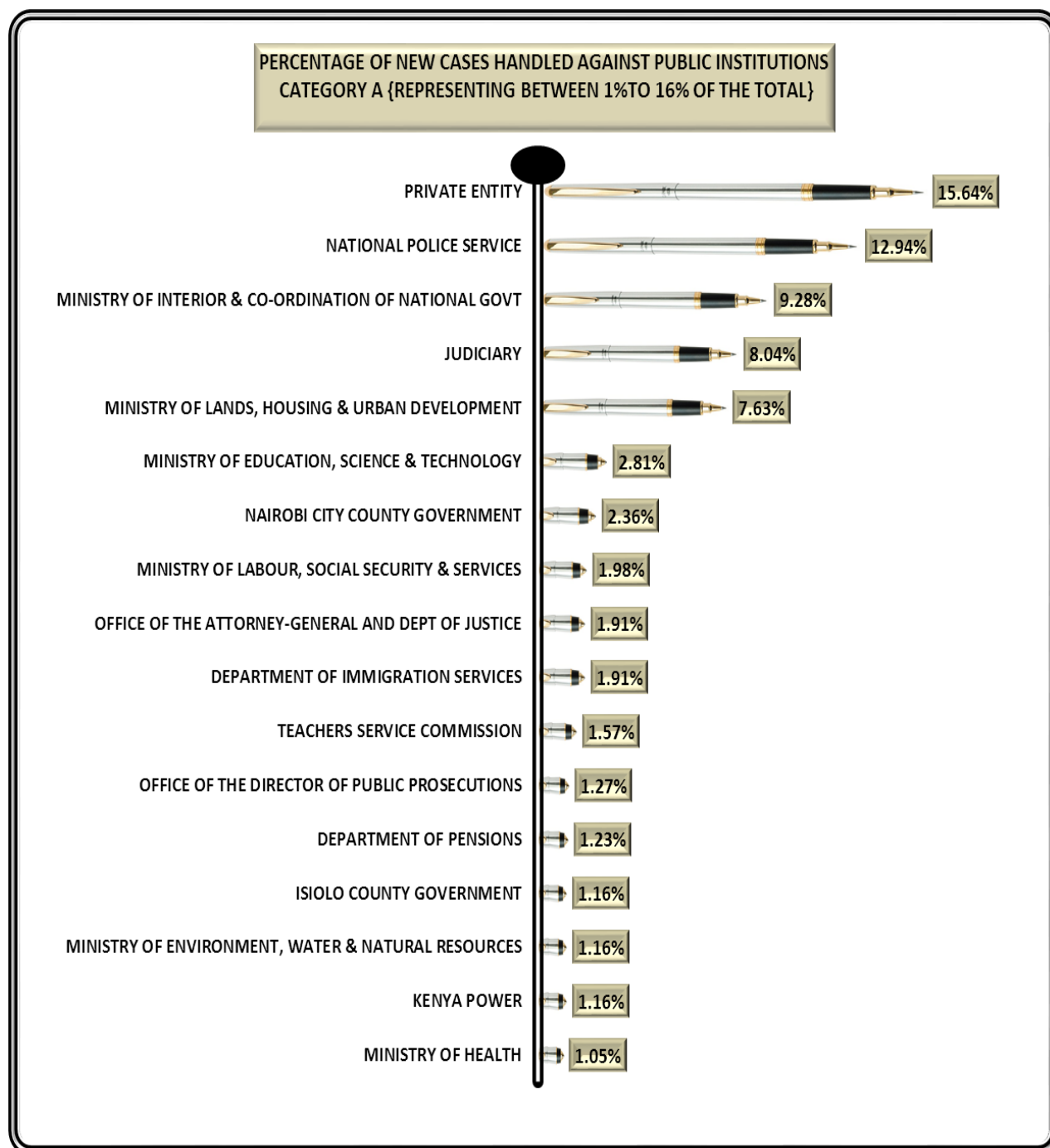


Figure 6: Percentage of New Cases Handled Against Public Institutions – Category A

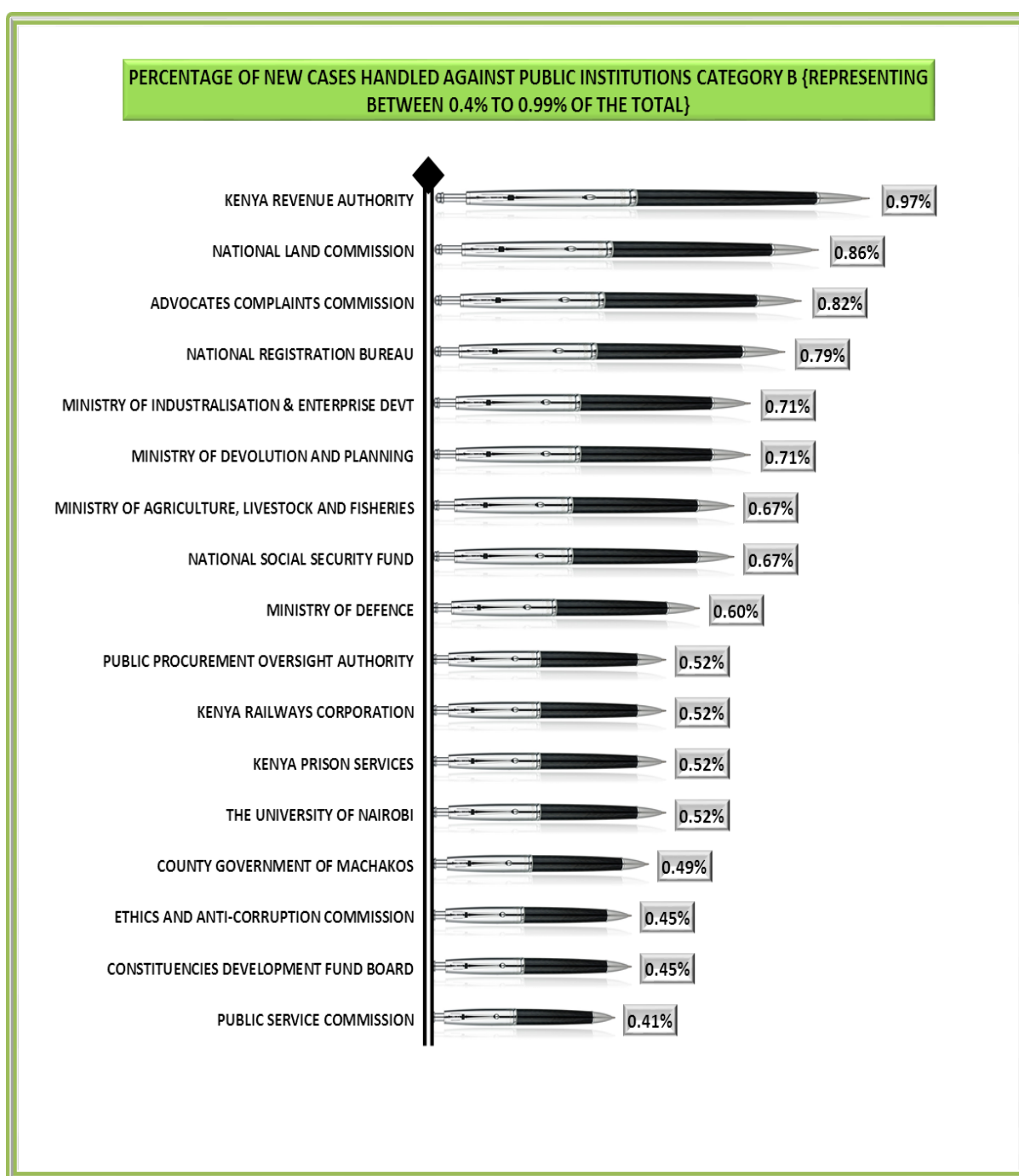


Figure 7: Percentage of New Cases Handled Against Public Institutions – Category B

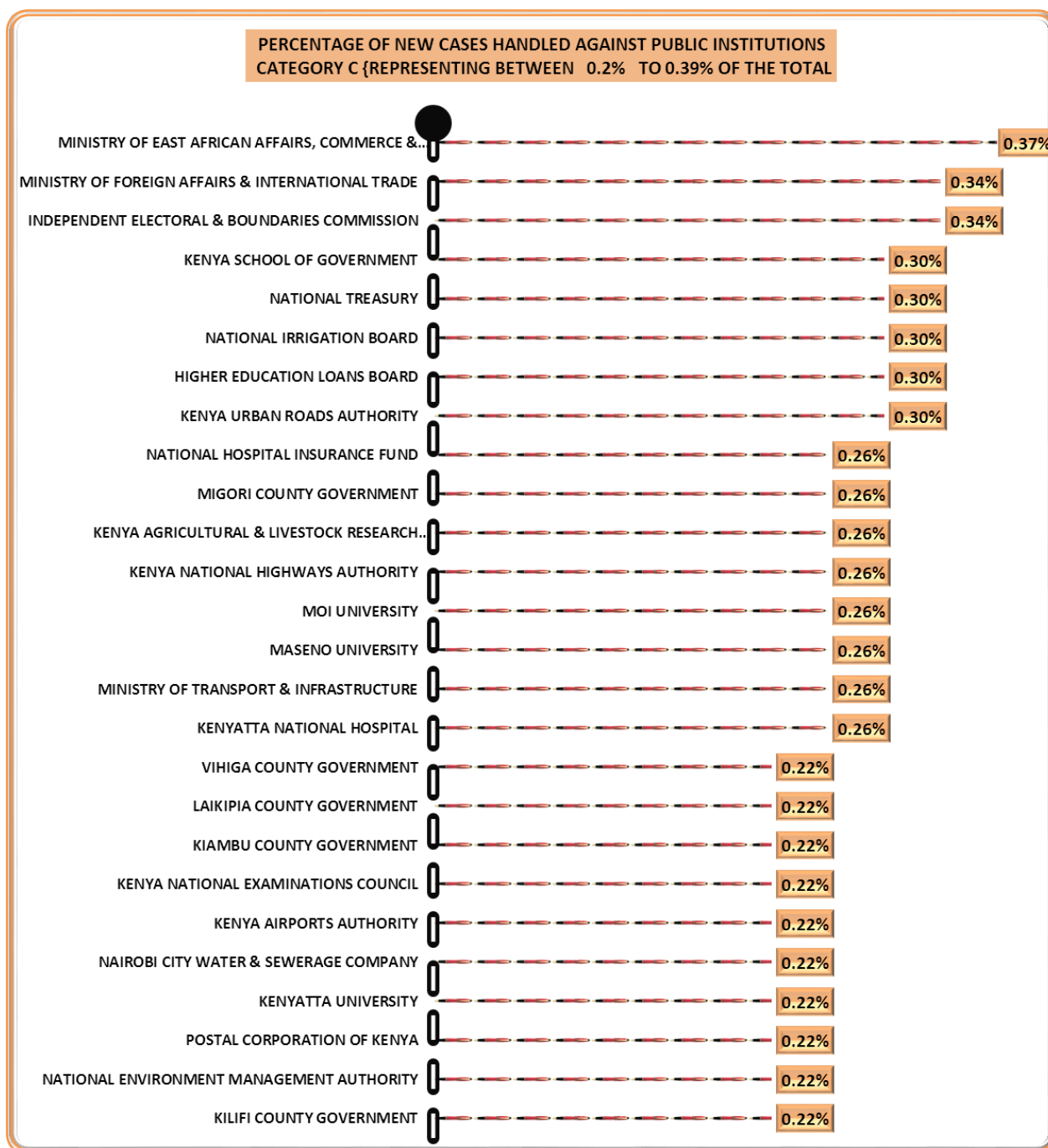


Figure 8: Percentage of New Cases Handled Against Public Institutions – Category C

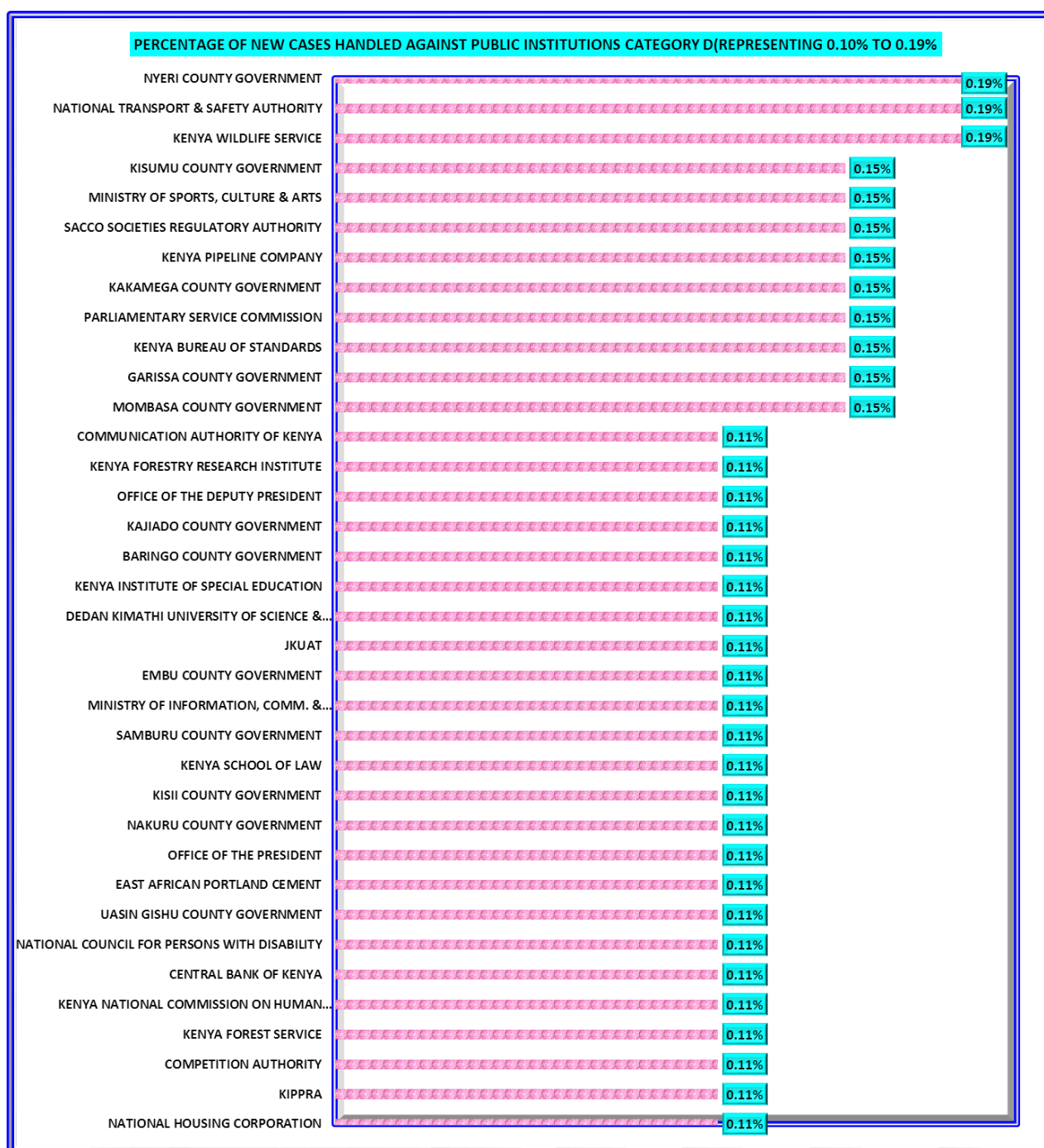


Figure 9: Percentage of New Cases Handled Against Public Institutions – Category D

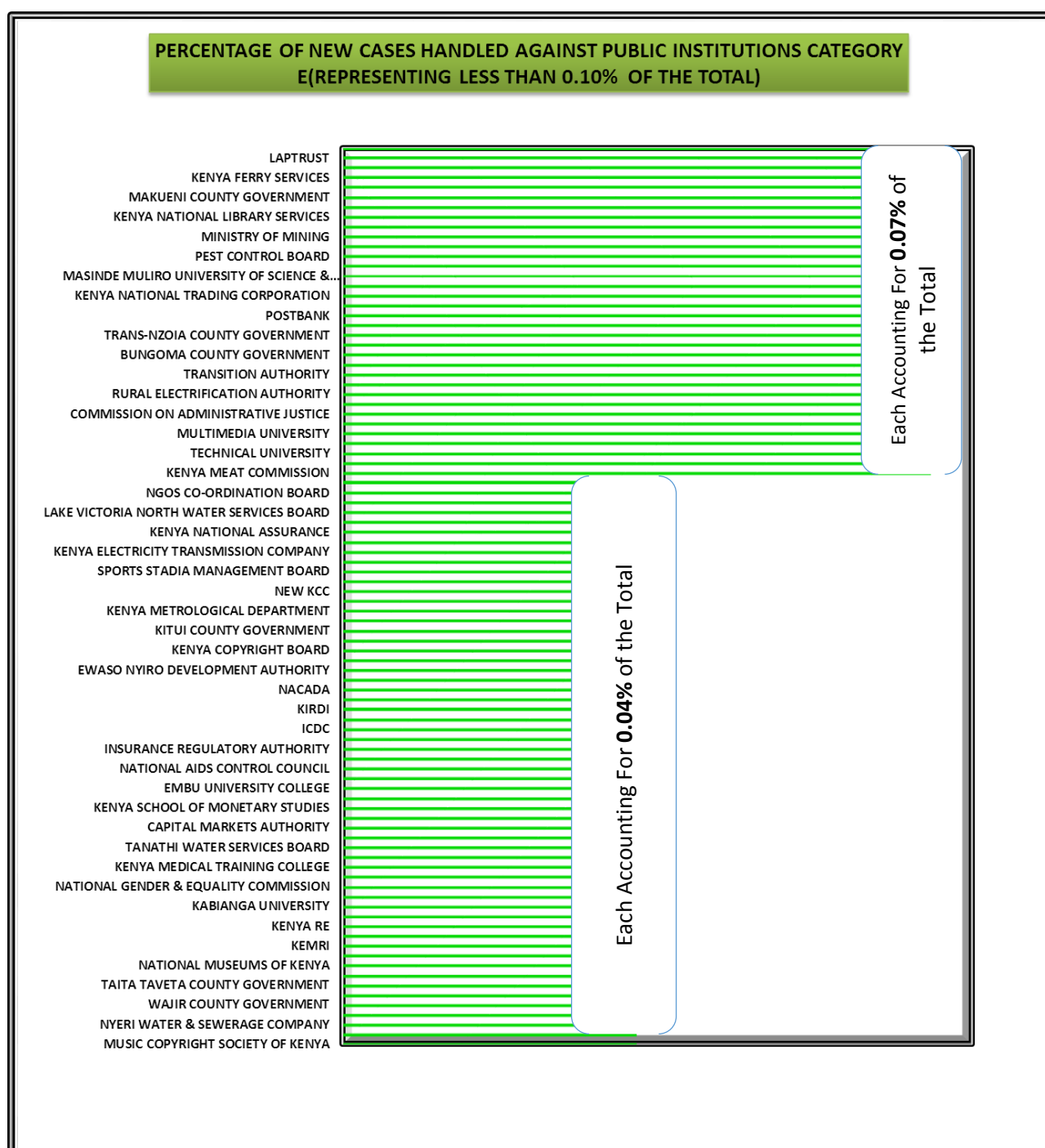


Figure10: Percentage of New Cases Handled Against Public Institutions – Category E

2.3.3. ANALYSIS OF CASES RECEIVED BY SERVICE ISSUES

The Table below provides a summary of the categorization of new cases handled by the Commission during the period under review.

CATEGORIZATION OF NEW COMPLAINTS HANDLED BY SERVICE ISSUE

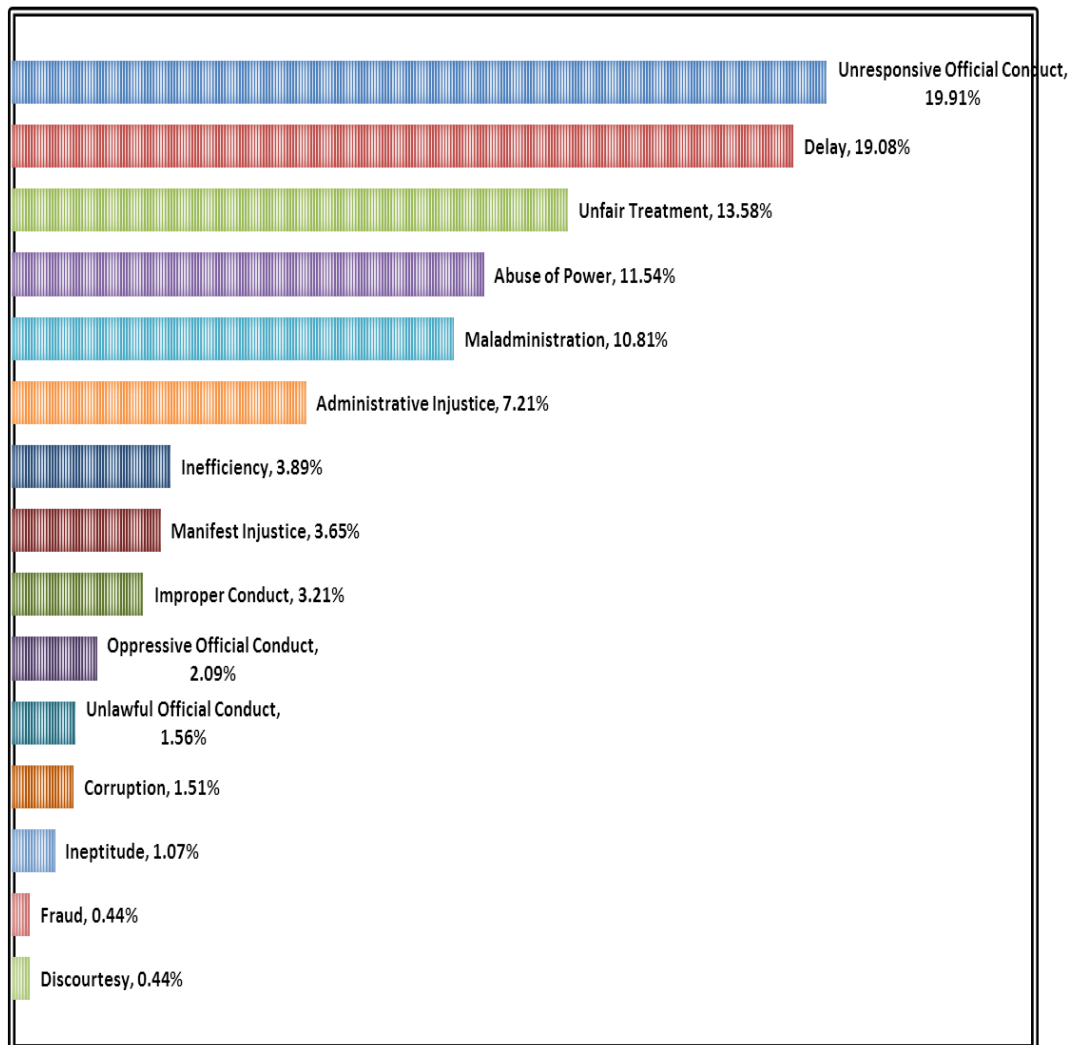


Figure 11: New Cases Handled by Service Issue (Percentage Representation)

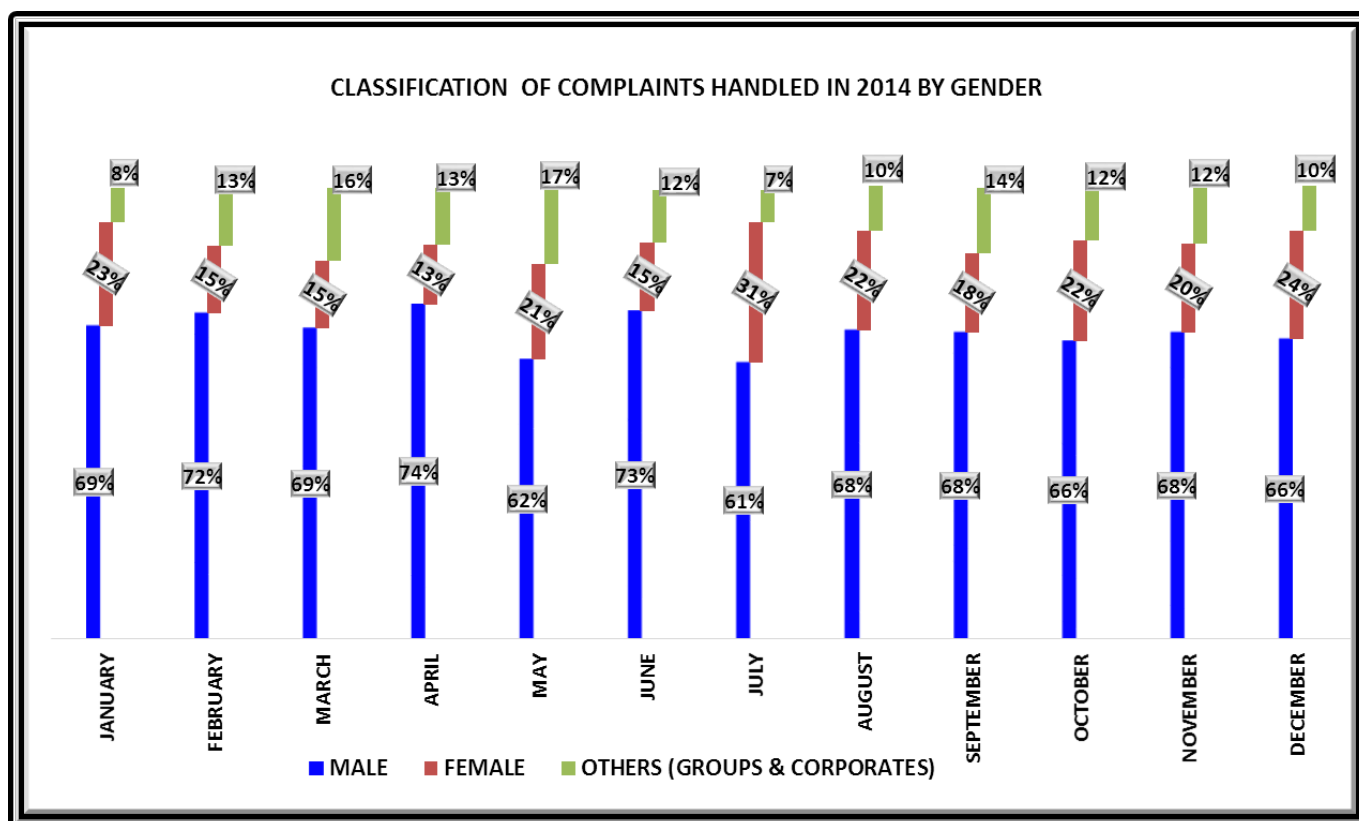


Figure 12: New Cases Handled by Service Issue (Classification by Gender)

2.4. REPORT FROM THE BRANCH OFFICES

In line with its strategic framework, 2013-2016, the Commission opened two branch Offices in Kisumu and Mombasa in May and October 2013 respectively. This was aimed at decentralising the services of the Commission to the County level, and therefore enabling easy access to its services. In addition, this enabled the Commission to interact and partner with County Governments to enhance service delivery and public administration in general. Through these branch offices the Commission received 1067 complaints, almost doubling the total complaints received from branch offices in the previous year.

2.4.1. KISUMU BRANCH OFFICE

The Kisumu branch office received a total of 780 complaints from 1st January 2014-31st December 2014. This number is over three times the amount received between May 2013 and December 2013, when the branch office was opened. This is attributable to the various outreach and awareness creation programs.

TABLE 3: STATISTICS OF KISUMU BRANCH COMPLAINTS, CONTACTS & ENQUIRIES

NO	MONTH	COMPLAINTS RECEIVED	CONTACTS/ INQUIRIES MADE
1.	JANUARY	52	20
2.	FEBRUARY	55	53
3.	MARCH	78	210
4.	APRIL	61	30
5.	MAY	49	13
6.	JUNE	72	33
7	JULY	102	50
8	AUGUST	58	180
9	SEPTEMBER	94	100
10	OCTOBER	75	40
11	NOVEMBER	71	30
12	DECEMBER	28	11
TOTAL		780	770

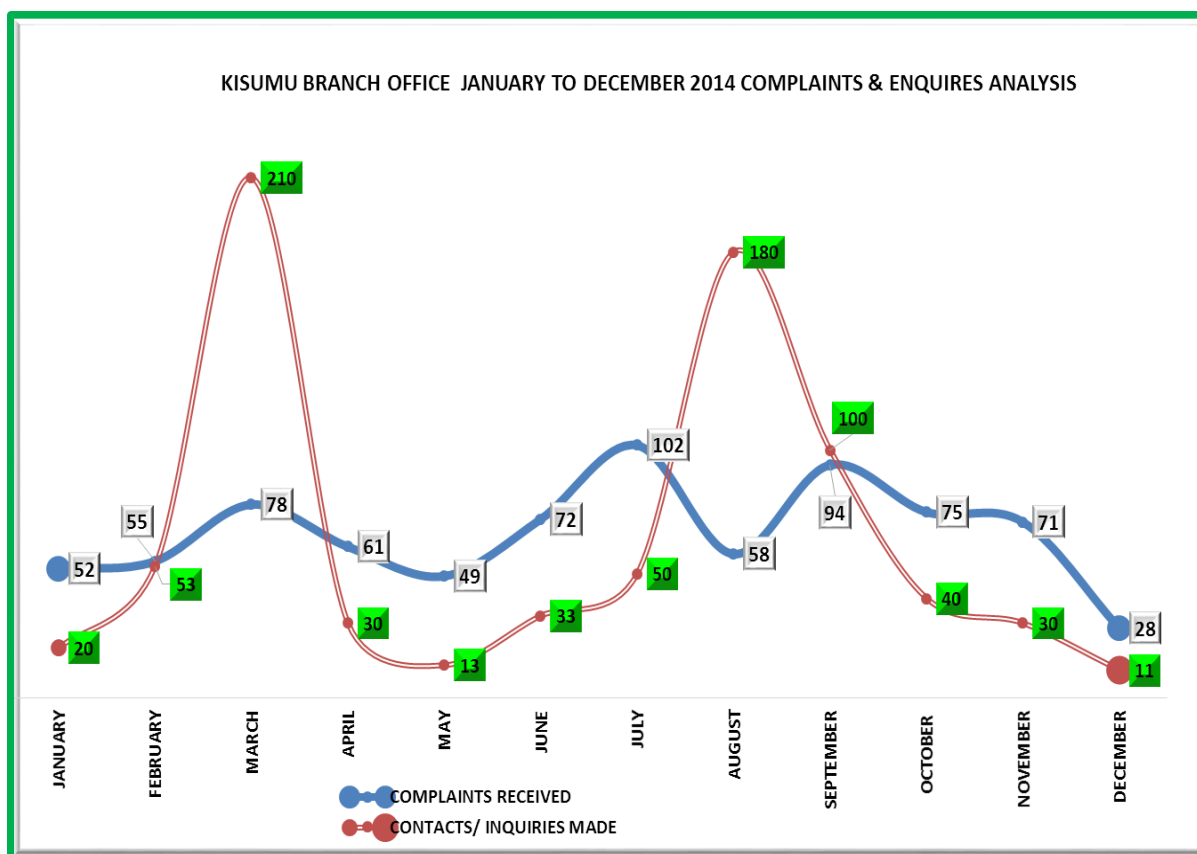


Figure 13: Analysis of Kisumu Branch Complaints, Contacts & Enquiries

2.4.2. MOMBASA BRANCH OFFICE

The Mombasa Branch Office handled a total of 287 complaints and contacts during the period 1st January 2014 and 31st December 2014. This number was achieved by various outreach programs including in Malindi, Taita-Taveta County and Voi and various Swahili Radio programming on Mombasa and Voi stations.

TABLE 4: STATISTICS OF MOMBASA BRANCH COMPLAINTS, CONTACTS & ENQUIRIES

MONTH	NO. OF COMPLAINTS RECEIVED	NO. OF INQUIRIES MADE
JANUARY	13	-
FEBRUARY	13	8
MARCH	28	13
APRIL	12	9
MAY	16	4
JUNE	21	1
JULY	17	18
AUGUST	25	12
SEPTEMBER	55	47
OCTOBER	48	36
NOVEMBER	27	16
DECEMBER	12	8
TOTAL	287	172

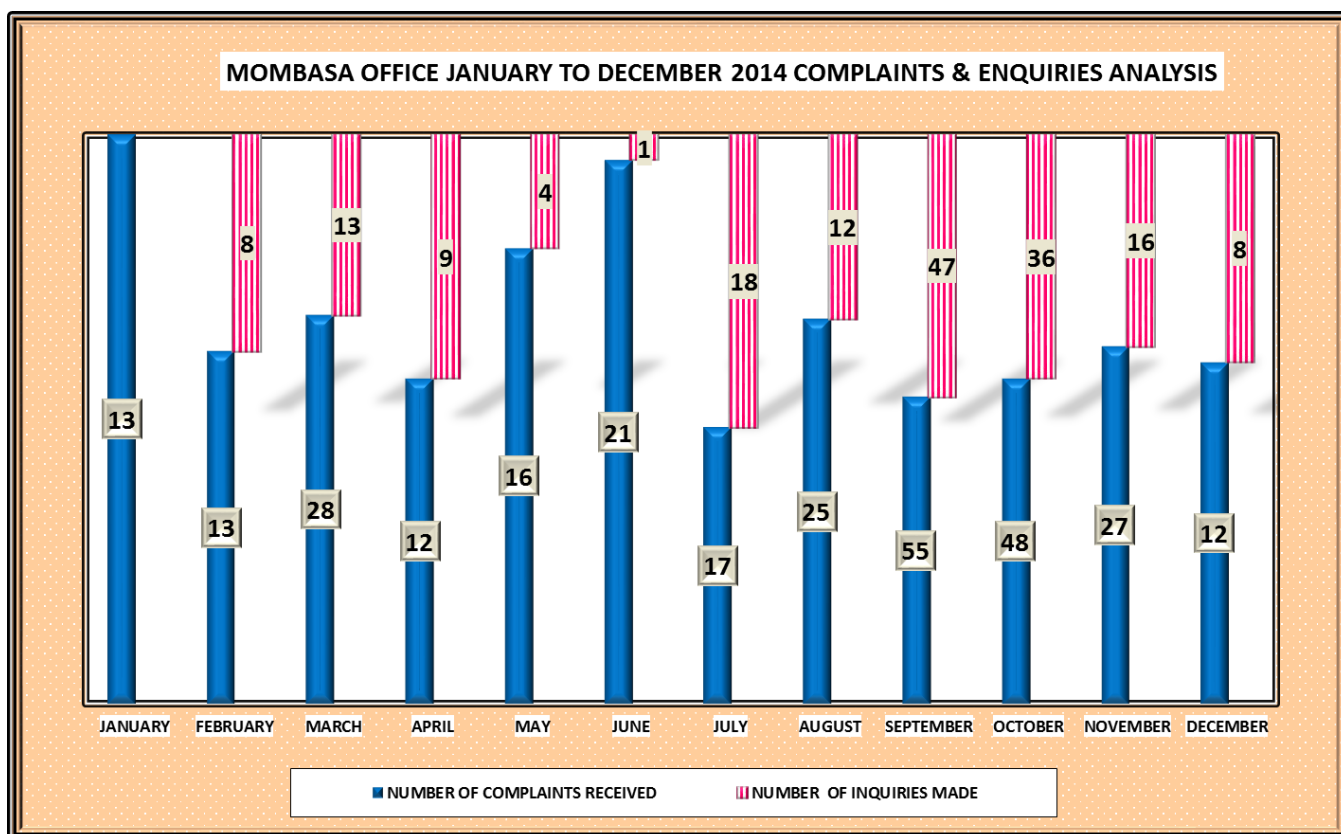


Figure 14: Analysis of Mombasa Branch Complaints, Contacts & Enquiries

2.5. INTEGRATED PUBLIC COMPLAINTS REFERRAL MECHANISM

The Commission continued to play an important role in the Integrated Public Complaints Referral Mechanism (IPCRM) which is an electronic based complaints referral system within state oversight institutions in the handling, management and disposal of complaints. IPCRM is aimed at enhancing the accessibility and capacity of the Commission's complaints handling and also to strengthen the partnerships amongst the relevant institutions. Besides the Commission, the other agencies involved in the referral mechanism include the Ethics and Anti- Corruption Commission, Kenya National Commission on Human Rights, National Cohesion and Integration Commission, Transparency International - Kenya and the National Anti-Corruption Campaign Steering Committee. During the reporting period, the Commission received 151 complaints through IPCRM, a double increment from the previous reporting period when the Commission received 73 complaints. The Commission also attended a strategic meeting in Machakos on awareness creation on the partnership

2.6. SUCCESS STORIES AND SAMPLE CASES HANDLED

2.6.1. SUCCESS STORIES

CASE 1: CAJ/MWAT/009/93/13/CK

The Commission received a complaint against Nairobi Water and Sewerage Company about inadequate water supply. The complainant alleged water shortage in the area and stated that despite several follow ups at the Woodley office and the head office the problem had not been addressed. The commission wrote a letter to the Managing Director, Nairobi Water and Sewerage Company laying out allegation. The Managing Director responded and informed the Commission and the complainant that company had taken action to address the complaint. The complainant confirmed to the Commission in writing that appropriate remedial action had been taken.

CASE 2: CAJ/AG/001/495/13/NG

A complaint was lodged on behalf of Company alleging that the Registrar of Companies had failed to convene an Annual General Meeting (AGM) of the Company in contravention of Court Order. The commission made inquiries with the Registrar General to ascertain the correctness of the allegations.

Upon investigation conducted by Registrar general the allegation were upheld. Subsequently the Registrar issued a 21 day statutory notice to members of company and set a date for the AGM which was duly held.

CASE 3: HUD/GPO/POL/015/5/15 ANONYMOUS

The Commission received an anonymous complaint alleging that many officers within the Administration Police had completed their undergraduate courses in 2012. It was alleged that unlike their counterparts in the Kenya Police Force, they were not promoted to the position of Cadets. In his response, the Deputy Inspector General of police informed the Commission that the recruits for the course 1/2013 had just graduated after a fifteen month training and that there were no available spaces for training. It was indicated that the officers will be informed of availability of space as and when they arose. We advised the complainants accordingly.

CASE 4: CAJ/CID/015/2101/14/NG

The Commission received a complaint alleging delay in determining an appeal against the complainant transfer from his work station. He subsequently appealed against the decision to transfer him but the same had not been determined. Upon intervention of the commission the appeal was expeditiously determined in his favor.

CASE 5: CAJ/KSM/M.AGRI/014/2/13

The complaint was on allegations of delay in payment of terminal dues by the Pyrethrum Regulatory Authority. Inquiries were initiated with the respondent and finally the complainant was paid all the dues owed to him amounting to Khs 627 448.

CASE 6: CAJ/KSM/M.LAN/022/28/13

The complaint was on allegations of inaction by the Police in Central Police Station in Kisumu in relation to a land fraud case reported at the station. The complainant informed the commission had failed to take action against the suspect. Upon intervention commission suspect were arrested and charged in court for fraud.

CASE 7: CAJ/KSM/JUD/001/81/14

The complainant alleged denial to be updated on the status of his case which he had lodged before senior resident magistrate court in Nyando. The commissioned contacted and referred him to the Executive Officer of Nyando Law Courts. His file was perused and he was updated that his suit had been dismissed for non-attendance.

CASE 8: CAJ/KSM/M.LAN/022/61/14

The complainant alleged delay in issuance of a title deed for his land situated in Kisumu. He stated that this was despite the fact he had paid all the requisite fee and submitted the required documents. Upon intervention of the commission the title was issued promptly.

CASE 9: CAJ/M.TRA/004/147/14/CK

The Complaint alleged that the Engineering Act did not recognize other categories like technologists, technicians and Artisans and that the said Act only recognized engineers. He further alleged that three categories mentioned above were never licensed to practice their skills. The complainant sought among others adoption of international best practice including reviewing of the regulation to ensure registration of the three cadres of professionals. The commission took up the matter with the Principal Secretary, Infrastructure who indicated that the ministry is working with the Engineers Board of Kenya in developing the regulations to the Engineers Act, which will be tabled in Parliament.

CASE 10: CAJ/UOK/013/667/14/CK

The complainant in this matter alleged that he was employed as a part time lecturer at the University of Kabianga from January 2014 to April 2014. The complainant alleged that his appointment letter inadvertently indicated that he would teach one unit instead of three units which he was teaching as contracted. The specific complaint was that the delay in amending errors in his appointment made it impossible to paid his salary. Commission inquired into the matter which was successfully resolved.

CASE 11: CAJ/PEN/000/217/209/SAK

The complainant alleged that his pension was stopped in the year 2000 without any justifiable cause. The Commission made inquiries into the same with the Pensions Department who duly investigated the matter. Vide a letter dated 15th July 2014, the Pension indicated that it had reintroduced the complainant into the payroll and had made payments of his monthly pension arrears and monthly pension amounting to Kshs. 279,600/= and Kshs. 3,500/= respectively. The complaint wrote to our office on the 5th of August 2014 indicating that he had received his pension and was very grateful to the Commission.

CASE 12: CAJ/M.EDU/013/749/14

The Commission received an anonymous complaint alleging delay in the appointment of the Chief Executive Officer of the Kenya Institute of Curriculum Development. The commission took up the matter with the Cabinet Secretary, Ministry of Education, Science & Technology vide a letter of 17th October 2014. On the 10th November 2014, the Commission received communication from the Ministry that the appointment had been done in accordance with the law.

CASE 13: CAJ/M.EDU/013/749/14

The Commission received an anonymous complaint alleging delay in the appointment of the Chief Executive Officer of the Kenya Institute of Curriculum Development. The commission took up the matter with the Cabinet Secretary, Ministry of Education, Science & Technology vide a letter of 17th October 2014. On the 10th November 2014, the Commission received communication from the Ministry that the appointment had been done in accordance with the law.

CASE 14: CAJ/KSL/013/617/13/vol.1/NG

The complainant in this matter was an employee of the Kenya School of Law working as an ICT Manager from 4th June 2007 to 31st May 2013 when he voluntarily resigned. He indicated that the Kenya School of law had not been remitting some of his contributions a service provider, Alexander Forbes Retirement Fund from March 2013. He indicated that he could not receive any payments unless the full contributions and deductions were remitted. He also alleged that the Kenya School of law was taking inordinately long to have his matter resolved. The commission took up the matter with the Kenya School of Law which responded and indicated that it was pursuing payments on behalf of the complainant. On the 25th of November 2014, the complainant indicated that he had been paid his money.

CASE 15: CAJ/M.EDU/013/738/14

The Commission received an anonymous complaint alleging delay in the appointment of the Chief Executive officer of the Kenya National Examination Council. The Commission took up the matter with the Cabinet Secretary, Ministry of Education, Science & Technology and action was taken. The Ministry communicated the same to our office on the 10th November 2014.

CASE 16: HUD/GPO/M.IGC/062/52/14/AOL

The complainant in this matter alleged delay in the issuance of her passport. She alleged that on the 18th June 2014, she applied for a passport and paid the requisite fees. She was advised that the passport would be ready within two weeks. Almost three months after the date of application the passport had not been issued. The Commission pursued the matter and the passport was issued on the 4th of September 2014 and delivered to the applicant on the 5th of September 2014.

CASE 17: CAJ/POL/2015/2152/14/NG

The complainant in this matter alleged that he was attacked and assaulted by his son. He subsequently reported the matter to Saba Saba Police station vide OB Nos. 18/25/07/2014 and 9/21/8/2014. He alleged that the police arrested the suspect and later released him without taking any action. He requested the Commission to investigate the inaction by the police. The Commission initiated inquiries and the suspect was arraigned in Court and charged with two counts, creating disturbance and assault. The case is pending before Court.

CASE 18: CAJ/OM/7/29/14/CK

The Commission received a complaint from a concerned citizen regarding the poor state of the bridge connecting Kenyatta National Hospital and Kenyatta market along Mbagathi way in Nairobi. The Commission visited the site on the 17th September 2014 and found that construction work had been partially done. The matter was brought to the attention of the Kenya Urban Roads authority which responded by indicating that they intervened and had ensured stop gap measures awaiting structural evaluation and repairs to the bridge.

2.6.2. SAMPLE CASES HANDLED

The table below represents a sample of different complaints handled by the Commission for the period under review.

TABLE 5: SAMPLE OF COMPLAINTS HANDLED BY THE COMMISSION

NO.	FILE REFERENCE NO.	RESPOND ENT	CLASSIFICATION OF COMPLAINT	SUMMARY OF COMPLAINT	REMEDIAL ACTION
1.	HUD/GPO/M. IGC/062/17/1 4	National Police Service	Unresponsive Conduct	Official A complaint that officers at Ogembo Police Station had failed to take action on a report of assault on Evans Ombori Oseko made vide OB No. 51/07/02/2014.	Initiated an inquiry and the suspect was arrested and charged in court.
2.	CAJ/UOK/01 3/667/14	University of Kabianga	Delay	An allegation that University of Kabianga had failed to pay the complainant the salary for two units that he taught at the University. This was allegedly caused by an anomaly in the complainant's appointment letter which indicated that he would teach 1 unit instead of 3 units.	Initiated an inquiry and the salary arrears was paid
3.	CAJ/HUD/GP O/M.IGC/062 /9/14	National Registration Bureau	Delay	An allegation that the Kariakor Registration of Persons Office had failed to issue the complainant with his Identity Card despite it being released by the Head Office.	Initiated an inquiry and the complainant was issued with an Identity Card.
4.	CAJ/IEBC/02 6/43/14	Independe nt Electoral and Boundaries Commission	Delay	An allegation that the Independent Electoral and Boundaries Commission had failed to act on a complaint by the complainant who had been captured as a member No.	Initiated an inquiry and the name was removed

NO.	FILE REFERENCE NO.	RESPOND ENT	CLASSIFICATION OF COMPLAINT	SUMMARY OF COMPLAINT	REMEDIAL ACTION
				MK0752 of Mkenya Solidarity Party without his knowledge.	
5.	CAJ/P.ADM/015/2025/14	Ministry of Interior and Co-ordination of National Government	Unresponsive Official Conduct	An allegation that the Chief of Sarang'ombe Location in Kibera Estate, Nairobi County had failed to settle matters of rental and purchase of houses in Kibera.	Initiated an inquiry and the Chief was transferred
6.	CAJ/MSA/KRA/000/2/2014	Kenya Revenue Authority	Delay	A complaint against the Kenya Revenue Authority for allegedly delaying to issue the complainants with a logbook after applying for the same in 2010.	The Commission intervened and the complainants were issued with a logbook.
7.	CAJ/M.EDU/013/666/14	Ministry of Education, Science and Technology	Oppressive Official Conduct	A complaint that the Principal of Gobei Secondary School in Siaya County had failed to supply the complainant with a copy of the Minutes of a meeting of September 2013 wherein the complainant's assault by the Deputy Principal was discussed	Initiated an inquiry and the complainant was furnished with the Minutes.
8.	CAJ/MSA/KRA/000/9/14	Kenya Revenue Authority	Delay	A complaint against the Kenya Revenue Authority for allegedly delaying to issue the complainant with his driving license together with other original documents since May 2014.	Initiated an inquiry and the complainant was issued with the license
9.	Anonymous CAJ/M.EDU/013/629/14	Ministry of Education, Science and Technology	Unlawful Official Conduct	An allegation that some primary schools in Kisumu County had introduced levies which were contrary to the Regulations by the Ministry	Initiated an inquiry and the levies were scrapped.
10.	CAJ/MSA/KRA/000/7/14	Kenya Revenue Authority	Delay	A complaint that the Kenya Revenue Authority had delayed in endorsing the complainant's driving license with class A qualification in May 2014, alleging that the said license was missing.	Initiated an inquiry and the complainant issued with his license
11.	CAJ/MSA/M.EDU/013/1/14	Ministry of Education, Science & Technology	Unfair Treatment	A complaint that the Headmistress of Mbheni Primary School in Mombasa County had sent the complainant's Standard Four daughter home on 5 th March 2013 for three days for not paying tuition fees on time.	Initiated an inquiry and the pupil resumed classes

NO.	FILE REFERENCE NO.	RESPOND ENT	CLASSIFICATION OF COMPLAINT	SUMMARY OF COMPLAINT	REMEDIAL ACTION
12.	CAJ/MSA/M.I CG/062/17/1 4	Ministry of Interior and Co- ordination of National Governmen t	Unfair Treatment	A complaint that the Assistant County Commissioner, Kikambala Division in Kwale County had summoned the complainant to his office on 13 th June 2014 to answer to allegations of which summons he considered to be unfair.	The complainant advised to abide by the summons which he did and was satisfied with the outcome
13.	CAJ/CG/NAI ROBI/060/22/ 14	Nairobi City County	Delay	A complaint that the complainant's late brother Joseph Kimani Gakuo (P/N. Z06- 08732) was an employee of the defunct Nairobi City Council deployed at the Garage Section in Industrial Area when he passed on sometime in April 2011. However, the death gratuity had not been paid to the family for 3 years despite several follow-ups.	Initiated an inquiry and the matter was resolved
14.	CAJ/M.LAN/0 22/913/14	Ministry of Lands Housing & Urban Developme nt	Unresponsive Official Conduct	A complaint that there was a caveat placed on Land Parcel No's Kilifi/Mtwapa/3543, Kilifi/Mtwapa/3544 and Kilifi/Mtwapa/3545 in Kilifi County and an order was issued in the <i>High Court at Malindi, Civil Suit No.5 of 2012, Nicholas Tabuche versus Ansazi Gambo Tinga and 2 others</i> , to remove the Caveat, but the Kilifi Registrar of Lands had failed to remove the caveat without a reasonable cause.	Upon inquiry, it was found that no such order had been issued by the Court. The complainant was advised to pursue judicial redress.
15.	CAJ/KSM/M. WAT/009/1/1 4	Lake Basin Developme nt Authority	Delay	A complaint that the Lake Basin Development Authority had delayed in making payments to the complainant for renovation works he had done at the Authority after being contracted	Initiated an inquiry and the complainant was paid.
16.	CAJ/KPLC/02 1/112/14	Kenya Power	Delay	A complaint that Kenya Power had delayed to connect power to the complainant premises of the despite making requisite application under the Rural Electrification Programme. On 2nd April 2014, the complainant stated that Kenya Power had responded to his complaint and that he was satisfied with their response.	Initiated an inquiry and the complaint was resolved.
17.	CAJ/DPP/027 /42/14	Office of the Director of Public Prosecution s	Unresponsive Official Conduct	An allegation that the complainant's file in Criminal Case No. 192 of 2013 which was in the custody of the Director of Public Prosecutions was misplaced without tracing. It was further alleged that he could not	Initiated an inquiry and the complaint was resolved.

NO.	FILE REFERENCE NO.	RESPOND ENT	CLASSIFICATION OF COMPLAINT	SUMMARY OF COMPLAINT	REMEDIAL ACTION
				withdraw charges against the accused person in the matter due to the absence of file.	
18.	CAJ/KNTC/03 6/16/14	Kenya National Trading Corporatio n	Administrative Injustice	A complaint that the Kenya National Trading Corporation had unprocedurally and unfairly suspended the complainant from work for pointing out an anomaly where an audit officer was signing cheques contrary to internal audit practices.	Initiated an inquiry and the complainant was reinstated
19.	CAJ/MSA/KR A/000/5/2014	Kenya Revenue Authority	Delay	A complaint that the Kenya Revenue Authority, Mombasa had delayed to provide the complainant with information he had sought whether an organization called Kenya Muslim Women Finance Services was tax compliant.	Initiated an inquiry and the information was provided.
20.	CAJ/M.MED/ 012/214/14	Ministry of Health	Delay	An allegation that the Kenya Medical Laboratory Technicians and Technologist Board had failed to settle a balance of KES. 1,072,767 arising out of a contract to develop and implement a reagent software system in two phases at a cost of Ksh. 1,372,767.20.	Initiated an inquiry and the amount was settled.
21.	CAJ/POL/015 /2011/14	National Police Service	Oppressive Conduct Official	An allegation that officers at Makongeni Police Station in Nairobi we biased in regards to an accident matter reported by the complainant on 30 th April 2014 whereby the complainant's vehicle had been hit by a Double 'M' Bus.	Initiated an inquiry and the vehicle was repaired thereby resolving the complaint
22.	CAJ/POL/015 /2061/14	National Police Service	Unlawful Conduct Official	An allegation that the OCS of Kabete Police Station, Nairobi County had failed to enforce an order by the Rent Tribunal directing him to enforce the same and have the complainant's landlord, Joseph Bubi open the house that he had locked.	Initiated an inquiry and the OCS complied with the Order.
23.	CAJ/M.EDU/0 13/637/14	Ministry of Labour, Social Security Services	Inefficiency	A complaint that the Ministry of Labour, Social Security and Services had unfairly and unilaterally withdrew charges against the Principal of Taranganya High School in Migori, Criminal Case No. 210 of	Initiated an inquiry and the charges were reinstated. The matter had been withdrawn to facilitate further investigations.

NO.	FILE REFERENCE NO.	RESPOND ENT	CLASSIFICATION OF COMPLAINT	SUMMARY OF COMPLAINT	REMEDIAL ACTION
				2013, <i>R vs. Lucas Matiko</i> , despite the fact that the dispute had not been resolved.	
24.	CAJ/CG/MA CHAKOS/67/ 3/14	County Governmen t of Machakos	Improper Conduct	A complaint that the defunct Municipal Council of Machakos had colluded with Annah Ngina Muthoni to defraud the complainant's father of his plot known as Machakos Municipal Council Kariobangi/4 due to his old age and illiteracy.	Initiated an inquiry which revealed that there was a valid sale agreement between the parties and duly signed transfer documents.
25.	CAJ/KSM/M.L AN/022/55/1 4	Ministry of Lands, Housing and Urban Developme nt	Delay	A complaint that the Siaya District Land Registry had delayed to lift a restriction on land parcel No. East Gem/Nyandiwa/800 despite survey having been concluded confirming that the complainant was the bonafide owner of the land	Initiated an inquiry and restriction lifted
26.	CAJ/KSM/KA /000/7/14	Kenya Revenue Authority	Delay	An allegation that the Kenya Revenue Authority had delayed to issue the complainant with a clearance form.	Initiated an inquiry and the matter resolved.
27.	CAJ/KSM/M.I MM/003/13/1 4	National Registration Bureau	Delay	A complaint that the Kisumu Registrar of Persons had delayed to issue the complainant with an Identity Card despite meeting all the requirements	Initiated an inquiry and the complainant issued with an Identity Card
28.	CAJ/KSM/M.I MM/003/10/1 4	Departmen t of Civil Registration	Delay	An allegation of delay by the Mbale Sub-County Registrar of Births and Deaths to furnish the complainant with a death certificate after applying for it in May 2014.	Initiated an inquiry and the complainant issued with a death certificate.
29.	CAJ/KSM/TS C/013/89/14	Teachers Service Commission	Delay	A complaint that the Teachers Service Commission had delayed to deploy the complainant after his appointment as a teacher	Initiated an inquiry and the complainant deployed to Rachillo Primary School in Kisumu County
30.	CAJ/PE/040/ 361/14-CL	Private Entity	Civil Matter	A complaint that the complainant's salary continued to be deducted yet his child was over 18 years contrary to the order of the court in Webuye Chief Magistrates' Court Civil Suit No. 73 of 1990	Considered the matter and advised the complainant to seek judicial remedy

NO.	FILE REFERENCE NO.	RESPOND ENT	CLASSIFICATION OF COMPLAINT	SUMMARY OF COMPLAINT	REMEDIAL ACTION
31.	CAJ/MSA/M.I CG/062/11/1 4	Ministry of Interior and Co- ordination of National Governmen t	Abuse of Power	An allegation that the Assistant Chief of Chaani Sub-Location in Mombasa County had forcefully taken KES 650,000 from the complainant	Initiated an inquiry which established that the complaint was untrue.
32.	CAJ/M.LAN/0 22/906/14	Ministry of Lands, Housing and Urban Developme nt	Unresponsive Official Conduct	A complaint that the Thika District Land Registrar had failed to comply with a Court order to issue the complainant with a Title Deed for KAKUZI/GITUMBA/BLOCK 2 No. 1777, Title No. 341 and 342 as directed by Justice L.Njagi in Succession Cause No. 1138 of 2007 at High Court in Nairobi	Initiated an inquiry which is ongoing.
33.	CAJ/KURA/00 6/49/14	Kenya Urban Roads Authority	Maladministration	A complaint that the Kenya Urban Roads Authority had contracted S. S Mehta & Sons Construction Company Limited to construct Mutindwa Road in Umoja Estate, and the road that connects Mathare North Area 1 with Outer Ring Road through Ruaraka High School despite their poor workmanship.	Initiated an inquiry which is ongoing.
34.	CAJ/M.TOU/0 24/21/14	Ministry of East African Affairs, Commerce and Tourism	Administrative Injustice	An allegation that the Ministry of East African Community, Commerce and Tourism had failed to reinstate the complainant following a court decision that the dismissal was unlawful and unfair.	Matter was inadmissible since it had been decided by the Court.
35.	CAJ/POL/015 /1941/14	National Police Service	Administrative Injustice	A complaint that the National Police Service had failed to compensate the complainant for an injury to his eyes he sustained during a physical training session at Kiganjo on 14 th December 2006 wherein he was inadvertently hit by the instructor.	Initiated an inquiry which is ongoing.
36.	CAJ/M.ENV/ 038/78/14	Water Resources Manageme nt Authority	Unfair Treatment	An allegation that the Water Resources Management Authority in Meru had sidelined the Upper Gura Water Resources Users Association by refusing them to attend meetings and participate in the activities of the Association. It was further alleged that the Authority had also refused to give them funding forms for their Association	Initiated an inquiry which is ongoing.

NO.	FILE REFERENCE NO.	RESPOND ENT	CLASSIFICATION OF COMPLAINT	SUMMARY OF COMPLAINT	REMEDIAL ACTION
37.	CAJ/M.LAN/022/935/14	Ministry of Lands, Housing and Urban Development	Unresponsive Official Conduct	An allegation that the Nyandarua Land Registrar had failed to place a restriction and caution on Nyandarua/Mutonyara /565 to prevent further fraud on the property despite several requests	Initiated an inquiry which is ongoing.
38.	CAJ/JUD/001/1030/14	Judiciary	Delay	An allegation that the Judiciary had delayed to determine <i>Civil Suit No. 5 of 2012</i> before the Principal Magistrate's Court in Narok.	Considered and referred the matter to the Judiciary Ombudsperson for resolution
39.	CAJ/CG/MSA/068/3/14	County Government of Mombasa	Delay	An allegation that the Planning and Housing Department of the Mombasa County had delayed to release the approved drawings to the complainant	Initiated an inquiry and the drawings released
40.	CAJ/KRC/004/147/14	Kenya Railways Corporation	Administrative Injustice	An allegation that the Kenya Railways Corporation had underpaid the complainant who worked as a Trainee CXR Fitter RT III and later promoted to CXR Art Grade RBIV in 2006. He alleged that the retirement dues were calculated using the old Job Grade.	Initiated an inquiry which is ongoing.
41.	CAJ/JUD/001/978/14	Judiciary	Delay and Inefficiency	A complaint that there was delay in concluding <i>Nairobi Civil Case No. 1179 of 2012, Francis Gikonyo vs. Princess Taxi Cabs</i> at the Industrial Court since 2012 and that the file had subsequently gone missing	Considered and referred the matter to the Judiciary Ombudsperson for resolution
42.	CAJ/JUD/001/1029/14	Judiciary	Unresponsive Official Conduct	A complaint that the Judiciary had failed to respond to the request by the Kenya Copyright Board to remit part of the fines received for offences under the Kenya Copyright Act despite undertaking to do so.	Initiated an inquiry which is ongoing.
43.	CAJ/M.HOU/028/30/14	National Housing Corporation	Manifest Injustice	An allegation that the National Housing Corporation had failed to settle a sum of KES. 2,261,432 to Bradchel Investments Co. Ltd for supplying building materials to them for the construction of Ruai Police project between September and November 2013.	Initiated an inquiry and the matter was resolved.
44.	CAJ/POL/015/1973/14	National Police Service	Inefficiency	A complaint that officers from Kayole Police Station in Nairobi had failed to act timely on a criminal report made by the complainant on 31 st January 2014. He further alleged that although they acted after the	Initiated an inquiry and found that the Police had acted within the law and the accused were released legally after they were given

NO.	FILE REFERENCE NO.	RESPOND ENT	CLASSIFICATION OF COMPLAINT	SUMMARY OF COMPLAINT	REMEDIAL ACTION
				intervention of his lawyer, the action was slow, they did not act with the due diligence required and they subsequently released the suspects who continued to threaten him.	cash bail of Kshs. 5,000 by the court.
45.	HUD/GPO/POL/015/4/14	National Police Service	Delay	A complaint that Kamukunji Police Station had failed to act on a complaint of assault reported to them vide OB No. 95/4/12/2013.	Initiated an inquiry and the matter was resolved.
46.	HUD/GPO/M.IGC/062/24/14	National Registration Bureau	Delay	An allegation that the National Registration Bureau had failed to address a mix-up of numbers in the IDs which were being held by two people. The complainant had lost his ID - Number 9964782 in July 2012 and applied for a replacement in the same month at the Kongowea Registration Office in Mombasa where he was issued with a waiting card number 2372693583.	Initiated an inquiry which is ongoing
47.	CAJ/POL/015/2013/2014	Kenya Defence Forces	Unfair Treatment	A complaint that the Army Commander had refused to have a meeting with the complainant to discuss his appeal on the verdict to dismiss him from service in contravention of Articles 47 & 236 of the Constitution	Initiated an inquiry which revealed that the due process was followed and the complainant given an opportunity to be heard.
48.	CAJ/M.IGC/062/94/14	Ministry of Interior and Co-ordination of National Government	Misbehaviour in Public Administration	An allegation of abuse of power, oppressive conduct and corruption by the Chief of Thuita Location of Kamacharia Division in Mathioya District by engaging in the sale of indigenous trees to the public, colluding with criminals, drug dealers and illicit brewers in the Location.	Initiated an inquiry which is ongoing
49.	CAJ/M.LAN/022/953/14	Ministry of Lands, Housing and Urban Development	Unresponsive Official Conduct	An allegation that the Maua Lands Registry had failed to resolve an adjudication dispute for 24 years concerning land parcel No 2645 Lakathi Lower Athiru Gait Section in Maua	Matter inadmissible since it was pending before the court
50.	CAJ/CG/NAIROBI/060/20/14	County Government of Nairobi	Administrative Injustice	An allegation that the County Government of Nairobi had failed to pay the complainant the uniform and soap refunds worth 35,085 and 5,535 respectively yet other officers had been paid their claims	Initiated an inquiry which is ongoing

NO.	FILE REFERENCE NO.	RESPOND ENT	CLASSIFICATION OF COMPLAINT	SUMMARY OF COMPLAINT	REMEDIAL ACTION
51.	CAJ/KURA/00 6/55/14	Kenya Rural Roads Authority	Delay	A complaint that the Kenya Rural Roads Authority had demolished the complainant's houses to pave way for the construction of the Mwingi-Kandwia-Tseikuru Road but had delayed compensating him.	Initiated an inquiry that is ongoing
52.	CAJ/M.EDU/0 13/664/14	Ministry of Education	Delay	An allegation that Moi University had failed to pay the complainants their service gratuity which they promised to pay at the time of transition from Narok University College to Masai Mara University	Initiated an inquiry which is ongoing
53.	HUD/GPO/JU D/001/6/14	Judiciary	Delay	A complaint Judicial Review Application number 65 of 2009 (<i>Republic versus Chairman Nyamira Land Disputes Tribunal, Senior Resident Magistrate Nyamira Law Courts, Nyamira District Land Registrar & the Attorney General</i>) at the Kisii High Court had been pending in court since 2009.	Considered the matter and referred to the Judiciary Ombudsperson for resolution
54.	HUD/GPO/A G/001/8/14	Office of the Attorney General and Departmen t of Justice	Delay	An allegation that the complainant was awarded Kshs. 216, 249 as the Plaintiff in Nakuru CMCC number 1276 of 2003 (<i>Margaret Wambui Njoroge vs. Robinson Njogu Ndungu & the Attorney General</i>) on 6 th April 2006 but the same was yet to be paid to her.	Initiated an inquiry which is ongoing
55.	CAJ/KSM/P.E /040/86/14	National Police Service	Delay	A complaint that the OCS of Kondele Police Station had failed to enforce an eviction order issued by Kisumu Rent Restriction Tribunal in Case No 53 of 2013.	Initiated an inquiry which revealed that the OCS had requested to be furnished with a new order as the first one had lapsed.

2.7. SAMPLE LETTERS OF APPRECIATION

Ronoh Jonathan
C/o Box 42681 - 00100
Nairobi - Kenya

6th May 2014

The Chairperson,
Commission on Administrative Justice.
Box 20414 - 00200 Nairobi, Kenya

Dear Sir/Madam

RE: COMPLAINT AGAINST ERC - PAYMENT OF ACTING ALLOWANCE

I wish to acknowledge receipt of your final correspondence regarding the above captioned complaint (see attached).

Firstly, referring to the same correspondence, I would like to express my dissatisfaction with the opinion you took regarding my complaint on the Payment of Acting Allowance. In my opinion, none of the ERC's responses addressed the issues which I had raised in my rejoinder to the initial response by ERC. Nonetheless, I will leave the rest to God as I figure out the way forward.

Secondly, I would like to sincerely appreciate the great assistance you provided me regarding the two issues raised in my complaint:-

- i. Payment of Books and Thesis Allowance - *Resolved promptly through your support.*
- ii. Payment of Acting Allowance - *Closed; although I am still dissatisfied.*

I wish to point out that I managed to successfully carry out my Masters Degree research project and graduated thereafter after receiving payments of the *Books and Thesis Allowance* from ERC.

Again, thank you so much for your help. I wish you the best as you try to assist other Kenyans who may need similar support from your organization.

Regards



Jonathan Ronoh
IT Administrator
Energy Regulatory Commission

MOSES CHELUGUI,
P.O. BOX 9145- 00100,
NAIROBI
0722 546812
21st May 2014

MR. OTIENDE AMOLLO,
CHAIRPERSON,
COMMISSION ON ADMINISTRATIVE JUSTICE (THE OMBUDSMAN)
WEST END TOWERS, 2ND FLOOR - WAIYAKI WAY
P.O. BOX 20414 - 00200
NAIROBI.

Dear Sir,

RE: APPRECIATION

This is to sincerely thank you and the Commission for successfully petitioning Kenya National Trading Corporation on my behalf - "Unfair treatment & discrimination - Laptop Surcharge"

I have since been reimbursed the total amount that I had been unfairly surcharged.

Specifically, I wish to thank Emmanuel Mutonga for expeditiously handling the case.

Once again, thank you for the good work that you have done for me and which you continue to do for all other Kenyans.

Yours Sincerely,


MOSES CHELUGUI



FRANCIS NDUNG'U GACHAU
P.O BOX 20
KINAMBA

23rd July, 2014

THE CHAIRMAN
COMMISSION ON ADMINISTRATIVE JUSTICE
P.O BOX 20414-00200
NAIROBI

Dear Sir/Madam,

RE: APPRECIATION

This is to kindly convey to you my sincere heartfelt appreciation and mostly to Madam Akinyi following your assistance on matters concerning my identity card whereby my I.D Number had been issued to someone else in mysterious circumstances. I wish to inform you that following your intervention, I got my I.D from the National registration bureau bearing my correct I.D Number as per my request. Kindly accept my gratitude.

Thanking you in advance.

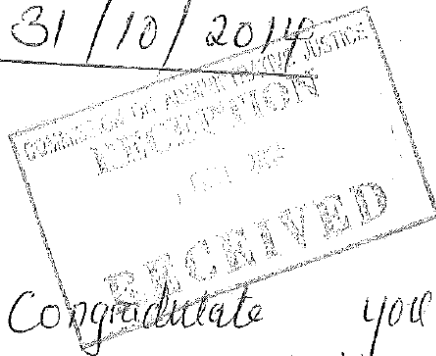
Yours faithfully,



FRANCIS NDUNG'U GACHAU

Huduma/17

31/10/2014



Dear Huduma,

I Congratulate you very much
for helping me to get my Driving licence of
which had delayed for along time.

Thank you very much for doing
every good job.

From, FINIASI KIVUZE KIDAKE.

022/828 - CL
file - letter of appointment to file PS
Jeremiah M' Njogu
P.O. Box 1373-60200
Meru.

Your Ref: NO PCSC/M.LAN/716-PS

Mobile Phone: 0722-878 034

The Chairman ✓
Commission on Administrative Justice
Deputy President Building
P.O. Box 20414- 00200
NAIROBI

31 -03-2014



Dear Sir,

RE: COMPLAINT AGAINST DISTRICT LANDS REGISTRAR, DISTRICT LANDS SURVEYOR AND THE COMMISSIONER OF LANDS.

I want to express my best heart felt gratitude for the service rendered to me by the Commission on Administrative Justice in helping me attain my deprived justice.

In reference to the commissions letter ref. PCSC / M.LAN/716-Ps addressed to me dated 16-09-2013, and the Meru District Land Registrar's letter ref. MER/LND/COMP VOL.1/ 137 dated 09/01/2014 addressed to the Chief Lands Registrar, (both copies attached) and copied to your Commission and my person, I am of the opinion that the District Lands Registrar will finalize the remaining part of the implementation of the court of appeal consent order.

As I commend the Commission on Administrative Justice for its tireless effort to get this issue to rest, I consent closure of the Commission's file in this matter.

Yours faithfully,



JEREMIAH M' NJOGU

cc

The District Lands Registrar.
P.O. Box 40-60200
MERU COUNTY



COMMISSION ON
ADMINISTRATIVE
JUSTICE
OFFICE OF THE OMBUDSMAN

02/16/14 closed
file - letter of appreciation file
info <info@ombudsman.go.ke>

Acknowledgement-cum-Appreciation

1 message

Ronoh jonathan <ronyeg2001@yahoo.com>

Tue, May 6, 2014 at 12:55 PM

Reply-To: Ronoh jonathan <ronyeg2001@yahoo.com>

To: PCSC Ombudsman <info@ombudsman.go.ke>

Cc: "complain@ombudsman.go.ke" <complain@ombudsman.go.ke>, frederick.nyang@erc.go.ke

The Chairperson,

The attached correspondence refers.

I wish to sincerely appreciate the great assistance you provided me

Regards and thanks

Jonathan Ronoh



Final Response CAJ.pdf
489K



Ronoh Jonathan
C/o Box 42681 - 00100
Nairobi - Kenya

6th May 2014

The Chairperson,
Commission on Administrative Justice.
Box 20414 - 00200 Nairobi, Kenya

Dear Sir/Madam

RE: COMPLAINT AGAINST ERC - PAYMENT OF ACTING ALLOWANCE

I wish to acknowledge receipt of your final correspondence regarding the above captioned complaint (see attached).

Firstly, referring to the same correspondence, I would like to express my dissatisfaction with the opinion you took regarding my complaint on the Payment of Acting Allowance. In my opinion, none of the ERC's responses addressed the issues which I had raised in my rejoinder to the initial response by ERC. Nonetheless, I will leave the rest to God as I figure out the way forward.

Secondly, I would like to sincerely appreciate the great assistance you provided me regarding the two issues raised in my complaint:-

- i. Payment of Books and Thesis Allowance - *Resolved promptly through your support.*
- ii. Payment of Acting Allowance - *Closed; although I am still dissatisfied.*

I wish to point out that I managed to successfully carry out my Masters Degree research project and graduated thereafter after receiving payments of the *Books and Thesis Allowance* from ERC.

Again, thank you so much for your help. I wish you the best as you try to assist other Kenyans who may need similar support from your organization.

Regards



Jonathan Ronoh
IT Administrator
Energy Regulatory Commission

WIM

2013/2014

MOMI MWAMBELE KILAMBE

P.O. BOX 158

MWATATE

27-01-2014

THE CHAIRMAN

COMMISSION ON ADMINISTRATIVE JUSTICE

P.O. BOX 20414-00200

NAIROBI



DEAR SIR,

RE: COMPLAINT AGAINST THE PENSIONS DEPARTMENT
REGARDING ANNUAL DUES

In reference to your letter dated 28th November 2013, I hereby do inform you that I was paid my Pension dues.

I take this opportunity and say thanks to your Good office for the efforts you made to make sure that I was paid.

Thanks for assisting me and I do hope and wish you will extend the same to other needy cases.

Yours sincerely

MOMI

Momi Mwambele Kilambo.

0001291

C/O Mbaka Oromo Primary School,
P.o Box 234-40105,
MASENO.

24th August , 2014.

The chairperson,

✓ Commission on Administrative Justice,

West End Towers-2nd floor

Waiyaki Way,

P.O.Box 20414-00200,

NAIROBI.

(with 2 copies)



Dear Sir,

RE: COMPLAINT OVER UNPAID PENSIONS.

I acknowledge the receipt of your letter ref.PCSC/PEN/000/291/10-SC dated 10th August, 2014 on the above subject,with maximum thanks .

I further highly appreciate the ample efforts you have put to pursue this prolonged case to rest after 17 years of numerous correspondences exchanged by me and various government offices,with no solution.

In the above circumstances, I confirm receipt of the outstanding amount of ksh. 1941,through June 2014 pay roll, as per the advice contained in the Director of Pensions letter No Ref.APN/PC 85033 dated 15th July 2014,adressed to me and copied to you.

However, before conluding this case, I hope you will agree with me that the Director of Pensions,kept me financially captive for 17 years ,with mistake which was not my own making ,but squarely originated from that office .

In view of this the Director of Pensions should be held responsible to pay for the damages caused to me as a result of the following embarrassments :-

1)Introducing my name in payroll with wrong APN/PC85083 instead of APN/PC 85033.This made me starve for 9 months without pension

2)Deleting my name from payroll from September 1999 to May 2000,since my name appeared in payroll with wrong number.I suffered another 9 months without pension.

3)This amount has been devalued as follows :-


a)Frequent ^{high} cost of living for that period.

b)Numerous travelling and subsistence incurred while travelling from Maseno to Nairobi, to follow this case .

c)Stationery and postal charges incurred while referring this case to various government offices.

Please note that another case of payment of special accommodation allowance when on transfer from Nairobi to Kisumu ,which has now taken 26 years ,is still pending in your office. Refer to your letter No.PCSC/M.IMM/003/36/2010-SC dated 4th September 2013 and mine dated 29th March 2014.Please act accordingly or otherwise advice.

Yours Faithfully,


(J.Ochieng Agutu.)

Cell no.0718880883.

9/22/2014

Commission on Administrative Justice Mail - Your REF: PCSC/001/349/2010-DK



COMMISSION ON
ADMINISTRATIVE
JUSTICE
OFFICE OF THE COMMISSIONER

015/107

Your REF: PCSC/001/349/2010-DK

moizali essajee <moizaliessajee@gmail.com>
To: info@ombudsman.go.ke

Sun, Sep 21, 2014 at 6:03 PM

Moizali Mohammedali Sulemanji,

P.O BOX 32326-00600,

Nairobi.

21st September, 2014.

THE COMMISSION ON ADMINISTRATIVE JUSTICE

Your REF: PCSC/001/349/2010-DK

The chairperson of the commission

P.O. BOX 20414-00200

Nairobi

ATT OF MR VINCENT CHAHALE



Dear Sir,

I acknowledge receipt of your letter dated 15 August 2014 with thanks.

For the land case HCC NO. 606 OF 2003 (O.S) JOSEPH KAHINDI VS THE ESTATE OF MOHAMMEDALI SULEMANJI ESSAJEE (DECEASED), the case has been heard by the land court judge and I am awaiting the judgment to be delivered on 25th September 2014. I once again thank you very much and the entire commission staff for the support you accorded to me.

RE: CIVIL SUIT NO. 481 OF 2013

Secondly, there is a CIVIL SUIT NO.481 OF 2013 MORRIS MUTUA NZUYA PLAINTIFF VS MOIZALI MOHAMMEDALI SULEANJI.

The above named plaintiff has been occupying my residential apartment in Tudor area of Mombasa district. He was given a notice to vacant the premises for breaching the tenancy agreement in January 2013.

This case is not coming up for hearing or mention. The tenant is enjoying to stay in the apartment since then without paying the rent.

My lawyer's address is as under;

ROBI KERATO PARTNERS ADVOCATES

R.K CHAMBERS

VILLAGE PALZA SUIT B2

<https://mail.google.com/mail/u/2/?ui=2&ik=c9a4f5b470&view=pt&search=inbox&th=14898bcd0b3c3f5&siml=14898bcd0b3c3f5>

1/2

2.8. INVESTIGATIONS AND RESEARCH

2.8.1. INTRODUCTION

The Commission is empowered under Article (59)(h-k) of the Constitution and Section 8(a-c) of the Act to investigate any conduct in state affairs or any act or omission in public administration in any sphere of Government in regards to abuse of power, unfair treatment, manifest injustice or unlawful, oppressive, unfair or unresponsive official conduct. The investigations may be founded on a complaint by the public or own motion (*suo motu*) initiative by the Commission.

Based on the above mandate, the Commission adopted an investigations strategy focusing on individual, own motions and systemic complaints. Through this strategy, the Commission was able to conduct targeted investigations on specific and systemic complaints during the reporting period. Systemic investigations were conducted on complaints that related to inherent structural and procedural weaknesses that affected service delivery. Generally, the investigations aimed at righting the wrongs, and improving public administration. Pursuant to the foregoing, the Commission conducted the following main investigations during the reporting period.

2.8.2. INVESTIGATION 1: COMPLAINT OF ENCROACHMENT ON PRIVATE LAND BY THE EMBU COUNTY GOVERNMENT

The Commission conducted investigations on a complaint of encroachment on private land by the Embu County Government. Specifically, it was alleged that the County Government had constructed a bridge and road on land parcel numbers Gaturi/Nembure/4348 and 4349 belonging to Margery Marigu without her consent or compensation. The investigations revealed the following:

- iv) That there was a road diversion into the complaint's land occasioned by re-routing of the original public access road as captured in the Register Index Map (RIM), Sheet Number 61 for Central Province.
- v) That the Embu County Government had constructed a bridge on the road traversing the complainant's land, which also destroyed trees and crops valued at KES 1,411,970.
- vi) That the road was later re-aligned to its original position, the new road still passed through the complainant's land.

Based on the findings, the Commission made the following recommendations:

- iv) That the complainant be compensated for loss of use of the land for thirty years and destruction of tress and crops.
- v) That the portion of the complainant's land still occupied by the constructed bridge be assessed for compensation.
- vi) That the National Environment Management Authority should take action against the Embu County Government for failing to comply with the law on environmental impact assessment.

2.8.3. INVESTIGATION 2: COMPLAINT OF UNRESPONSIVE AND IMPROPER CONDUCT BY THE INDUSTRIAL AREA POLICE STATION

The investigations were occasioned by reports in the media which indicated that certain officers at Industrial Area Police Station in Nairobi had failed to act on a report by a security guard made on 15th May 2014. It was also alleged that the officers had threatened the security guard with criminal action if he failed to withdraw the accusations for an amicable settlement. The investigations revealed the following:

- vi) That the officers at the Station failed to act on the report by the complainant. Specifically, they failed to open a case file, record statements from the complainant and three suspects who had been arrested, visit the scene of crime, enter the case in the Crime Register, capture the case in the crime statistics from the Station for May 2014 and arrest the main suspect.
- vii) That there was negligence in the performance of duty by the Officer Commanding Police Division for Makadara who had issued a wrong statement to the media.
- viii) That there was abuse of power by the Officer Commanding Police Station of Industrial Area Police Station for directing the Investigating Officer to refund the cash bail for the suspects without any reasonable ground and in contravention of Section 176 of the Criminal Procedure Code.
- ix) That the Deputy OCS in charge of crime at the Station acted in dereliction of duty by failing to supervise the investigation process to ensure the opening of a file, recording of statements, entry of the case in the Crime Register and arrest of suspects.
- x) That there was inordinate delay by the Station to act on the report.

The Commission, therefore, recommended the following:

- v) That another team of investigators be assigned to promptly and conclusively investigate the matter and take appropriate action.
- vi) That disciplinary action be taken against the officers who failed to perform their duties in respect of this matter.
- vii) That there is need to develop guidelines for investigation of cases, including timelines for conclusions of investigations.
- viii) That the National Police Service should provide refresher courses on investigations for police officers and bring their attention to Chapter Six and Article 244(b) of the Constitution

2.8.4. INVESTIGATION 3: COMPLAINT OF ABUSE OF POWER BY THE PRINCIPAL OF NGARA GIRLS HIGH SCHOOL

The Commission conducted investigations into a report of misuse of school van and presence of ghost students and workers at Ngara Girls' High School in Nairobi. The report had also alleged that the Principal of the School had failed to convene the 2012 annual general meeting for the School. The investigations revealed the following:

- iv) That there was misuse of the school van by the Principal of the School who had converted it for conducting her private business of supplying eggs to other schools and establishments.
- v) That there was a discrepancy in the list of additional students submitted by the School to the Ministry of Education, Science and Technology, and the actual number of students at the School. This pointed to the existence of ghost students.
- vi) That there were no ghost workers at the School

Based on the findings, the Commission recommend as follows:

- vii) The Teachers Service Commission should caution the Principal of Ngara Girls High School over misuse of the school van
- viii) The Ministry of Education, Science and Technology should surcharge the Principal for misuse of the van and take any other appropriate action against her.
- ix) The Ministry of Education, Science and Technology should develop a policy on the management of vehicles owned by educational

institutions, in particular the hiring and implement a vehicle tracking system.

- x) The Teachers Service Commission should undertake further investigations into this matter and take appropriate action as per the Code of Regulations for Teachers and any other applicable law.
- xi) The Ministry of Education, Science and Technology should cause specific audit on FDSEF allocation in all schools to control abuse of the fund by school principals, in particular at Ngara Girls High School
- xii) The Kenya National Audit Office should examine the ordinary student enrolment lists submitted by the Ngara Girls' High School for 2014 FDSEF allocation and ascertain whether the FDSEF released for the year correspond to the actual number of students.

2.8.5. INVESTIGATION 4: COMPLAINT OF IRREGULAR ACQUISITION OF LAND FOR KISII MUNICIPAL MARKET

The Commission conducted investigations into alleged irregular acquisition of land belonging to Kisii Municipal Market by private individuals. The investigations revealed that:

- iv) The land for the Market did not have a plot number and therefore not registered.
- v) The land was later subdivided into eight plots: Kisii Municipality/Block III/258, Kisii Municipality/Block III/259, Kisii Municipality/Block III/260, Kisii Municipality/Block III/261, Kisii Municipality/Block III/418, Kisii Municipality/Block III/334 and Kisii Municipality/Block III/376.
- vi) Seven of the plots were subsequently irregularly acquired by private individuals, some of whom proceeded to develop them.

The Commission, therefore, recommended as follows:

- v) The County Government of Kisii should survey and register the land for the Market as per the Approved Master Plan of 1971.
- vi) The National Land Commission should take appropriate action in regard to the land for the Market, including repossession of the seven plots.
- vii) The County Government of Kisii should ensure that public land within the County is surveyed and registered with the Ministry of Lands, Housing and Urban Development.

- viii) The Ministry of Lands, Housing and Urban Development should take disciplinary action against the officers at the Ministry who facilitated the acquisition of the seven plots for the Market.



Dr. Otiende Amollo the Chairman of the Commission during a press conference to release an investigation report on grabbed Kisii Municipal market land

2.8.6. INVESTIGATION 5: COMPLAINT OF ABUSE OF POWER AND DISREGARD OF PROCUREMENT PROCEDURES BY THE NATIONAL SOCIAL SECURITY FUND REGARDING TASSIA II INFRASTRUCTURE DEVELOPMENT PROJECT

The investigation related to a complaint of impropriety in the procurement procedure for the Tassia II Infrastructure Development Project by the National Social Security Fund (NSSF). Specifically, it was alleged that the acting Managing Trustee and the NSSF Board Chairman had improperly and irregularly awarded a tender for the above Project work over five billion shillings. On receipt of the complaint, the Commission conducted investigations which revealed the following:

- vii) The design, cost of estimates and advertisement of the Project was done without the requisite budget in disregard of the Public Procurement and Disposal Act, 2005.
- viii) The approval of the revised cost of the Project at KES 5.053 was improper and irregular since the same was done through an e-mail which was not provided for by law.
- ix) The Finance, Social Security and Investment Committee as well as the representative of employees on the NSSF Board were sidelined in the approval of the revised cost in contravention of the law.
- x) The administrative management of the tender process was fraught with irregularities and impropriety in that the tender processing was rushed and the tender awarded before approval. For instance, the opening of the tender, evaluation, and award apparently took place on the same day, the 17th December 2013, while the approval of the Project was sought and granted via email on the 18th December 2013.
- xi) The Project was awarded without a budget and meeting the pre-approval conditions set by the Nairobi City County Government
- xii) The Nairobi City County Government did not receive the money (KES 11,244,000) from NSSF for inspection and approval of the Project Plan

Based on the findings, the Commission recommended as follows:

- ix) The award of the Project to China Jiangxi International (K) Limited should be cancelled based on the irregularities
- x) The Ethics and Anti-Corruption Commission should conduct investigations to determine the possibility of corrupt intent in the tendering process of the Project
- xi) NSSF should develop and implement proper internal procedures for transacting official business including a policy on the use of email communication
- xii) The acting Managing Trustee and the Board who participated in the process should be held jointly and severally responsible for any losses incurred by NSSF in the Project.
- xiii) The Kenya National Audit Office should undertake audit of NSSF to ascertain the alleged payment of 11 million shillings to the Nairobi City County Government for approval, and recommend recovery.

- xiv) A properly and legally constituted forum of the NSSF Board should look into the Project to ascertain its viability
- xv) whether there is value for money in the entire project Board should reconsider the
- xvi) The procurement regime in Kenya should be re-examined to ensure quality, fair pricing, value for money, procedural fairness and alignment to MTF and multi-year approach (for capital projects).

2.8.7. INVESTIGATION 6: COMPLAINT OF ABUSE OF POWER AND UNFAIR TREATMENT REGARDING THE RECRUITMENT OF CLERICAL OFFICER AT RACHUONYO NORTH SUB-COUNTY

The Commission undertook investigations on a complaint of abuse of power and unfair treatment in the recruitment of Clerical Officer II at Rachuonyo North Sub-County in Homa Bay County in 2012. It was alleged that the officers involved in the exercise disregarded the recommendation of the interview panel and appointed another person for no justifiable reason. On receipt of the complaint, the Commission launched investigations which revealed the following:

- v) The complainant was the top candidate for the position of Clerical Officer II at Rachuonyo North Sub-County after attaining a score of 382 marks and was, therefore, recommended for appointment.
- vi) The person who was eventually appointed to the position was number eight out of the ten candidates after attaining 325 marks.
- vii) The results of the interview were forwarded to the defunct Ministry of Immigration and Registration of Persons by the Deputy County Commissioner for Rachuonyo North vide a letter of 16th January 2013 and the then District Registrar of Persons both of which recommended the complainant for appointment.
- viii) The minutes and other documents were, however, doctored to indicate that the eventual successful candidate was the top candidate and that the complainant could not be traced.

On the basis of the findings, the Commission made the following recommendations:






- iv) The appointee to the position should be retired in public interest since his appointment was irregular.

- v) The complainant should be appointed to the since she was the top candidate for the said position.
- vi) Action should be taken against the officers who participated in the unlawful process, including penal and administrative sanctions.

2.9. UNRESPONSIVE AND MALFEASANT PUBLIC OFFICERS









Pursuant to its mandate of addressing maladministration in the public sector, the Commission has established a citation register for unresponsive public institutions and officers. This is in line with its strategy of sanctioning unresponsive public officers under the Strategic Objective 1 of 'enhancing responsiveness and effectiveness in the public sector.'









The Commission has developed parameters for determining unresponsiveness of public institutions and officers which include the following:






-  Failure to respond to inquiries on complaints (by the Commission)
-  Failure to implement any determination or report of the Commission without any reasonable cause
-  Public officers found to have improperly conducted themselves after due investigations by the Commission
-  Failure to honour summonses issued by the Commission
-  Public officers determined by the court to have been guilty of abuse of office and in respect of whom no appeal has been successfully lodged or determined.







In 2014, the Commission cited the following public officers.

NO.	NAME OF PUBLIC OFFICER	REASON FOR CITATION
1.	Dr. James Mwangi, the Chairman of the Board of the Vision 2030 Delivery Secretariat	 Administrative responsibility for non-implementation of the recommendations of the Commission in respect of a complaint by a former employee of the Vision 2030 Delivery Secretariat.

NO.	NAME OF PUBLIC OFFICER	REASON FOR CITATION
		 Failure to guide and give leadership to the Board on its obligation to implement the findings and recommendations of the Commission
2.	Board of the Vision 2030 Delivery Secretariat	 Failure to implement the recommendations of the Commission in respect of a complaint by a former employee of the Vision 2030 Delivery Secretariat.
3.	Ms. Nyawira Njeru, former Member of the National Standards Council	 Improper conduct by failing to submit to the jurisdiction of the Commission in respect of a complaint of administrative injustice lodged by a former Managing Director of the Kenya Bureau of Standards.
4.	Mr. Richard Lang'at, Managing Trustee of the National Social Security Fund	 Abuse of power and disregard of procurement procedures relating to the Tassia II Infrastructure Project.
5.	Joseph Irungu, Administration Secretary, Ministry of Interior and Co-ordination of National Government	 Improper conduct, abuse of power and conduct prejudicial in public administration regarding the recruitment of the Managing Director of the Kenya Airports Authority in breach of Article 59(2)(h) & (i) and 232(1)(g) of the Constitution and Section 8 of the Commission on Administrative Justice Act.
6.	Rose Wanjiku Hunja, Deputy Director Human Resource, Department of Immigration and Registration of Persons	 Improper conduct and abuse of power in the recruitment of Clerical Officer II in North Rachuonyo Sub-County in Homa Bay County in breach of Article 27 of the Constitution and the Public Service Commission Circular on recruitment
7.	Peter Keta Midida, Principal Human Resource Management Officer, Department of Immigration and Registration of Persons	 Improper conduct and abuse of power in the recruitment of Clerical Officer II in North Rachuonyo Sub-County in Homa Bay County in breach of Article 27 of the Constitution and the Public Service Commission Circular on recruitment
8.	Kenneth Ndungu Nduati, Principal Registration Officer, Department of Immigration and Registration of Persons	 Improper conduct and abuse of power in the recruitment of Clerical Officer II in North Rachuonyo Sub-County in Homa Bay County in breach of Article 27 of the Constitution and the Public Service Commission Circular on recruitment

NO.	NAME OF PUBLIC OFFICER	REASON FOR CITATION
9.	Johnson Kahindi, Human Resource Management Officer, Department of Immigration and Registration of Persons	 Improper conduct and abuse of power in the recruitment of Clerical Officer II in North Rachuonyo Sub-County in Homa Bay County in breach of Article 27 of the Constitution and the Public Service Commission Circular on recruitment
10	Donald Otieno Ojuok, District Registrar of Persons, Rachuonyo North Sub-County	 Improper conduct and abuse of power in the recruitment of Clerical Officer II in North Rachuonyo Sub-County in Homa Bay County in breach of Article 27 of the Constitution and the Public Service Commission Circular on recruitment
11	Ted Maina Macharia, Clerical Officer, Department of Immigration and Registration of Persons	 Improper conduct and abuse of power in the recruitment of Clerical Officer II in North Rachuonyo Sub-County in Homa Bay County in breach of Article 27 of the Constitution and the Public Service Commission Circular on recruitment
12	Assumpta Ndunge Munyasya, Principal of Ngara Girls Secondary School, Nairobi	 Abuse of power and improper conduct in relation to use of property belonging to the School, conflict of interest and high-handedness in conducting the operations of the School.
13	Moses Lubisia, OCPD, Kayole Police Division in Nairobi	 Improper conduct and misbehaviour in public administration by having a relationship with the mother of a 14 year old minor who was alleged to have been defiled and kidnapped thereby impairing his ability to act on the complaint reported to Kayole and Soweto Police Stations.
14	Wilson Cheruiyot, OCS, Kayole Police Station	 Unresponsive and negligent conduct in the performance of his duties as the OCS by failing to act on a complaint of defilement and kidnapping of a 14 year old minor reported to Kayole Police Station.
15	Julius Mwamrizi, OCS, Soweto Police Station	 Improper conduct and abuse of power by ordering a junior officer to prefer a lesser charge against a suspect in a complaint reported at the Station
16	Samuel Mwadime, Crime Branch, Soweto Police Station	 Improper and negligent conduct in the performance of duties in respect of investigations on a complaint of defilement and kidnapping of a 14 year old minor made at the Soweto Police Station.

NO.	NAME OF PUBLIC OFFICER	REASON FOR CITATION
17	Ruth Maithya, Crime Branch, Kayole Police Station	 Improper and negligent conduct in the performance of duties in respect of investigations on a complaint of defilement and kidnapping of a 14 year old minor made at the Kayole Police Station.
18	Nehemiah Kibet Lang'at, OCPD, Makadara Police Division in Nairobi	 Improper and negligent conduct in the performance of duties in relation to a complaint made at the Industrial Area Police Station on alleged assault of a security guard.
19	Amos Shamalla, OCS, Industrial Area Police Station	 Improper and negligent conduct in the performance of duties in relation to a complaint made at the Industrial Area Police Station on alleged assault of a security guard.
20	Zuhura Yasmin Khan, Deputy OCS & OC Crime, Industrial Area Police Station	 Improper and negligent conduct in the performance of duties in relation to a complaint made at the Industrial Area Police Station on alleged assault of a security guard.
21	Stephen Okuto Otieno, Crime Branch, Industrial Area Police Station	 Improper conduct and abuse of power by interfering with investigations relating to a complaint made at the Industrial Area Police Station of alleged assault of a security guard.
22	Willy Lugusa, Regional Coordinator, National Police Service, Rift Valley	 Unresponsive conduct by failing to draft or monitor the sending of a signal detailing the Baragoi Police Operation
23	Chrispinus Makhanu, Vigilance House, Nairobi	 Unresponsive conduct by failing to draft or monitor the sending of a signal detailing the Baragoi Police Operation
24	John M'mbijiwe, Provincial Police Officer, Rift Valley	 Prejudicial conduct and dereliction of duty by putting pressure on the officers to mount an operation in Baragoi without requisite kits thereby leading to the deaths of 30 Police Officers and 8 Reservists on 10th November 2012.
25	Panaito Onyango, Senior Sergeant, Kericho GK Prison	 Improper conduct by willfully giving false and misleading information to the Commission regarding the alleged torture and death of Mr. Cyiza Desire, an inmate at Kericho Main Prison.
26	Joseph Cheruiyot, Prison Warder, Kericho GK Prison	 Improper conduct by willfully giving false and misleading information to the Commission regarding the alleged torture and death of Mr. Cyiza Desire, an inmate at Kericho Main Prison.

NO.	NAME OF PUBLIC OFFICER	REASON FOR CITATION
27	Hassan F.M. Wafula, Officer in Charge, Kericho GK Prison	 Unresponsive and unco-operative conduct to the Commission during the investigations
28	Rawlings Juma, Principal, Rioma Secondary School	 Improper conduct and abuse of power by misusing the School motor vehicle Registration Number KBT 580N leading to the accident involving the School Bus on 10th July 2013
29	Samuel O. Atemba, Principal, Tambacha Secondary School	 Improper conduct by involving non-students in co-curricular activities of the School
30	Penuel Nyagaka, Deputy Principal & Coach, Tambacha Secondary School	 Improper conduct by involving non-students in co-curricular activities of the School
31	David Otieno, Marani District Quality Assurance Officer	 Failing to observe transparent safety rules by flagging off an overloaded School Bus that thereafter had an accident on 10th July 2013
32	Prof. Samson Kegengo Ongeru, Ambassador to UNEP and UN-Habitat	 Abuse of office by illegally and irregularly acquiring Plot No. Kisii Mun/Block III/258 from Kisii Municipal Market.

CHAPTER THREE

3.0. BUILDING COMPLAINTS HANDLING CAPACITY IN THE PUBLIC SECTOR

3.1. INTRODUCTION

The Commission is mandated to set up and strengthen the complaints handling capacity in the public sector. To this end, the Commission plays a critical role in developing capacity of public officers and institutions in national and county governments. Specifically, the Commission is a lead agency in performance contracting system in the resolution of public complaints indicator. In this regard MDAs are certified and rated on compliance with the set guidelines on resolution of public complaint indicator. Further, the Commission endeavours to strengthen the capacity of public institutions through provision of technical support in areas such as development of citizen service delivery charters and internal complaint handling procedures.

This section of the Report highlights key achievements of the Commission in relation to building complaints handling capacity in the public sector during the period under review.

3.2. BUILDING AND STRENGTHENING COMPLAINTS HANDLING CAPACITY

The Office of the Ombudsman is an important stakeholder in public service delivery. Section 8(e) of the Act requires the Commission to facilitate the establishment of, and capacity building on complaints handling in the public sector. In this respect, the Commission implemented a number of activities in the public sector during the reporting period. Notably, the Commission developed new guidelines to facilitate institutions develop internal complaint handling mechanisms and assist in the implementation of its indicator. In addition, the Commission trained 2762 Officers on complaint handling, good governance and principles of good public administration. Consequently, 48,538 complaints were handled by MDAs as a result of enhanced capacity and establishment of internal infrastructure for handling complaints.

3.2.1. IMPLEMENTING PERFORMANCE CONTRACTING OBLIGATIONS

Since 2003, the Government has initiated a number of reforms to improve service delivery in the public sector. Significant was the inclusion of *Resolution of Public Complaints Indicator* in the performance contracting system, now

overseen by the Commission, and the adoption of Kenya Vision 2030 which lays emphasis on good governance and service delivery. The indicator requires all public institutions to promptly address and resolve public complaints lodged with and against them. In this respect, Public institutions are obligated to establish mechanisms of working with the Commission to address complaints they have received. Besides, the Commission monitors the implementation of the Indicator through the assessment and certification of public institutions based on established parameters.

During the period under review, the Commission developed guidelines for implementing the indicator in line with the 11th Edition of the National Government Performance Contracting Guidelines and CAJ Regulations. The Guidelines obligates public institutions to:

- a) Establishment of complaints-handling and management infrastructure,
- b) Develop of complaints handling procedures ,
- c) Maintain a complaint register,
- d) Develop and maintain citizen service delivery charter,
- e) Build capacity for complaints handling officers and staff,
- f) Create awareness on the complaints handling system and citizen service delivery charters,
- g) Report quarterly on complaints received, nature, number and actions taken,
- h) Submit a status report on the implementation of CAJ recommendations (If any).

It is worthwhile to note that, the guidelines require public institutions to resolve a complaint within twenty one working days of receipt. The Commission has shared the Guidelines with all public agencies.

3.2.1.1. MONITORING COMPLAINT HANDLING.

As earlier mentioned in this section of the report, all public institutions are required to submit quarterly reports to the Commission detailing the total number of complaints received and the number resolved. During the period under review, public institutions received a total 48,538 complaints and managed to resolve 40,970- representing 84.41 percent resolution rate.

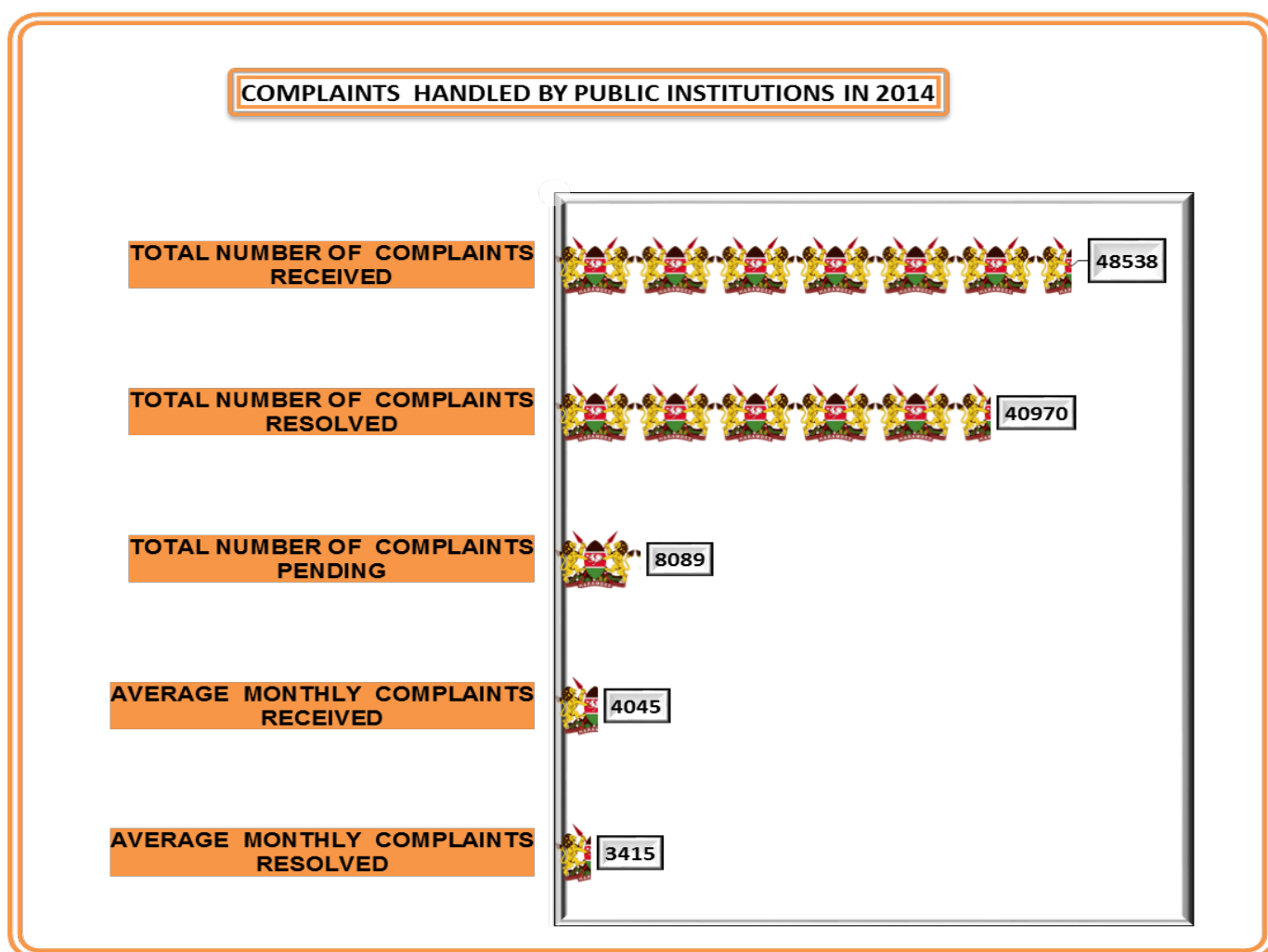


Figure 15: Analysis of Complaints Handled By Public Institutions In 2014

3.2.1.2. TRAINING OF PUBLIC OFFICERS

One of the strategies adopted by the Commission to build capacity of public institution is training of staff. The training targeted the various Heads of Department, Complaints handling officers and the front line staff. During the reporting period 2762 public officers from 114 public institutions were trained. It was expected that the group would further cascade the information to the rest of the staff has an oversight role over public institutions in relation to redress mechanisms which include, development and implementation of service delivery charters and establishment of effective complaints handling management infrastructure. In this respect, the Commission trained 2762 public officers from 114 MDAs across the country on Effective Complaints Handling methods as well as Resolution of Public Complaints Indicator in the National Government Performance Contracting system.

TABLE 6: NAMES OF PUBLIC INSTITUTIONS TRAINED IN 2014.

NUMBER	NAME OF THE PUBLIC INSTITUTION	NUMBER OF PUBLIC INSTITUTIONS AND OFFICERS TRAINED
1	MINISTRY OF DEVOLUTION AND PLANNING	210
2	TOURISM FUND	144
3	MASENO UNIVESITY	143
4	UNIVERSITY OF NAIROBI	115
5	EGERTON UNIVERSITY	100
6	EGOJI TEACHERS COLLEGE	81
7	KENYA EDUCATION MANAGEMENT INSTITUTE	74
8	KENYA TSETSE AND TRYPANOSOMIASIS ERADICATION COUNCIL	71
9	KIRINYAGA UNIVERSITY COLLEGE	62
10	KENYA MEDICAL SUPPLIES AUTHORITY	61
11	TAITA TAVETA UNIVERSITY COLLEGE	60
12	ENERGY REGULATORY COMMISSION	56
13	EMBU UNIVERSITY COLLEGE	54
14	KABIANGA UNIVERSITY COLLEGE	52
15	UNIVERSITY OF ELDORET	51
16	NZOIA SUGAR COMPANY	51
17	MACHAKOS UNIVERSITY COLLEGE	50
18	NATIONAL AUTHORITY FOR THE CAMPAIGN AGAINST ALCOHOL AND DRUG ABUSE	47
19	EWASO NG'IRO NORTH DEVELOPMENT AUTHORITY	43
20	CHUKA UNIVERSITY	42
21	NATIONAL COUNCIL FOR POPULATION AND DEVELOPMENT	42
22	NATIONAL BIOSAFETY AUTHORITY	40
23	SOUTH EASTERN KENYA UNIVERSITY	40
24	KENYA UTALII COLLEGE	36
25	COMPETITION AUTHORITY OF KENYA	35
26	MINISTRY OF LABOUR, SOCIAL SECURITY AND SERVICES	34
27	RIFT VALLEY INSTITUTE OF SCIENCE AND TECHNOLOGY	33
28	WATER RESOURCES MANAGEMENT AUTHORITY	32
29	NATIONAL IRRIGATION BOARD	32
30	KENYA TRADE NETWORK AGENCY	31
31	KENYA URBAN ROADS AUTHORITY	31
32	KENYA NUCLEAR ELECTRICITY BOARD	30
33	KIBABII DIPLOMA TEACHERS' TRAINING COLLEGE	30
34	NATIONAL DROUGHT MANAGEMENT AUTHORITY	30
35	MINISTRY OF SPORTS, CULTURE AND THE ARTS	28
36	MOSORIOT TEACHERS' COLLEGE	26
37	TANA WATER SERVICES BOARD	26

NUMBER	NAME OF THE PUBLIC INSTITUTION	NUMBER OF PUBLIC INSTITUTIONS AND OFFICERS TRAINED
38	MINISTRY OF FOREIGN AFFAIRS & INTERNATIONAL TRADE	26
39	THIKA TECHNICAL TRAINING INSTITUTE	25
40	KENYA BUREAU OF STANDARDS	25
41	COFFEE RESEARCH FOUNDATION	23
42	OL' LESSOS TECHNICAL TRAINING INSTITUTE	23
43	WOMEN ENTERPRISE FUND	21
44	KASNEB	20
45	KIRINYAGA COUNTY EXECUTIVES	20
46	MINISTRY OF TRANSPORT AND INFRASTRUCTURE	20
47	MASINDE MULIRO UNIVERSITY OF SCIENCE AND TECHNOLOGY	20
48	NATIONAL INDUSTRIAL TRAINING AUTHORITY	19
49	ATHI WATER SERVICES BOARD	18
50	COAST WATER SERVICES BOARD	18
51	KENYA LEATHER DEVELOPMENT COUNCIL	18
52	POSTAL CORPORATION OF KENYA	16
53	EXPORT PROMOTION COUNCIL	16
54	KENYA MEDICAL RESEARCH INSTITUTE	15
55	MINISTRY OF EAST AFRICAN AFFAIRS, COMMERCE AND TOURISM	15
56	KENYA FILM COMMISSION	14
57	NATIONAL ENVIRONMENT MANAGEMENT AUTHORITY	14
58	PYRETHRUM BOARD OF KENYA	13
59	NORTH EASTERN PROVINCE TECHNICAL TRAINING INSTITUTE	13
60	NATIONAL COUNCIL FOR PERSONS WITH DISABILITIES	12
61	NORTHERN WATERS SERVICES BOARD	12
62	MINISTRY OF EDUCATION, SCIENCE AND TECHNOLOGY	11
63	KENYA MARINE & FISHERIES RESEARCH INSTITUTE	10
64	NAIROBI WATER AND SEWERAGE COMPANY	9
65	NAIROBI TECHNICAL TRAINING INSTITUTE	8
66	LOCAL AUTHORITIES PROVIDENT FUND	8
67	THE SACCO SOCIETIES REGULATORY AUTHORITY	7
68	CAPITAL MARKETS AUTHORITY	7
69	P.C KINYANJUI TECHNICAL TRAINING INSTITUTE	6
70	MICHUKI TECHNICAL TRAINING INSTITUTE	5
71	MINISTRY OF INDUSTRIALIZATION AND ENTERPRISE DEVELOPMENT	5
72	THE KENYA INSTITUTE FOR PUBLIC POLICY RESEARCH AND ANALYSIS	5
73	KENYA REVENUE AUTHORITY	5
74	KENYA LITERATURE BUREAU	5

NUMBER	NAME OF THE PUBLIC INSTITUTION	NUMBER OF PUBLIC INSTITUTIONS AND OFFICERS TRAINED
75	GUSII INSTITUTE OF TECHNOLOGY	5
76	KIRUA TECHNICAL TRAINING INSTITUTE	5
77	MERU TECHNICAL TRAINING INSTITUTE	5
78	MATHENGE TECHNICAL TRAINING INSTITUTE	4
79	NYERI TECHNICAL TRAINING INSTITUTE	4
80	CHEMELIL SUGAR CO. LTD	4
81	LAKE VICTORIA SOUTH WATER SERVICES BOARD	4
82	GEOTHERMAL DEVELOPMENT COMPANY	4
83	KISII UNIVERSITY	4
84	NATIONAL COMMISSION FOR SCIENCE, TECHNOLOGY AND INNOVATION	4
85	KENYA ANIMAL GENETIC RESOURCES CENTRE	4
86	KISUMU POLYTECHNIC	4
87	JOMO KENYATTA UNIVERSITY OF AGRICULTURE AND TECHNOLOGY	4
88	NYANDARUA INSTITUTE OF SCIENCE AND TECHNOLOGY	3
89	LAKE VICTORIA NORTH WATER SERVICES BOARD	3
90	JOMO KENYATTA FOUNDATION	3
91	AGRICULTURAL DEVELOPMENT CORPORATION	3
92	INDUSTRIAL & COMMERCIAL DEVELOPMENT CORPORATION	3
93	ANTI-COUNTERFEIT AGENCY	3
94	SANG'ALO INSTITUTE OF SCIENCE AND TECHNOLOGY	3
95	FRIENDS COLLEGE KAIMOSI	3
96	RONGO UNIVERSITY COLLEGE	3
97	MERU UNIVERSITY COLLEGE OF SCIENCE & TECHNOLOGY	3
98	KAMWENJA TEACHERS COLLEGE	2
99	KAGUMO TEACHERS COLLEGE	2
100	NATIONAL OIL CORPORATION OF KENYA LTD	2
101	KENYA INVESTMENT AUTHORITY	2
102	KENYA VISION 2030	2
103	KARATINA UNIVERSITY	2
104	KENYA ROADS BOARD	2
105	MOI UNIVERSITY	2
106	NKABUNE TECHNICAL TRAINING INSTITUTE	2
107	THE TECHNICAL UNIVERSITY OF KENYA	2
108	MINISTRY OF ENVIRONMENT, WATER AND NATURAL RESOURCES	1
109	OFFICE OF THE ATTORNEY GENERAL	1
110	COMMUNICATIONS AUTHORITY OF KENYA	1
111	CONSTITUENCIES DEVELOPMENT FUND	1

NUMBER	NAME OF THE PUBLIC INSTITUTION	NUMBER OF PUBLIC INSTITUTIONS AND OFFICERS TRAINED
112	KENYA FOREST SERVICE	1
113	KENYATTA UNIVERSITY	1
114	PRIVATIZATION COMMISSION	1
TOTAL NUMBER OF OFFICERS TRAINED		2762



TRAINING ON COMPLAINTS HANDLING AND MANAGEMENT INFRASTRUCTURE

Public institutions are divided into three categories comprising of :

- a) State corporations
- b) Tertiary institutions and
- c) Ministries and Government Departments

During the period under review, the Commission trained 1410 public officers from 59 State corporations, 902 from 45 Tertiary institutions and 450 from 10 Ministries and Government Departments

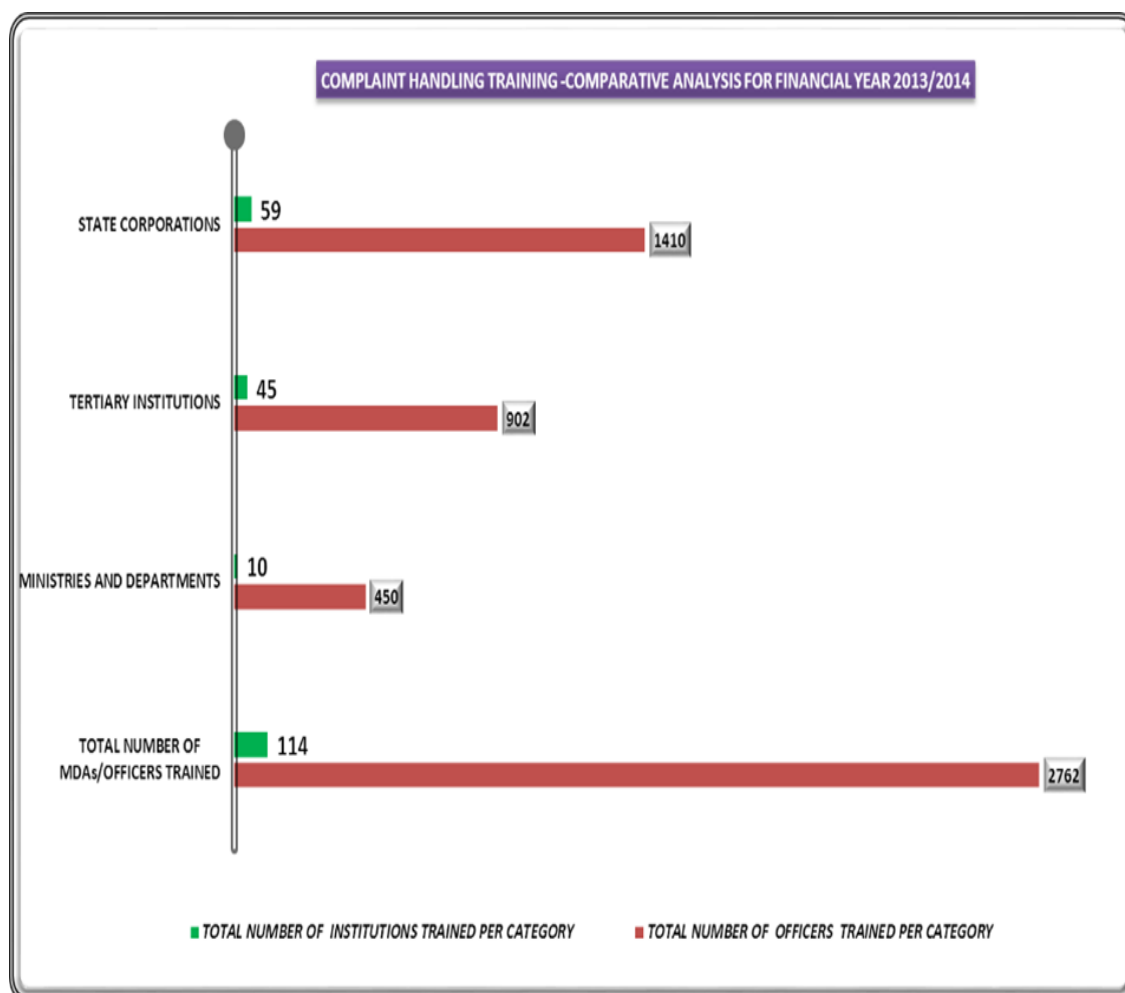


Figure 16: Comparative Analysis of Complaint Handling Training In 2014

3.2.1.3 REVIEW OF TRAINING CURRICULUM

The Commission reviewed its training curriculum for public agencies to respond to the need for efficient public service delivery. This was not only precipitated by the requirement to annually review the guidelines but also to address the challenges of restructuring of government departments and need to holistically address the training gaps.

As a result, the Commission registered significant achievement in terms of training public officers and MDAs compliance with the indicator '*Resolution of public complaints*'.

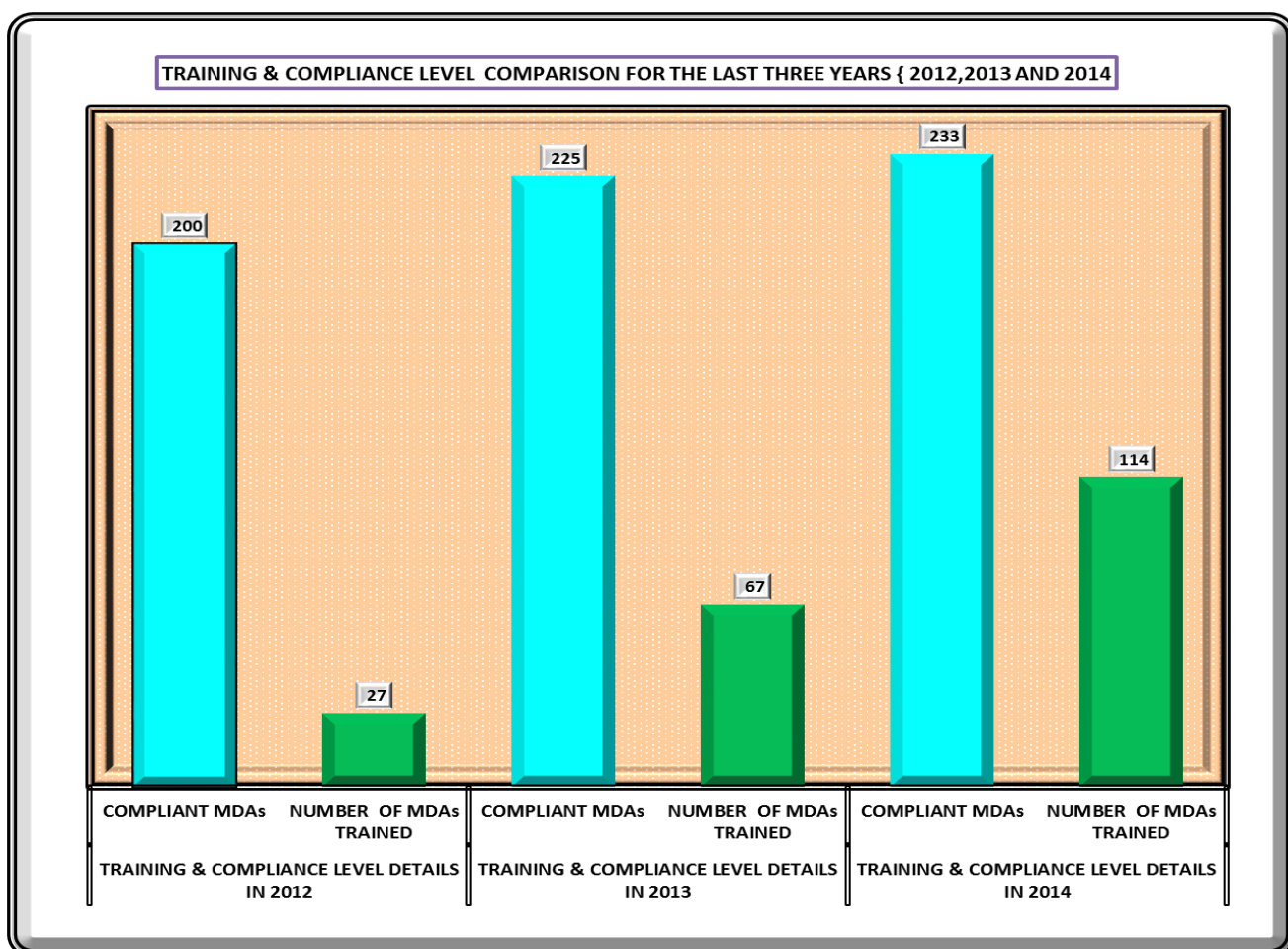


Figure 17: Comparative Analysis of Complaint Handling Training and Compliance Level of MDAs for Last Three Years (2012, 2013 & 2014)

3.2.1.4. ASSESSMENT OF COMPLAINTS HANDLING INDICATOR

The Commission received and assessed quarterly reports on complaints handling from public institutions during the reporting period. A total of 233 public institutions submitted all their four quarterly reports, which were subsequently assessed and certified based on their levels of compliance. On the other hand, 100 institutions failed to fully comply with the guidelines and were therefore not issued with certificates.

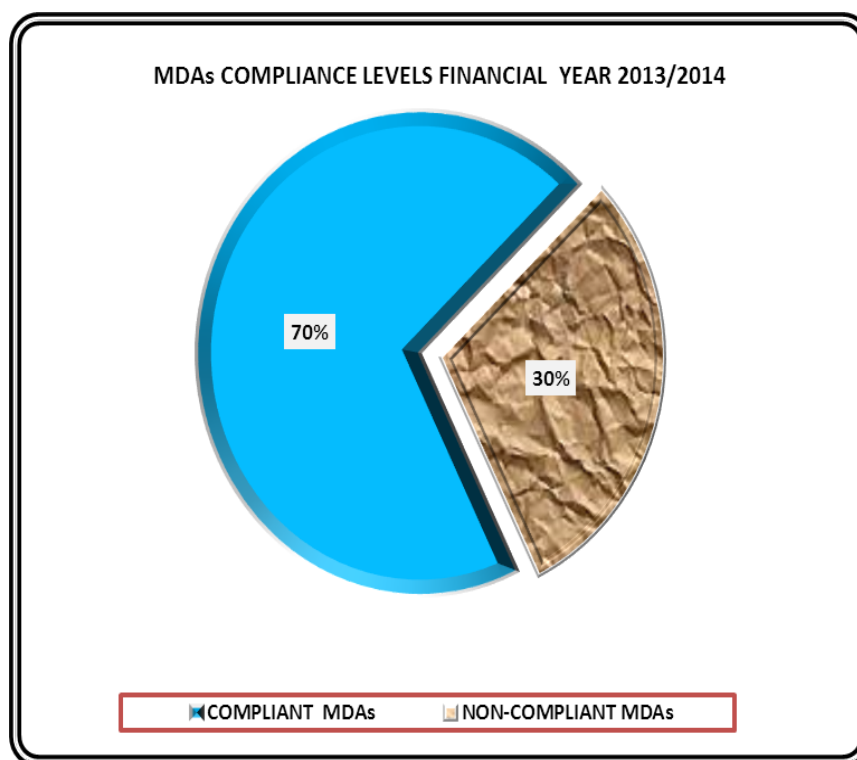


Figure 18: MDAs Compliance Level in Financial Year 2013/2014.

3.2.1.5. PROVISION OF TECHNICAL SUPPORT

Public institutions exist to deliver services to the public. The mode and effectiveness of service delivery by these institutions greatly impacts on socio-economic development and well-being of the nation. It is in the interest of the Commission for the public to have essential information regarding the services offered by public agencies. In this regard, the Commission supports public institutions on the development and implementation of the citizen service charters. The main objectives are to ensure the public knows:

- ✓ Services rendered by a public institution;
- ✓ Timelines;
- ✓ Customer requirements (documents);
- ✓ User charges; and
- ✓ Internal (within the institution) and external (Commission on Administrative Justice) redress mechanisms.

The Commission has also provided technical support to public institutions in establishing internal mechanisms for handling complaints. Spot checks on various institutions revealed existence of functional complaints handling structures and feedback mechanisms. This is evident in the number of

complaints handled by MDAs during the reporting period. Members of the public are now able to lodge complaints directly with the concerned institutions for redress. The Commission's address is provided for in their service delivery charters to enable members of the public escalate their complaints in case of dissatisfaction. Further public officers have also come to appreciate complaints as an important form of feedback that enables them to build customer loyalty and gauge service delivery.

 KABETE TECHNICAL TRAINING INSTITUTE P.O. Box 29010 - 00625 NAIROBI SERVICE DELIVERY CHARTER					
VISION: A model Institution in Technical, Vocational and Entrepreneurship Training (TVET) in Africa and beyond					
MISSION: To impart TVET knowledge, skills, and nurture attitudes through hard work, and honesty for self-reliance and National Development.					
MOTTO: Bidi na Uaminifu. (Hard, work and Honesty)					
SERVICE	REQUIREMENT	CHARGES	TIME LINES		
Enquiries and Admission	None	Free	Immediately		
Handling of Enquires	Receipt of correspondence	Free	Within 5 days		
Response to correspondence	Application letter		As advertised		
Application for courses	Copies of: - Result slip / certificate - Leaving certificate - I/D Cards - Processing fee	500			
Communication to qualifying applicants collection.	- Proper mailing address - Posted before opening date	Free	- 2days after selection - Same day for personal collection		
Admission	- Admission letter - Payment of full fees - Requirements for application verified	Structured course fee	Within 2 hour of arrival		
Registration of continuing students	- Qualified as per academic policy - Full fee payment	As per course fees structure	45 minutes		
Issuing of Student I/D Card	- Receipt	100	3 weeks		
Tuition	- Registration - Attendance	Stipulated tuition fee	As time tabled		
Evaluation	- Coursework , payment receipt	Free	As per Exam time table		
Internal Exams					
Release of internal exams results	- As per term 'schedule	Free	As per term's schedule		
Certification	- Completed course successfully	Free	2 weeks after last paper		
Issuing of leaving certificate	- Completed clearance				
PROMISE TO THE CUSTOMER The Institute undertakes to • Embrace professionalism and integrity • Treat all our customers with respect and dignity • Provide efficient and effective delivery of service in a timely manner • Be accountable and transparent in our operations • Ensure equity and fairness • Offer courteous and timely response to all enquiries • Be open in information dissemination • Uphold and sustain discipline in the learning institution • Maintain a conducive learning environment • Provide room for suggestions • Accept criticisms positively			OUR CUSTOMER RESPONSIBILITIES Conduct on self with integrity • Be courteous and respectful • Be conversant with the requirement of a given service • Ensure that any payment made for any of our chargeable services are receipted • Participate in our scheduled programmes • Give feedback on the quality of our services • Demand high quality services • Engage us in constructive criticism		
EXPECTATIONS To enable us achieve our commitment the Institute expects its clients / stake holders to: • To pay all fees and levies promptly • Be respectful and courteous when seeking services • Make timely request for services • Treat Staff with respect and courtesy • Support the institutes programs and activities • Observe the institutes rules and regulations • Provide adequate and accurate information to enable us respond to requests promptly • Provide feedback and comments on the service rendered			CORE VALUES • DISCIPLINE - Upholds high standards of discipline among students, teaching staff and support staff • EQUITY - Encourage gender equity in all courses. • PROFESSIONALISM - Meticulous adherence to undeviating honesty, and responsibility in dealing with customers. • CREATIVITY AND INNOVATIVENESS – Promote creativity, innovativeness and participatory approaches to all activities • INTEGRITY - Uphold honesty and truthfulness at all times		
Any service that does not conform to the above standards or any officer who does not live up to the commitment should be reported to Kabete is committed to serving customers with Professionalism, honesty and accountability					
(a) The Principal, P.O. Box 29010 - 00625 Nairobi, Tel: 020-2021194 / 2445557 / 2606013, E-mail: kabetetechnical@yahoo.com , www.kabetetechnical.ac.ke					
(b) The Commission Secretary/Chief Executive Officer Commission on Administrative Justice P.O. Box 20414 – 00200 NAIROBI : E-mail: certification.pc@ombudsmans.go.ke					
Kabete Technical is ISO 9001:2008 Certified					
					

3.2.1.6. SPOT CHECKS ON PUBLIC INSTITUTIONS

In line with Guidelines the Commission continued to undertake regular and impromptu audits of public institutions to ascertain veracity of reports submitted under performance contracting system and assess levels of service delivery. The spot checks seek to establish whether public agencies maintain complaint register, have accessible complaint offices and desk, have feedback mechanisms and observe adherence to service charter standards.



CHAPTER FOUR

4.0. PUBLIC EDUCATION AND ADVOCACY

4.1. INTRODUCTION

Being a public watchdog, the Commission places a lot of importance on knowledge management. In line with the principles of transparency and accountability, CAJ not only deems it necessary to create public awareness on its existence and mandate, but also finds it essential to ensure the public has access to information on its operations. The Act mandates the Commission to promote public awareness on policies and administrative procedures on matters relating to administrative justice. The outreach strategy of the Commission is multi-pronged and include the following facets: county visits, community initiatives and media-based advocacy.

4.2. COUNTY VISITS PROGRAMME

County visits programme is an initiative that seeks to, among other things, increase accessibility of the commission and enable the public to benefit from its services in their localities. The objectives of the programme are to introduce the CAJ mandate, receive complaints on maladministration from the counties, and establish standards of service delivery in public agencies. A key component of the county visits is spot checks conducted on various government institutions incognito.



A complainant lodges a complaint with the Commission during the Samburu County Visit

During the period under review, the Commission visited eight counties, namely: Homa Bay, Baringo, Kajiado, Trans Nzoia, Bungoma, Makueni, Kitui and Samburu. 59 complaints were received, about 400 public officers trained on various aspects of performance contracting and good governance, with the public forums on awareness creation reaching about 2,000 people. Further, sharing of findings of the spot checks during public fora has – albeit progressively - prompted the public to demand accountability from public officers and thus improving service delivery. Moreover, a number of institutions wrote back to the Commission upon sharing of spot checks findings to highlight corrective measures taken. They include establishing of complaints desks, establishing feedback tools, improving accessibility to their offices, developing service charters and curbing absenteeism.

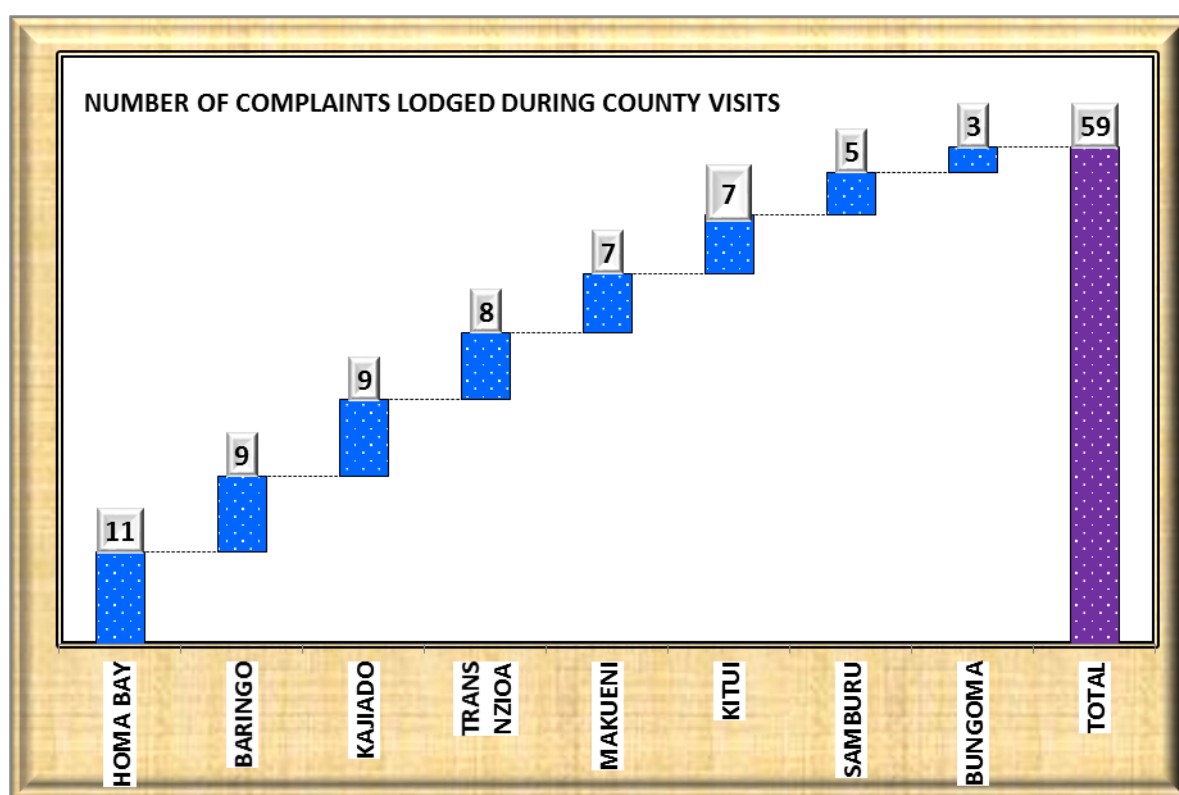


Figure 19: Analysis of Complaints Lodged During County Visits In 2014

4.3. AWARENESS THROUGH AGRICULTURAL SOCIETY OF KENYA SHOWS

With the most diverse of audiences, the Agricultural Society of Kenya (ASK) Shows continue to provide an ideal platform for public education. The Commission participated in the Western Kenya Branch Show, Kitale, and the Mount Kenya Branch Show, Nanyuki. Through the platform, 30 complaints were filed, and the Commission established contacts with 517 persons.



A LEGAL OFFICER ATTENDS TO CUSTOMERS AT THE ASK SHOW GROUND IN KITALE.

4.4. OMBUDSMAN COMMITTEES

The Ombudsman Committees is one of the innovative ways devised to enhance the Commission's reach in informal settlements in Nairobi. The initiative - now running in Kiambiu, Huruma Mukuru kwa Njenga and Mathare - employs use of existing structures to create awareness on the mandate of the Commission, and for the public to file complaints at their door-steps. The Commission identified 10 goodwill ambassadors drawn from opinion leaders who act as its focal points in each of the areas. These leaders who were trained on the mandate of the Commission assist the Commission in creating awareness within their constituencies, and direct the public to file complaints. Through this initiative, the Commission held a month-long public awareness engagement titled *Ombudsman Huduma Mashinani* in Churches and Mosques in the four areas. During the engagement, the Commission reached about 12,600 people and received 101 complaints.

The Ombudsman Committees have not only enhanced awareness and accessibility of the Commission, but have also prompted the public to play an

active role in demanding for accountability, thereby contributing to reforms in the public sector.



MEMBERS OF THE OMBUDSMAN COMMITTEE DURING THE LAUNCH OF HUDUMA

4.5. MEDIA-BASED ADVOCACY AND EDUCATION

The Commission continues to employ media as a tool for encouraging public discourse on administrative justice agenda. During the period under review, the Commission publicised recommendations of its findings and outcome of cases handled to fulfill its obligation to the people of Kenya, and to send a signal that the Ombudsman is watching. Because of the shame that goes with the “exposure” public officers make an effort to operate within the law. Media-based advocacy has compelled compliance and speedy action from various public agencies.



Commissioner Saadia Mohamed a member of the commission addresses the press during the Samburu County Visit

The Commission also ran eight radio programmes in local languages to educate people on its mandate, and how to file complaints in case of dissatisfaction in their pursuit of public services. Further, the Commission trained about 60 radio journalists and news correspondents to promote understanding of its mandate for accurate and responsible reporting. The training was held in partnership with the Association of Correspondents of Kenya. The journalists were drawn from various television and radio stations including West FM, Radio Rahma, Radio Mwenedu, Radio Nam Lolwe, Coro FM, Athiani FM, Nosim FM, Kitwek FM, Minto FM, and Ghetto Radio. Consequently, there is increased reportage of administrative justice issues on local media specifically radio stations, increased awareness on issues relating to administrative justice amongst Kenyan radio journalists and correspondents, and increase accessibility and visibility of CAJ at the grassroots level.

4.6. LEVERAGING ON SOCIAL MEDIA

The Commission has prioritised the use of social media to harness its interactive power to promote discourse on administrative justice issues enabling citizens to demand for greater efficiency, courtesy and accountability. Through CAJ's Facebook page, Ombudsman Kenya, and Twitter handle, @Kenyasombudsman, the Commission has enhanced interactive

communication and public engagement. Many people also used the platforms to lodge and follow-up on the progress of their complaints

The audience size on Twitter stands at 700, and 1,990 for Facebook up from 790 in January 2014 an increase of 126 per cent. The interaction rate also went up by four per cent an indication that social media is a vibrant platform for engaging the public. The page also attracted different constitutional commissions as well as other government agencies.

CHAPTER FIVE

5.0. PROMOTING CONSTITUTIONALISM AND GOOD GOVERNANCE IN THE PUBLIC SECTOR

5.1. INTRODUCTION

This section details the achievements of the Commission in promoting constitutionalism and good governance during the reporting period. The Commission employed a multi-faceted approach focusing on a number of strategies which included advisory opinions, alternative dispute resolution (ADR), public interest litigation, an awards scheme for public institutions and officers.

5.2. ROLE OF THE COMMISSION IN CONSTITUTIONALISM AND GOOD GOVERNANCE

The Commission, like other Constitutional Commissions, is mandated under Article 249 of the Constitution to safeguard public interest by protecting the sovereignty of the people, securing the observance of democratic values and principles by state organs and promoting constitutionalism. These functions have been broadened under Articles 59(2)(h - k) and 252 of the Constitution as well as Section 8 of the Act. The Commission, therefore, has an oversight role in the governance process which supports the traditional arms of Government as known under the Westminster Model. In this regard, the Commission occupies a special place in the governance process. In particular, it plays an important role in ensuring transparent governance, ethical leadership, good public administration and respect for human rights.

5.3. ADVISORY OPINIONS

Section 8(h) of the Act mandates the Commission to provide advisory opinions or proposals on the improvement of public administration including review of legislation, codes of conduct, processes and procedures. Pursuant to this function, the Commission issued two advisory opinions on expenditure by county governments on foreign trips and ADR for credit information sharing in Kenya. The advisory opinions were widely disseminated in the media. The advisory opinions were the following.

5.3.1. Advisory Opinion on the Expenditure by County Governments on Foreign Trips

The Commission issued an advisory opinion to County Governments on the

expenditure on foreign trips. The Advisory was necessitated by expressions in the media which indicated that County Governments were spending a lot of money on foreign trips to the detriment of development activities. The Commission considered the issues surrounding the trips and noted that they could undermine devolution if not addressed. The Commission also outlined the requirements for fiscal prudence and responsibility by the County Governments in line with Article 201 of the Constitution and Section 102(1)(a) and (b) of the Public Finance Management Act, 2012 and advised as follows:

- h) County Governments to exercise fiscal discipline by ensuring that public money is used in a prudent and responsible manner.
- i) County Governments to embrace a participatory approach to identifying the specific areas requiring interventions in terms of best practices from other countries, and the nature of interventions to bridge the gaps.
- j) County Government to ensure prudent allocation of resources during the budgeting process based on the constitutional and statutory requirements.
- k) County Governments to use alternative ways of learning about the best practices in other countries through the use of available literature or engaging local and international experts.
- l) That speakers and members of county assemblies could be held liable for misuse of public funds.
- m) That there should be proper co-ordination and co-operation between the county and national governments in relation to the foreign trips by the county governments.
- n) That where it is necessary to conduct foreign study tours, reports of such visits should be prepared and tabled in the County Assemblies.

The Commission on Revenue Allocation has since issued a circular putting ceilings on allocations to county governments.

5.3.2. Advisory Opinion on Alternative Dispute Resolution for Credit Information

Sharing (CIS) in Kenya

The Commission provided an Advisory Opinion to the Association of Kenya Credit Providers who had sought advice on the following:

- iv) The structure of the proposed ADR mechanism as documented in Chapter 3 of the CIS ADR Handbook.
- v) The possibility of a representative of the Commission sitting in the proposed Steering Committee of the CIS ADR office.
- vi) The inadequacy of the Draft CIS Bill and Regulations.

The Commission considered the issues and the Draft CIS Bill and Regulations and advised as follows:

- 4) That the proposed Ombuds office should be independent and satisfy international principles.
- 5) That the composition of the Steering Committee be lean to enhance its effectiveness.
- 6) That there should be a reporting obligation of the activities of the proposed office to Parliament.
- 7) That the Bill and Regulations should incorporate aspects of good governance in relation to the powers of the relevant cabinet secretary.

5.4. LEADERSHIP AND INTEGRITY

The Commission's role in ensuring ethical leadership and integrity in the public sector is provided for under Articles 59(2) (h-k) and 249 of the Constitution, and Section 8 of the Act. Specifically, Article 59(2)(h) of the Constitution and Section 8(d) of the Act empower the Commission to *investigate any conduct in state affairs or any act or omission in public administration in any sphere of Government that is alleged or suspected to be prejudicial or improper or to result in any impropriety or prejudice*. In addition, the Commission is empowered to investigate complaints of abuse of power, unfair treatment, manifest injustice or unlawful, oppressive, unresponsive official conduct and misbehaviour in public administration. Pursuant to these provisions, the Commission implemented the following activities during the reporting period.

5.4.1. Police Vetting

The Commission participated in the vetting of police officers by providing information that fed the vetting process by the National Police Service Commission.

5.4.2. Promoting the Rule of Law

In the spirit of ensuring adherence to the law, the Commission made interventions, either on complaint or its own initiative, on allegations of breaches of the principles of leadership and integrity. The interventions related to issues such as non-compliance with the law on appointments and promotions to public offices, misuse of public resources, disobedience of court orders, abuse of power, and unethical, improper or unlawful conduct. The interventions were undertaken individually and, in some cases, jointly with other oversight institutions to ensure compliance with the Constitution.

5.5. PROMOTION OF ALTERNATIVE DISPUTE RESOLUTION

In the context of ADR, the Commission is empowered under section 8(f) of the Act to *‘work with different public institutions to promote alternative dispute resolution methods in the resolution of complaints relating to public administration.’* This provision largely draws from Article 252(1) (e) of the Constitution that provides the Commissions and Independent Offices with *‘powers necessary for conciliation, mediation and negotiation.’* Further, Section 8(e) of the Act empowers the Commission to *‘facilitate the setting up of, and build complaint handling capacity in the sectors of public service, public offices and state organs.’* Part V of the CAJ Regulations provide for the framework for mediation, conciliation and negotiation.

During the reporting period, the Commission conducted ADR which took the form of mediation and conciliation. Some of the matters handled include:

- c) Mediation involving the former employees of the Kenya Railways Corporation. This was conducted jointly with the Inspectorate of State Corporations, Kenya Railways Corporation and the Ministry of Transport and Infrastructure and involved complaints by over 200 former employees of the Corporation on retirement benefits. The process resulted in the successful redress of the complaints.
- d) Mediation involving a retired public officer and the Public Service Commission on alleged failure to review the terms of employment. The mediation was unsuccessful and the matter is still ongoing.






Further, the Commission endeavoured to entrench ADR in the public service through the performance contracting platform. The Commission has now infused components of ADR in its training programme. In the same vein, the Commission was invited to make presentations for stakeholders such as the Judiciary, an indication of recognition of its role in promoting ADR.

5.6. OMBUDSMANSHIP IN THE COUNTIES

In promoting good governance in the county governments, the Commission developed guidelines for the establishment of offices of Ombudsman in the counties. This was in line with the Commission's mandate of assisting public institutions to establish complaints handling infrastructure. The guidelines prescribe broad principles for the establishment of office of the County Ombudsman, their powers and functions and the relationship with the Commission. Notably, the guidelines require county governments to consider enacting legislation for the establishment of such offices to deal with maladministration.

5.7. HUDUMA OMBUDSMAN AWARDS

This is an awards scheme the Commission has adopted to enhance accountability and responsiveness in public service as well as promote compliance with administrative justice. The scheme seeks to recognise and reward responsive and compliant public officers and public institutions in the country. The broad objective of the Award is to reward contributions of a public officer or a public institution that lead to a more effective, accountable and responsive public service. The specific objectives of the initiative are to:

-  Promote accountability, responsiveness and servant-hood in public service,
-  Motivate public officers and public institutions to further promote service delivery and good governance,
-  Enhance professionalism to transform the image of the public service,
-  Enhance trust in government and confidence in public service, and
-  Identify and share best practices in service delivery for the benefit of the Kenyans.

In its inaugural year in 2014, the Huduma Ombudsman Awards provided an opportunity for the public who are the customers and direct consumers of public service, to rate performance of public officers and institutions. The public were involved in a rigorous nomination process. Besides the Commission, the process involved other organs, namely: Ministry of Devolution and

Planning, Kenya School of Government, Transparency International (Kenya), United Nations Development Programme, and Association of Professional Societies in East Africa.

By affirming and rewarding the winners through recognition of their contribution in various capacities and spheres, Huduma Ombudsman Awards motivated public servants to do their best on the basis that their work is valuable. In the long run, the Awards will contribute to enhanced performance in the public service.

5.7.1. Scope of the Awards

The Huduma Ombudsman Awards is a non-monetary award of exemplary service. All persons working in the public service in Kenya are eligible for the Award. There are two categories: one to a public institution, and the second one to a public servant. In addition, the Commission introduced a third category known as the Ombudsman Valour Award which goes to a member of the disciplined forces for heroic acts in service to the public.



His Excellency President Uhuru Kenyatta with Ms. Hellen Machuka the Winner in the Individual Category during the inaugural Huduma Ombudsman Awards ceremony

5.7.2. List of Awardees

a) Institution Category

1. Othaya Boys High School, Nyeri County
2. Kenya School of Government, Baringo County
3. Shimo Borstal Institution, Kilifi County
4. Kenya School of Government, Nairobi County
5. Kaptech Dispensary, Kakamega County

b) Individual Category

1. Hellen Nechesa Machuka, Principal, Kombeni Girls' Secondary School, Kilifi County
2. Peter Kamande Mbugua, Assistant County Commissioner, Marsabit County
3. Andrew Kipkurgat Rumenya, Chief, Kimalel Location, Baringo County
4. Josephat Murungi Ithali, Chief, Kendani, Maua, Meru County
5. Daniel Omondi Obure, Chief, Lambwe West Location, Homa Bay County

5.7.3. Benefits to the Awardees

- Public acknowledgement of the winners and finalists during the Awards ceremony.
- Sponsorship for training on governance for the winner in the individual category.
- A training on performance contracting for the winning institution.
- Plaques with citations for the winners, first and second runners-up in the individual and institution categories, as well as the winner of the Ombudsman Valour Award.
- Certificates for the winners, first and second runners-up in the individual and institution categories, and Ombudsman Valour Award.
- Letters of commendation for nominees on the final shortlist (fourth and fifth positions) in each category.
- The Commission will recommend the winner and other finalists in the individual category for consideration for the Head of State Commendation by the National Honours and Awards Committee.

Participation of the people in the nomination process is significant and it buttresses the concept that public service is a right as opposed to a privilege, and that public officers are exercising delegated authority (from the people).

5.8. PUBLIC INTEREST LITIGATION

The Commission participated in a number of matters of national importance before the court as a way of promoting public administration. The main aim was to advance constitutionalism and democratic governance in Kenya, particularly, from the administrative justice perspective. Some of the cases are highlighted herein below.

5.8.1. Nairobi, Judicial Review Application No. 171 of 2014; *the Commission on Administrative Justice vs. the Principal Secretary, Ministry of Interior and Coordination of National Government & the Attorney General*

In asserting its role in protecting the sovereignty of the people, securing the observance of the rule of law and democratic values and principles by all state organs and promoting constitutionalism, the Commission sought to compel the Principal Secretary, Interior to pay the complainant KSh 7,122,915, which arose out of an award of damages. The complainant had been awarded the amount by the Embu High Court after it was held that she had been she was tortured by Flying Squad Police Officers. When the complainant lodged her complaint with the Commission, she stated that there had been undue delay and unresponsiveness on the part of the Ministry in releasing the money. Upon inquiry by the Commission, the Attorney General responded and stated that the National Treasury had approved payment of the decretal sum in the budget for the 2013/2014 financial year and that the same would be disbursed to the complainant once it was received from the Ministry.

The Attorney General stated that the decretal amount of KShs. 9,779,572.50 had been transmitted to its office and it was willing to pay, but the complainant's advocate had objected to the complainant being paid and claimed professional fees amounting to KShs. 4,356,846.00. The court directed that the undisputed amount of KShs. 5,422,726.25 be released to the complainant and the balance of KShs. 4,356,846.00 be deposited in court pending the resolution of the Advocate/client costs. The matter is yet to be concluded.

5.8.2. Nairobi Industrial Court Constitutional Petition No. 23 of 2014, *Severine Luyali vs. the Ministry of Foreign Affairs and International Trade & the Attorney General.*

The Petitioner in this matter was a government employee in the Ministry of Foreign Affairs who had been stationed at the Kenya high commission in south Africa. At the end of her duty she applied for a one year extension which was granted by the ministry, a few weeks later she was instructed that she had been recalled to the ministry and was expected to report at the ministry

headquarters in Nairobi. She complained that such a recall was unfair since it was done without notice and contrary to the earlier directive of extension of her tour of duty which had made her commit to various engagements like the schooling of her children.

The ministry had despite her protests threatened to terminate her services hence the petition. The matter was heard and determined that indeed the recall was unfair. She was given ample time to prepare for her return to the headquarters.

5.8.3. Commission on Administrative Justice versus John Ndirangu Kariuki vs the Independent Electoral and Boundaries Commission (Nairobi High Court Petition No. 408 of 2013).

This is a Constitutional petition filed by the commission seeking orders that the election of a Member of Parliament was unconstitutional, null and void for the reason that he had prior to his election been convicted of a criminal offence to which he had not preferred an appeal.

The respondent challenged the jurisdiction of the court seeking to have the petition dismissed which application failed and is pending appeal. The hearing of the main petition is yet to commence

5.8.4. Martin Wambora Nyaga & Others vs. Embu County Assembly & Others; Nairobi High Court Petition No. 7 & 8 of 2014, Prof. Paul Musili Wambua vs. Attorney General & Others

This is a matter in which the petitioner is the governor of Embu and was challenging his impeachment by the respective County Assembly. It was a matter of great public interest since it was the first time that a Governor had been impeached under the constitution of Kenya 2010. The matter would certainly set a precedent on the threshold of removal of a governor by defining what amounts to gross misconduct. The matter has been heard and is awaiting judgment.

5.8.5. Nairobi High Court Petition No. 542 of 2013, Justice Philip K. Tunoi & Another vs. Judicial Service Commission & Others; Nairobi High Court Petition No. 244 of 2014,

This is a matter where the petitioners who are judges of the Supreme Court and High Court had challenged the decision of the judicial service commission to retire them from office once they attain the age of 70 as provided for in the Constitution. They were challenging this decision since in their view they had been appointed under the repealed Constitution which provided their retirement age to be 74. The Commission sought to be enjoined in this matter as a friend of the court considering the impact the case would have in the

administration of justice. The Application was however denied and the commission became *functus officio*.

5.8.6. *The Judicial Service Commission vs. Gladys Boss Shollei; Nairobi Court of Appeal No. 39 of 2013 (Formerly High Court Petition No. 528 of 2013),*

This was an appeal lodged by the former registrar of the judiciary challenging her removal from office by the Judicial Service Commission. The Ombudsman had been enjoined to the suit in the High Court as a friend of the court and appeared also in the appeal in the same capacity. The appeal was dismissed but a further Appeal has been lodged in the Supreme Court.

CHAPTER SIX

6.0. PARTNERSHIPS, COLLABORATIONS AND LINKAGES

6.1. INTRODUCTION

In order to share experience and best practices, the Commission cultivated partnerships with local and international institutions. To this end, the Commission participated in a number of strategic conferences, workshops, and meetings where it also presented papers on various topical issues relating to administrative justice.

6.2. FORUM OF CHAIRPERSONS OF CONSTITUTIONAL COMMISSIONS AND HOLDERS OF INDEPENDENT OFFICES

The Commission continued to play an important role in the activities of the Forum of Chairpersons of Constitutional Commissions and holders of Independent Offices, commonly known the Chairs' Forum. The platform brings together Constitutional Commissions, Independent Offices.

During the reporting period, the Commission participated in the Third Annual Congress for Constitutional Commissions and Independent Offices which was held in Kisumu in August 2014. The Congress made a number of Resolutions on issues of national importance whose implementation has already begun. In addition, the Commission participated in the development of a Charter for the Forum to guide its operations.

6.3. NATIONAL COUNCIL FOR THE ADMINISTRATION OF JUSTICE

The Commission continued to participate in the activities of the National Council for the Administration of Justice (NCAJ). NCAJ draws its membership from institutions in the administration of justice such as the office of the Attorney General, office of the Director of Public Prosecutions, Witness Protection Agency, National Police Service, and the Law Reform Commission.

During the reporting period, the Commission participated in the quarterly meetings of NCAJ and its Working Group on Land. The aim of the Working Group was to consider the various emerging issues relating to land and make recommendations for consideration by the full NCAJ.

Specifically, the Working Group on Land was tasked to establish the following:

- ✓ Framework for regulation of professionals in land matters;

- ✓ Regime of renewal of leases;
- ✓ Digitisation of records and processes at the land registries; and
- ✓ Complaints and dispute resolution mechanisms.

The Working Group finalised its work and submitted its report in July 2014. The findings of the Committee included weak legal and administrative frameworks for professionals dealing with land, inadequate resourcing, limited knowledge and accessibility of regulatory frameworks, missing data and poor state of land registries among others. A number of recommendations for reforms were made including legislative and administrative reforms, public education, development and dissemination of guidelines on renewal of leases, fast-tracking of digitisation of land records, capacity building and modernisation of land registries. Through this, the Commission hopes to contribute to reforms in the land sector.

The Commission also participated in the development of the Rules of Court under the Witness Protection Act to guide proceedings for protected witnesses in line with section 36(2). To this end, the Commission provided input to the draft Rules and participated in the validation workshop.

6.4. LEGISLATIVE REVIEW

As a critical stakeholder in promoting constitutionalism, the Commission gave input to the Access to Information Bill, Fair Administrative Action Bill, and Public Service (Values and Principles) Bill.

The Commission also reviewed the draft Code of Regulations, and Code of Conduct and Ethics of the Teachers Service Commission as well as the draft Standing Orders for the National Police Service to ensure that they complied with the principles of administrative justice.

6.5. SHAPING THE GOVERNANCE AND PUBLIC ADMINISTRATION AGENDA

The Commission participated in a number of trainings and workshops as listed below, and made contributions in the subjects of governance and public administration.

- A lecture on Ethics in Leadership to the National Defence College for the Course 'National and Regional Leadership in Strategic Environmental Studies' held on 12th May 2014.
- A presentation on Developing a Flagship Good Governance Programme for the African Ombudsman and Mediators Association

made during the African Ombudsman Summit in Johannesburg, South Africa from 25th February 2014.

- A presentation on the Constitutional and Statutory Regime of Alternative Dispute Resolution in Kenya to the International Conference on the theme 'Broadening Access to Justice through Alternative Dispute Resolution – 30 Years on' held in Mombasa on 7th August 2014.
- A presentation on the Role of Constitutional Commissions and Independent Offices in Protecting the Sovereignty of the People made during the Third Annual Congress of Constitutional Commissions and Independent Offices in Kisumu from 29th August 2014.
- A presentation on 'Politics and Security: Resolving Inter/Intra-Governmental Conflicts through Alternative Dispute Resolution Mechanisms' made during the First NCMG East African ADR Summit on the theme 'ADR and the Rule of Law for East African Prosperity' held at the Windsor Hotel in Nairobi on 26th September 2014.
- A presentation on the Role of Inter-Institutional Communication on the theme "Promoting Ethical Standards in Public Administration" held in Rabat, Morocco on 17th September 2014.
- A lecture on Understanding the Bill of Rights Chapter at Laikipia University on 7th March 2014.
- A presentation on the Role of Parliament and Judiciary under the Constitution made during a Consultative Workshop between the Senate and the Judiciary at the Windsor Hotel on 1st December 2014.
- A presentation on a Rights Based Approach to Legislation Making made at the Retreat of the Task Force on the Development of a Legislative Guide for National and County Governments held in Kisumu on 16th December 2014
- A Presentation on Human Rights, Discrimination and Marginalisation made during the Pan-African Conference on Inequalities in the Context of Structural Transformation held in Accra, Ghana from 28th to 30th April 2014.

6.6. MEMORANDA OF UNDERSTANDING WITH OTHER INSTITUTIONS AND JOINT ACTIVITIES

The Commission continued partnered with local, regional and international organisations to develop ways of working together. To this end, the Commission signed a Memorandum of Understanding with the African Ombudsman Research Centre in South Africa. Further, the Commission in collaboration with the Kenya School of Government hosted lectures for senior public officers.

6.7. ENGAGEMENT WITH REGIONAL AND INTERNATIONAL OMBUDSMAN INSTITUTIONS

The Commission bolstered its standing as a key Ombudsman institution through collaboration with regional bodies such as the International Ombudsman Institute, African Ombudsman and Mediators Association (AOMA), and the African Ombudsman Research Centre (AORC).

6.7.1. Engagement with the International Ombudsman Institute

The International Ombudsman Institute (IOI) is an independent umbrella body for Ombudsman institutions established in 1978 with a membership of 155 from 90 countries worldwide. The primary objective of IOI is to promote and develop the concept of ombudsmanship, and contribute to the respect for human rights, adherence to the rule of law. This is achieved through participation in its regional activities.

During the period under review, the Commission participated in the IOI Africa Meeting in Johannesburg, South Africa where it provided input to the IOI Africa Constitution. The submission included a proposal that IOI Africa be anchored within the existing structures of the AOMA.

Secondly, the Commission participated in the Special Working Group to review of the IOI Communication and Scientific Policy. To this end, the Commission nominated an officer to the Special Working Group who subsequently attended its first meeting at the IOI Secretariat in Vienna, Austria.

The Commission also participated in the development of the Report of the IOI African Region which was subsequently presented to the IOI Board of Directors meeting in Vienna in October 2014.

6.7.2. Engagement with the African Ombudsman and Mediators Association and the African Ombudsman Research Centre

The Commission enhanced its participation in the activities of AOMA and AORC during the period under review. AOMA is an African Union affiliated umbrella organisation for ombudsmen and mediators across Africa with membership from 37 countries, and seeks to pursue issues of interest in the

areas of the rule of law, good governance and integrity. AORC is the research, analysis and training affiliate of AOMA.

During the period under review, the Commission participated at the AORC Summit and Board Meeting in Johannesburg, South Africa which developed the Minimum Standards for Effective Ombudsman Institutions and Co-operation with the African Union on Strengthening Good Governance. Additionally, Kenya's Ombudsman was elected Secretary General of AOMA during the Fourth General Assembly and Biennial Conference held in Addis Ababa, Ethiopia.

CHAPTER SEVEN

7.0. INSTITUTIONAL CAPACITY BUILDING AND DEVELOPMENT

7.1. INTRODUCTION

In line with strategic objective 5 of its strategic plan, the Commission continued to enhance its capacity to deliver on its mandate in the following areas; human capital, financial resources, Information Communication and Technology (ICT) and physical infrastructure to enhance access to its services.

7.2. HUMAN RESOURCE

The Commission values its human resources, which is the main driving force towards the realization of its mandate. Whereas the approved staff establishment stands at 336, the Commission currently has 49 staff which is far below the optimal number. This is only 15%. The under staffing inhibits the achievement of the Commissions mandate in labor intensive as it requires engagement in person. To mitigate against this challenge, the Commission leverages on human resource available under various categories as follows:

- i. Secondment; the Commission currently has 11 seconded staff.
- ii. Internship; The Commission had 13 interns, majority of whom served in legal and advisory directorate in the period under review.
- iii. United Nations Volunteers (UNV); the Commission benefited from the UNV program with two officers seconded in 2014, who served in Research and Investigation and legal and Advisory directorates.
- iv. Attachments; under this program the Commission has been offering attachment opportunities for students from public universities under the public interest clinic.
- v. Pupilage; The Commission was accredited as a pupillage center by the council for legal education. The Commission offers an opportunity to Students at the Kenya School of Law where it benefits from the students who offer services under close supervision.

7.3. TRAINING

Skill development is essential in ensuring that an organization has the required knowledge and skills to discharge its mandate. The Commission provided opportunities to Commissioners and staff to hone their skills through various trainings programmes as shown in figure 20 below.

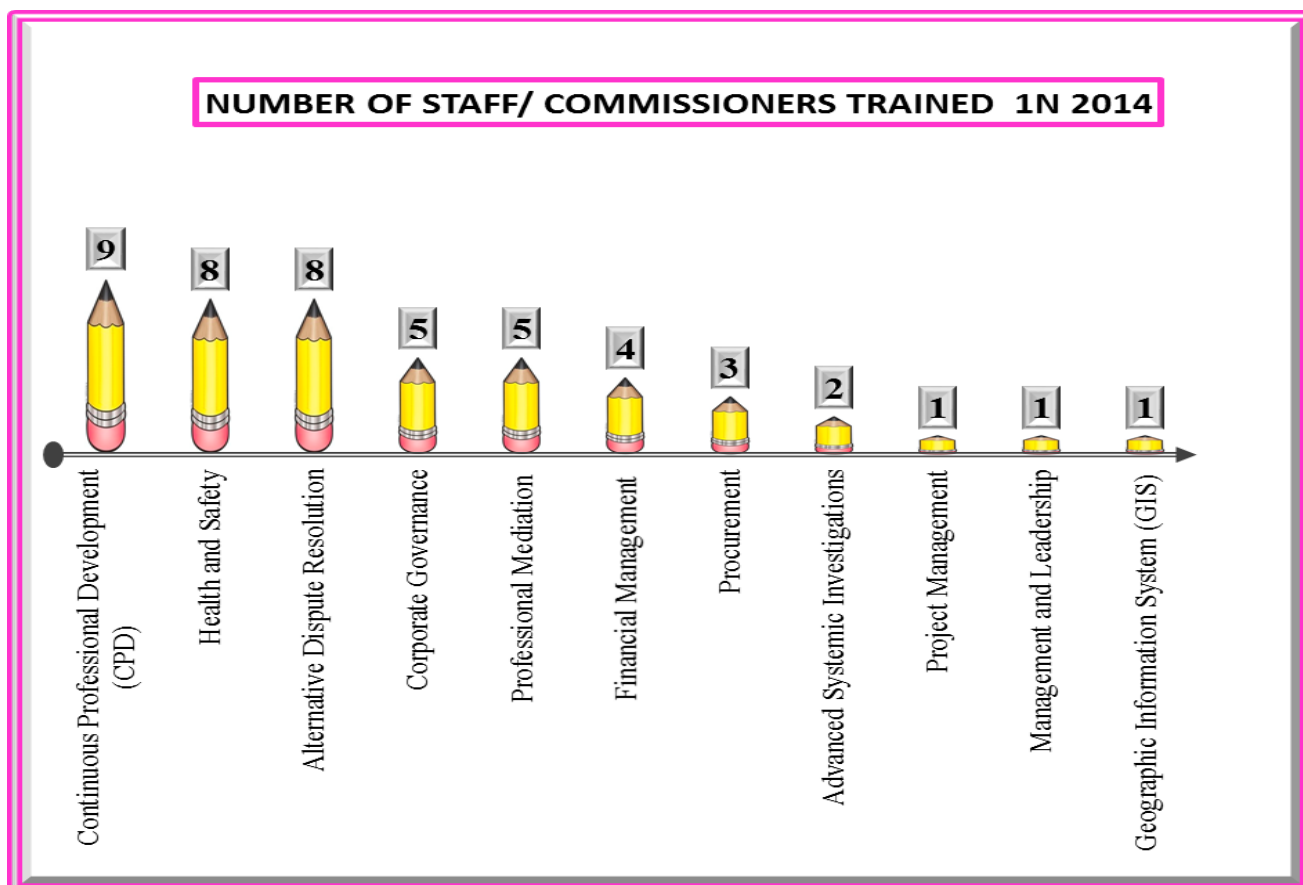


Figure 20: Summary of Staff Training In 2014

7.4. INFORMATION AND COMMUNICATION TECHNOLOGY (ICT)

ICT plays a key role as an enabler for efficient and effective service delivery across all sectors, and particularly so in the Public Service. To this end, CAJ has fully complied with the Government Integrated Financial Management and Information system (IFMIS) and also implemented the e-procurement. This is not only aimed to enhance efficiency, but also ensures transparency and accountability in utilization of public resources.

The Commission embarked on developing an elaborate Complaints Management Information System which will enable the public to access our services with ease through internet and the mobile phones. The system design, which started in the period under review is at an advanced stage. This includes the re-designing of CAJ's website to make it more vibrant, interactive and more user-friendly. The Commission acknowledges the valuable support received from various development partners towards achieving this goal, led by GIZ, UNDP and Info net.

7.5. PROCUREMENT

Following the affirmative action taken by the government to allocate 30% of its procurement contracts in the Public Service to the Youth, women and the physically impaired, the Commission embarked on pre-qualification of suppliers based on the new guidelines issued by the National Treasury, which ring-fenced various categories for these special groups. This culminated in a comprehensive list of pre-qualified supplier that provided opportunities to do business with the Commission.

In the period under review, the Commission also procured office furniture, fittings and office equipment for its Headquarters, as part of strengthening its physical capacity. This created an enabling work environment necessary for efficient and effective service delivery to the people by the Commission.

7.6. FINANCES

The largest percentage of the Commission's budget is from the Exchequer. However, this rarely adequate to meet its resource requirement. In 2013/2014 fiscal year the Commission was allocated KES 297,340,827. Out of the total allocation KES 284,167,416 was expended -representing a 96 per cent absorption rate. It is worthwhile noting that additional funds allocated in the supplementary budget was released at the tail-end of the fiscal year making it impossible to realize 100% absorption.

GOK BUDGETARY ALLOCATION FY 2013/2014.	
APPROVED BUDGET	297,340,827
VARIANCE(BUDGET SHORTFALL)	140,659,173
ACTUAL EXPENDITURE	284,167,416
ABSORPTION RATE	96%

To narrow the budget deficit, the Commission reaches out to development partners to supplement its budget. To this end, the Commission mobilized resources from development partners and got support of UNDP totaling to KES 9,600,000, which enabled the Commission to undertake a number of activities under the following thematic areas:

- i. Creating awareness at the Counties and informal settlement in Nairobi.
- ii. Institutional strengthening through acquisition of equipment and recruitment of staff.

- iii. Strengthening Complaints Handling Mechanism through research and training and ;
- iv. Huduma Ombudsman Awards

During the review period, the Commission put the necessary control mechanism which enhanced transparency and accountability in utilization of public resources. This ensured that the resources at its disposal were utilized prudently, in accordance with the public financial management act 2012 and other relevant statutory and policy guidelines. This is indeed attested by the Auditor General's Report of the audited accounts FY 2013/2014 which gave the Commission a clean bill of health.

CHAPTER EIGHT

8.0. CHALLENGES AND WAY FORWARD

8.1. CHALLENGES

8.1.1. Inadequate funding

Inadequate funding continues to be a major challenge to the Commission as it not only curtails implementation of its mandate effectively but hinders strengthening its capacity and especially human resource. This is demonstrated by the Table below which reflects the trend of funding and expenditure since inception of the Commission in November 2011 to date.

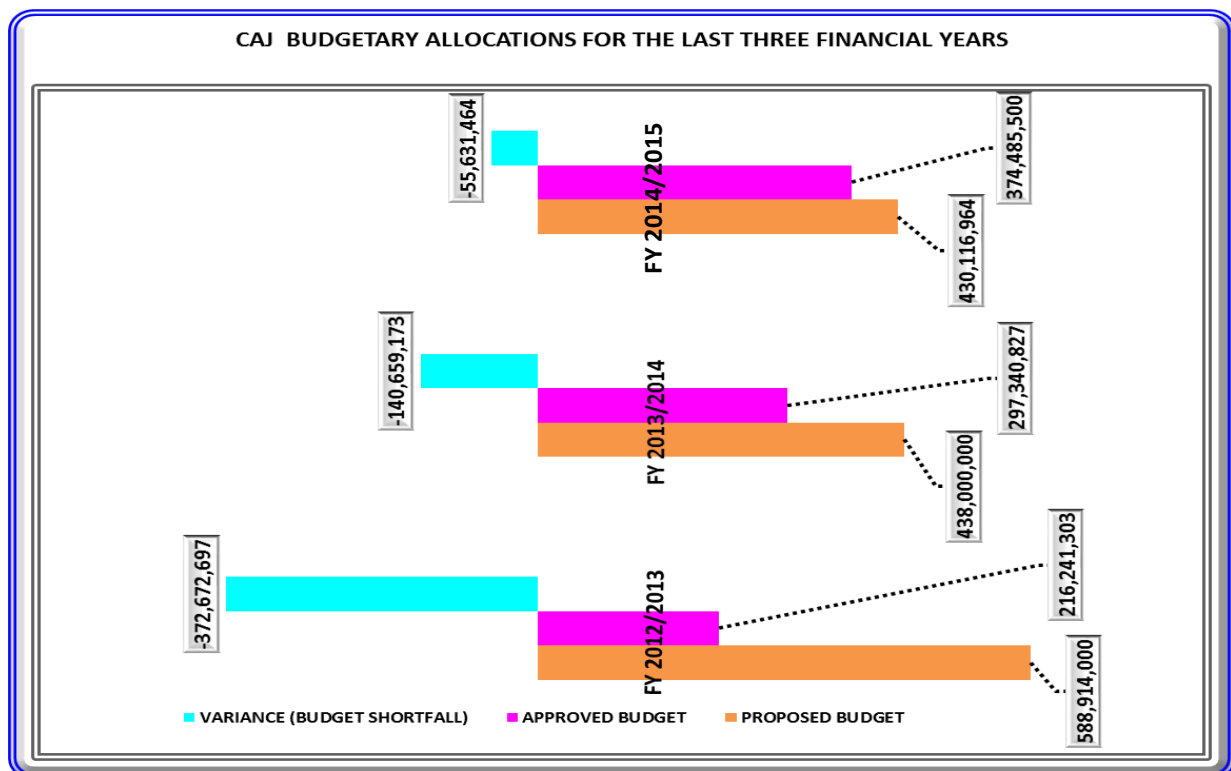


Figure 21: Budgetary Allocation to CAJ for Three Financial Years

The significant shortfalls in budgetary provisions which the commission has been experiencing have created challenges which hampered the Commission's effort to strengthen its human resource capacity, infrastructural development and decentralization of ombudsman services to the counties.

8.1.2. Indiscriminate freeze on recruitment in the Public Service

As pointed out earlier, the Commission staff establishment is far below the authorized optimal level. Efforts to have this addressed did not bear fruit owing to the indiscriminate freeze on recruitment in the Public Service which did not





consider the newly created institutions such as CAJ that required staff to be able to execute its mandate effectively. To address this, the Commission should be exempted from the freeze, to enable it recruit additional staff, to fortify its human resource capacity.

8.1.3. Delays in releasing the Revised Estimates and Exchequer Issues.

This hindered timely implementation of some of the planned activities hence affecting absorption rate. There is need to ensure timely release of the revised budget and the Exchequer issues

8.2. LOOKING AHEAD: 2015 AND BEYOND

Since its inception the commission has continued to execute its mandate in a bid to enhance service delivery in public offices in Kenya. In the year 2015 the Commission seeks to:-

-  Decentralize ombudsman services by opening three more branch offices in Mombasa, Eldoret and Isiolo. It will also establish desks in other Huduma Centers in Nakuru, Kakamega, Embu and Kisii.
-  Optimize time taken on investigations and make follow ups on implementation of the Commission's recommendations
-  Forge partnership with county governments. To establish County Ombudsman offices. Phase I will cover; Bomet, Siaya, Makueni, Kajiado and Kiambu.
-  Leverage on technology to increase accessibility and efficiency in complaints handling through use of toll free numbers and other ICT platforms.

REPUBLIC OF KENYA



KENYA NATIONAL AUDIT OFFICE

REPORT

OF

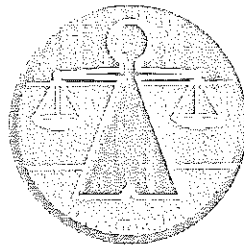
THE AUDITOR-GENERAL

ON

**THE FINANCIAL STATEMENTS OF
THE COMMISSION ON ADMINISTRATIVE
JUSTICE**

**FOR THE YEAR ENDED
30 JUNE 2014**

Chair: Cmmr. Otiende Amollo, EBS.
V. Chair: Dr. Regina G. Mwachia, MBS.
Member: Cmmr. Sadiia A. Mohamed



THE
COMMISSION ON ADMINISTRATIVE JUSTICE
"Office of the Ombudsman"

REPORTS AND FINANCIAL STATEMENTS

**FOR THE FINANCIAL YEAR ENDED
JUNE 30, 2014**

**Prepared in accordance with the Cash Basis of Accounting Method under the International
Public Sector Accounting Standards (IPSAS)**

COMMISSION ON ADMINISTRATIVE JUSTICE
Reports and Financial Statements
For the year ended June 30, 2014

I. KEY INFORMATION AND MANAGEMENT

MEMBERS OF THE COMMISSION

NO.	NAME	POSITION
1.	Otiende Amollo	Chairperson
2.	Dr. Regina Mwatha	Vice Chairperson
3.	Saadia A. Mohamed	Commissioner
4.	Leonard Ngaluma	Commission Secretary

SENIOR MANAGEMENT STAFF

NO.	NAME	POSITION
1	Leonard Ngaluma	Commission secretary
2.	Daniel Karomo	Director, Finance, and Administration
3.	Yuvinulis Angima	Director, Legal and Advisory Services
4.	Ismail Maaruf	Director, Compliance and Risk
5.	Micah Nguli	Director, Research and Investigations
6.	Belinda Ochiel	Director, Advocacy and Communications
7.	Edward Okello	Special Advisor to the Chair
8.	Vincent Chahale	Senior Manager, Legal
9.	Neema Mkorori	Finance Manager
10.	Morgan Keya	Chief IT Officer

COMMISSION ON ADMINISTRATIVE JUSTICE
Reports and Financial Statements
For the year ended June 30, 2014

Background information

The Commission on Administrative Justice (Office of the Ombudsman) is a Constitutional Commission established under Article 59 (4) and Chapter Fifteen of the Constitution, and the Commission on Administrative Justice Act, 2011.

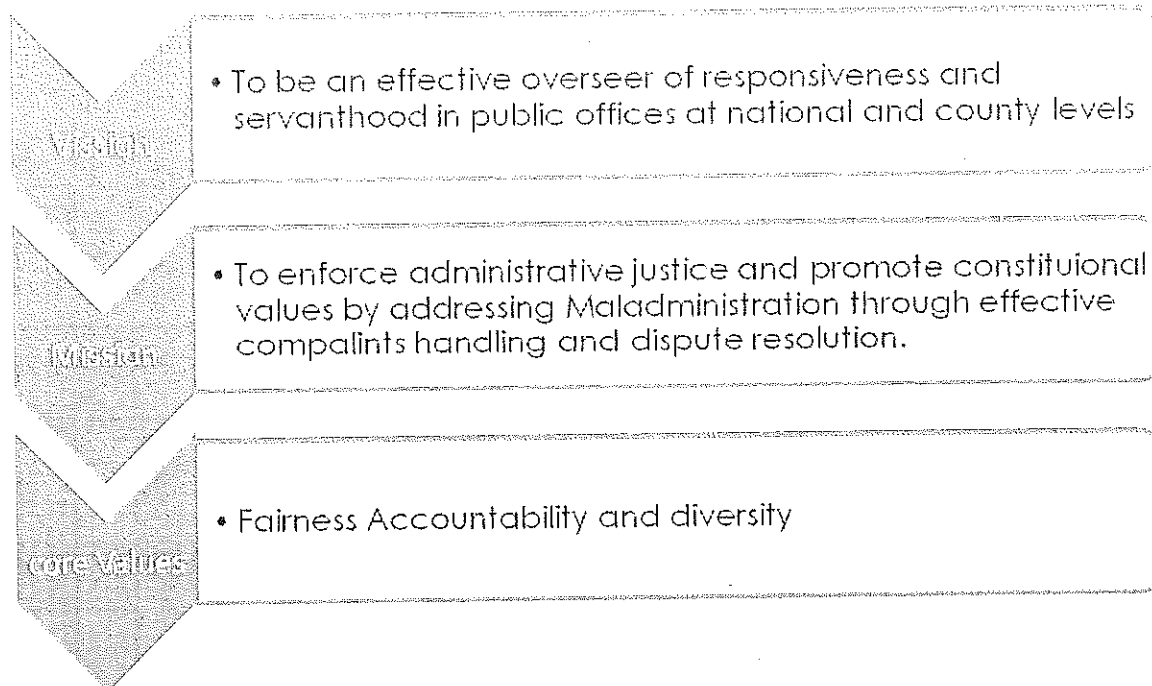
The Commission has a mandate, inter-alia, to investigate any conduct in state affairs or any act or omission in public administration in any sphere of Government and complaints of abuse of power, unfair treatment, manifest injustice or unlawful, oppressive, unfair or unresponsive official conduct. Further, the Commission has a quasi-judicial mandate to deal with maladministration through conciliation, mediation and negotiation where appropriate.

In the conduct of its functions the Commission has powers to conduct investigations on its own initiative or on a complaint made by a member of the public, issue Summons and require that statements be given under oath, adjudicate on matters relating to Administrative Justice, obtain relevant information from any person or Governmental authorities and to compel production of such information.

Mandate

The mandate of the Commission is to enforce administrative justice in the public sector by addressing maladministration through effective complaints handling and alternative Disputes resolution. In addition, the Commission has a Constitutional mandate to safeguard public interest by promoting constitutionalism, securing the observance of Democratic values and principles, and protecting the sovereignty of the people of Kenya.

COMMISSION ON ADMINISTRATIVE JUSTICE
Reports and Financial Statements
For the year ended June 30, 2014



Key Strategic Objectives

1. To enhance responsiveness and effectiveness in the public sector in Kenya.
2. To strengthen the complaints handling capacity of public sector institutions.
3. To enhance public awareness and participation in matters of administrative Justice.
4. To improve standards of public administration and adherence to the rule of law.
5. To strengthen the capacity of CAJ to deliver on its mandate.

COMMISSION ON ADMINISTRATIVE JUSTICE
Reports and Financial Statements
For the year ended June 30, 2014

Strategic programmes

The Commission has been able to utilize the limited resources to implement several programs some of which are listed below

1. An outreach programme to create awareness on administrative justice and the Commission's mandate through county visits,
2. Public interest litigation programme on matters of administrative justice and the rule of law,
3. Integrated Public Complaints Referral Mechanism (IPCRM) which is an electronic based system for referring complaints among various institutions,
4. Initiated, promoted and coordinated collaboration among Constitutional Commissions and Independent Offices in Kenya,
5. Initiated collaborations with key players in the chain of administrative justice and in particular the Judiciary, Kenya Prisons Service and the Independent Policing Oversight Authority (IPOA),
6. Forged partnerships and linkages with foreign ombudsman offices in Finland, Rwanda, Ghana and Canada.

Key Strategic Priorities

1. Creating public service that is responsive, accountable, efficient and fair in service delivery
2. Enhance public sector capacity to handle complains
3. Equip and educate Kenyans on matters of administrative justice
4. Constitutionalism and good governance in the conduct of state/public affairs.
5. Strengthened capacity of CAJ to deliver its mandate.

COMMISSION ON ADMINISTRATIVE JUSTICE
Reports and Financial Statements
For the year ended June 30, 2014

(a) Fiduciary Management

The key management personnel who held office during the financial year ended 30th June 2014 and who had direct fiduciary responsibility were:

No.	Designation	Name
1.	Accounting Officer	Mr. Leonard Ngaluma, MBS
2.	Director, Finance & Administration	Mr. Daniel Karomo
3.	Finance Manager	Ms. Neema Mkorori

(b) Headquarters

P.O. Box 20414-00200
West End Towers
2nd floor Waiyaki Way - Westlands
Nairobi, KENYA

Contacts

Telephone - +254 -20-2270000/2303000/2603765/2441211
Email: info@ombudsman.go.ke(for general enquiries)
Complains@ombusman.go.ke(for complaints)
Website: www.ombudsman.go.ke

(c) Bankers

Central Bank of Kenya
Haile Selassie Avenue
P.O. Box 60000
City Square 00200
Nairobi, Kenya

(d) Independent Auditors

Auditor General
Kenya National Audit Office
Anniversary Towers, University Way
P.O. Box 30084
GOP 00100
Nairobi, Kenya

COMMISSION ON ADMINISTRATIVE JUSTICE
Reports and Financial Statements
For the year ended June 30, 2014

(e) Principal Legal Adviser

The Attorney General
State Law Office
Harambee Avenue
P.O. Box 40112
City Square 00200
Nairobi, Kenya

II. FORWARD BY THE COMMISSION CHAIR

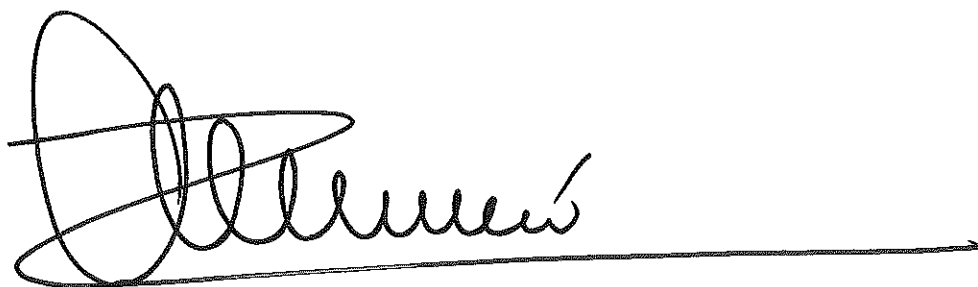
The Commission on Administrative Justice is delighted to present the Annual Report and Financial Statements for the financial year ended 30 June 2014. This is the second financial report issued since the establishment of the Commission in November 2011.

As you are aware, the Commission is established by the Act pursuant to Article 59(4) of the Constitution. The primary mandate of the Commission is the traditional role of the office of the ombudsman as known and practiced in many countries worldwide.

Having assumed office, the Commissioners embarked on the process of enhancing complains management at the Commission and strengthening the institutional framework to enable the Commission deliver on its mandate. The Commission re-designed ways and means of lodging complains in order to ensure efficient processing of complains. This has led to increased number of complains made to the Commission during the reporting period.

During the period under review, the Commission escalated its activities on complaints handling system in the public sector under the performance contracting indicator on resolution of public complains. This was intended to institutionalize complain handling in the public sector and to promote good governance. The Commission also commenced the process of putting structures in place and building capacity to enable the Commission effectively execute its mandate. In addition the Commission initiated and nurtured partnership aimed at deepening co-operation with all public agencies in the promotion of good governance in Kenya.

However in discharge of its mandate, the Commission experienced institutional and operational challenges which included low staff capacity, limited presence, accessibility, lethargy, inefficiency and unresponsiveness in the public sector. Despite the challenges, the Commission has experienced tremendous successes and adopted strategies aimed at overcoming the challenges. Part of these strategies included recruitment of competent staff, development of strategic framework, acquisition of requisite infrastructural tools and equipment necessary for the execution of the Commissions mandate and initiation and nurturing of partnership with stakeholders. The Commission is determined to deliver on its mandate, and with the support of all the stakeholders, the Commission shall surely succeed.

A large, stylized handwritten signature in black ink, consisting of a large loop at the start followed by several smaller loops and a long horizontal stroke at the end.

OTIENDE AMOLLO, EBS
CHAIRMAN

STATEMENT OF MANAGEMENT RESPONSIBILITIES

Section 81 (1) of the Public Finance Management Act, 2012 requires that, at the end of each financial year, the accounting officer for a National Government Entity shall prepare financial statements in respect of that entity. Section 81 (3) requires the financial statements so prepared to be in a form that complies with relevant accounting standards as prescribed the Public Sector Accounting Standards Board of Kenya from time to time.


The Accounting Officer in charge of the Commission on Administrative Justice is responsible for the preparation and presentation of the Commission's financial statements, which give a true and fair view of the state of affairs of the Commission for and as at the end of the financial year (period) ended on June 30, 2014. This responsibility includes: (i) maintaining adequate financial management arrangements and ensuring that these continue to be effective throughout the reporting period; (ii) maintaining proper accounting records, which disclose with reasonable accuracy at any time the financial position of the Commission; (iii) designing, implementing and maintaining internal controls relevant to the preparation and fair presentation of the financial statements, and ensuring that they are free from material misstatements, whether due to error or fraud; (iv) safeguarding the assets of the Commission; (v) selecting and applying appropriate accounting policies; and (vi) making accounting estimates that are reasonable in the circumstances.

The Accounting Officer in charge of the Commission on Administrative Justice accepts responsibility for the Commission's financial statements, which have been prepared on the Cash Basis Method of Financial Reporting, using appropriate accounting policies in accordance with International Public Sector Accounting Standards (IPSAS). The Accounting Officer is of the opinion that the Commission's financial statements give a true and fair view of the state of Commission's transactions during the financial year ended June 30, 2014, and of the Commission's financial position as at that date. The Accounting Officer in charge of the Commission on Administrative Justice further confirms the completeness of the accounting records maintained for the Commission, which have been relied upon in the preparation of the Commission's financial statements as well as the adequacy of the systems of internal financial control.

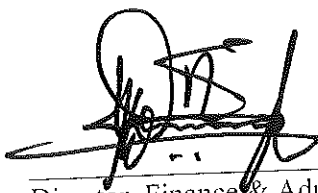
The Accounting Officer in charge of the Commission on Administrative Justice confirms that the Commission has complied fully with applicable Government Regulations and the terms of external financing covenants (where applicable), and that the Commission's funds received during the year under audit were used for the eligible purposes for which they were intended and were properly accounted for. Further the Accounting Officer confirms that the Commission's financial statements have been prepared in a form that complies with relevant accounting standards prescribed by the Public Sector Accounting Standards Board of Kenya.

Approval of the financial statements

The Commission's financial statements were approved and signed by the Accounting Officer on _____ 2014.



Commission Secretary



Director, Finance & Administration

REPUBLIC OF KENYA

Telephone: +254-20-342330
Fax: +254-20-311482
E-Mail: oag@oagkenya.go.ke
Website: www.kenao.go.ke



P.O. Box 30084-00100
NAIROBI

KENYA NATIONAL AUDIT OFFICE

REPORT OF THE AUDITOR-GENERAL ON THE COMMISSION ON ADMINISTRATIVE JUSTICE FOR THE YEAR ENDED 30 JUNE 2014

REPORT ON THE FINANCIAL STATEMENTS

I have audited the accompanying financial statements of the Commission on Administrative Justice, set out on pages 11 to 22 which comprise statement of assets as at 30 June, 2014, statement of receipts and payments, statement of cash flow, and summary statement of appropriation for the year then ended, and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and section 8 of the Public Audit Act, 2003. I have obtained the information and explanations which, to the best of my knowledge and belief were necessary for the purpose of the audit.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with International Public Sector Accounting Standards (Cash Basis) and Public Finance Management Act, 2012 and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

The management is also responsible for the submission of the financial statements to the Auditor-General in accordance with the provisions of Section 4 of the Public Audit Act, 2003.

Auditor-General's Responsibility

My responsibility is to express an opinion on these financial statements based on the audit and report in accordance with the provisions of Section 9 of the Public Audit Act, 2003. The audit was conducted in accordance with International Standards on Auditing. Those standards require compliance with ethical requirements and that the audit be planned and performed to obtain reasonable assurance about whether the financial statements are free from material misstatement.


An audit involves performing procedures to obtain evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation

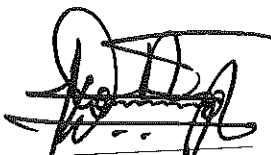
COMMISSION ON ADMINISTRATIVE JUSTICE
Report and Financial Statements
For the Year ended June 30, 2014

V. STATEMENT OF RECEIPTS AND PAYMENTS

	Note	2013-2014 Kshs.	2012-2013 Kshs.
RECEIPTS			
Exchequer Releases	1	297,300,000	215,811,303
Other Revenues	2	17,000	430,000
		<u>297,317,000</u>	<u>216,241,303</u>
TOTAL REVENUES			
PAYMENTS			
Compensation of Employees	3	136,161,640	79,733,142
Use of goods and services	4	107,191,648	108,105,042
Other grants and transfers	5	89,648	18,700
Social Security Benefits	6	817,522	1,734,588
Acquisition of Assets	7	39,906,958	26,623,371
		<u>284,167,415</u>	<u>216,214,843</u>
TOTAL PAYMENTS			
SURPLUS/DEFICIT		<u>13,149,585</u>	<u>26,460</u>

The accounting policies and explanatory notes to these financial statements form an integral part of the financial statements. The entity financial statements were approved on _____ 2014 and signed by:


 Commission Secretary



 Director Finance & Administration

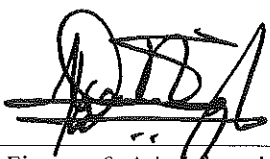
COMMISSION ON ADMINISTRATIVE JUSTICE
Report and Financial Statements
For the Year ended June 30, 2014

VI. STATEMENT OF ASSETS

	Note	2013-2014 Kshs.	2012-2013 Kshs.
FINANCIAL ASSETS			
Cash and Cash Equivalents			
Bank Balances	8a	17,414,441	-
Cash Balances	8b	231,923	15,157
Outstanding Imprests	8c	33,904	-
Receivables	9	52,130	11,303
TOTAL FINANCIAL ASSETS		17,732,398	26,460
LESS: FINANCIAL LIABILITIES			
Accounts Payable	10	4,567,885	-
TOTAL FINANCIAL LIABILITIES		4,567,885	-
NET FINANCIAL ASSETS/(LIABILITIES)		13,164,513	26,460
REPRESENTED BY			
Fund balance b/fwd		15,157	-
Surplus/Deficit for the year		13,149,585	26,460
Prior year adjustments	11	-229	-
NET FINANCIAL POSITION		13,164,513	26,460

The accounting policies and explanatory notes to these financial statements form an integral part of the financial statements. The financial statements were approved on _____ 2014 and signed by:


 Commission Secretary



 Director Finance & Administration

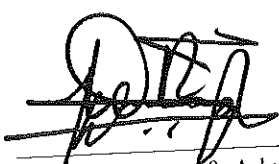
COMMISSION ON ADMINISTRATIVE JUSTICE
Report and Financial Statements
For the Year ended June 30, 2014

VII. STATEMENT OF CASH FLOW

	Note	2013 - 2014 Kshs	2012 - 2013 Kshs
CASH FLOW FROM OPERATING ACTIVITIES			
Receipts for operating income	1	297,300,000	215,811,303
Transfers from National Treasury	2	17,000	430,000
Other Revenues			
Payments for operating expenses	3	-136,161,640	-79,733,142
Compensation of Employees	4	-107,191,648	-108,105,042
Use of goods and services	5	-89,648	-18,700
Other grants and transfers	6	-817,522	-1,734,588
Social Security Benefits			
Adjusted for:	11	-86,034	-11,303
Changes in receivables	12	4,567,885	-
Changes in payables		-229	-
Adjustments during the year			
Net cashflow from operating activities		<u>57,538,165</u>	<u>26,638,528</u>
CASHFLOW FROM INVESTING ACTIVITIES			
Acquisition of Assets	7	-39,906,958	-26,623,371
Net cash flows from Investing Activities		<u>-39,906,958</u>	<u>-26,623,371</u>
NET INCREASE IN CASH AND CASH EQUIVALENT		17,631,207	15,157
Cash and cash equivalent at BEGINNING of the year		15,157	-
Cash and cash equivalent at END of the year		<u>17,646,364</u>	<u>15,157</u>

The accounting policies and explanatory notes to these financial statements form an integral part of the financial statements. The financial statements were approved on _____ 2014 and signed by:


 Commission Secretary

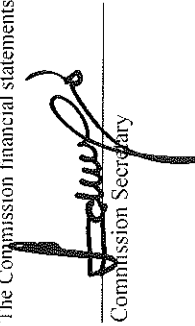

 Director Finance & Administration

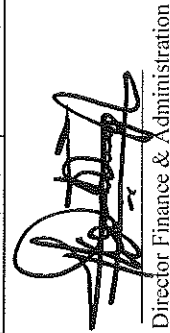
COMMISSION ON ADMINISTRATIVE JUSTICE
Report and Financial Statements
For the Year ended June 30, 2014

VIII. SUMMARY STATEMENT OF APPROPRIATION: RECURRENT

Receipt/Expense Item	Original Budget	Adjustments	Final Budget	Actual on Comparable Basis	Budget Utilisation Difference	% of Utilisation
	a	b	c=a+b	d	e=c-d	f=d/c %
RECEIPTS						
Exchequer releases	274,340,827	23,000,000	297,340,827	297,300,000	40,827	100%
A-in-A from sale of tender documents	0	17,000	17,000	17,000	0	100%
Total Revenues/Receipts	274,340,827	23,017,000	297,357,827	297,317,000	40,827	100%
PAYMENTS						
Basic Salaries - Permanent Employees	101,556,323	-2,000,000	99,556,323	99,556,323	0	100%
Personal Allowances paid as part of Salary	35,305,978	2,000,000	37,305,978	36,443,637	-862,341	98%
Employer Contributions to Compulsory National Social Security Schemes	400,000	0	400,000	161,680	-238,320	40%
Utilities, Supplies and Services	1,105,000	600,000	1,705,000	1,350,160	-348,840	80%
Communication, Supplies and Services	4,124,492	3,000,000	7,124,492	6,340,383	-784,109	89%
Domestic Travel and Subsistence, and other Transportation Costs	4,722,600	1,600,000	6,322,600	5,979,990	-342,610	95%
Foreign Travel and Subsistence, and other Transportation Costs	12,911,509	-2,400,000	10,511,509	7,987,271	-2,524,238	76%
Printing, Advertising and Information Supplies and Services	13,236,200	0	13,236,200	12,587,417	-648,783	95%
Rentals of Produced Assets	30,175,000	3,000,000	33,175,000	33,174,483	-517	100%
Training Expenses (including capacity building)	4,590,000	-550,000	4,040,000	3,456,512	-583,488	86%
Hospitality Supplies and Services	3,818,625	0	3,818,625	3,774,599	-44,026	99%
Insurance Costs	14,458,500	0	14,458,500	14,396,180	-62,320	100%
Office and General Supplies and Services	4,250,000	1,167,000	5,417,000	4,629,064	-787,936	85%
Fuel Oil and Lubricants	1,225,700	2,000,000	3,225,700	3,192,202	-33,498	99%
Other Operating Expenses	10,839,200	-3,600,000	7,239,200	5,179,141	-2,060,059	72%
Routine Maintenance - Vehicles and Other Transport Equipment	2,975,000	1,500,000	4,475,000	4,298,432	-176,568	96%
Routine Maintenance - Other Assets	935,000	0	935,000	839,814	-95,186	90%
Other Capital Grants and Transfers	127,500	0	127,500	89,648	-37,852	70%
Government Pension and Retirement Benefits	1,659,200	0	1,659,200	817,522	-841,678	49%
Refurbishment of Buildings	25,925,000	8,575,000	34,500,000	32,478,858	-2,021,142	94%
Purchase of Office Furniture and General Equipment	0	8,125,000	8,125,000	7,428,100	-696,900	91%
Total Payments/Expenses	274,340,827	23,017,000	297,357,827	284,167,416	-13,190,411	96%

The Commission financial statements were approved on _____ 2014 and signed by:


 Commission Secretary



 Director Finance & Administration


COMMISSION ON ADMINISTRATIVE JUSTICE
Report and Financial Statements
For the Year ended June 30, 2014

XI. SUMMARY STATEMENT OF PROVISIONINGS

	2013 - 2014	2012 - 2013
	Kshs	Kshs
Exchequer Provisioning account balance - <i>VOTE R213</i>		
Exchequer under-issue	40,827	11,303
Bank	17,414,441	-
Cash	231,923	15,157
<i>Total</i>	<u>17,687,191</u>	<u>26,460</u>
	2013 - 2014	2012 - 2013
	Kshs	Kshs
GAV Provisioning account balance - <i>VOTE R213</i>		
GAV	17,687,191	26,460
Excess A.I.A	-	-
<i>Total</i>	<u>17,687,191</u>	<u>26,460</u>

The accounting policies and explanatory notes to these financial statements form an integral part of the financial statements. The financial statements were approved on _____ 2014 and signed by:


 Commission Secretary


 Director Finance & Administration

COMMISSION ON ADMINISTRATIVE JUSTICE
Report and Financial Statements
For the Year ended June 30, 2014

IX. SIGNIFICANT ACCOUNTING POLICIES

The principle accounting policies adopted in the preparation of these financial statements are set out below:

1. Statement of compliance and basis of preparation

The financial statements have been prepared in accordance with and comply with International Public Sector Accounting Standards (IPSAS) with particular emphasis on Cash Basis Financial Reporting under the Cash Basis of Accounting. The financial statements comply with and conform to the form of presentation prescribed by the Public Sector Accounting Standards Board of Kenya.

The financial statements are presented in Kenya Shillings, which is the functional and reporting currency of the Commission on Administrative Justice. The accounting policies adopted have been consistently applied to all the years presented.

The financial statements have been prepared on the cash basis following the Government's standard chart of accounts. The cash basis of accounting recognises transactions and events only when cash is received or paid by the Commission.

2. Recognition of revenue and expenses

The Commission recognises all revenues from the various sources when the event occurs and the related cash has actually been received by the Commission. In addition, the Commission recognises all expenses when the event occurs and the related cash has actually been paid out by the Commission

3. In-kind contributions

In-kind contributions are donations that are made to the Commission in the form of actual goods and/or services rather than in money or cash terms. These donations may include vehicles, equipment or personnel services. Where the financial value received for in-kind contributions can be reliably determined, the Commission includes such value in the statement of receipts and payments both as revenue and as an expense in equal and opposite amounts; otherwise, the contribution is not recorded.

SIGNIFICANT ACCOUNTING POLICIES (Continued)

4. Cash and cash equivalents

Cash and cash equivalents comprise cash on hand and cash at bank, short-term deposits on call and highly liquid investments with an original maturity of three months or less, which are readily convertible to known amounts of cash and are subject to insignificant risk of changes in value. Bank account balances include amounts held at the Central Bank of Kenya and at various commercial banks at the end of the financial year. For the purposes of these financial statements, cash and cash equivalents also include short term cash imprests and advances to authorised public officers and/or institutions which were not surrendered or accounted for at the end of the financial year.

5. Pending bills

Pending bills consist of unpaid liabilities at the end of the financial year arising from contracted goods or services during the year or in past years. As pending bills do not involve the payment of cash in the reporting period, they recorded as 'memorandum' or 'off-balance' items to provide a sense of the overall net cash position of the *Commission* at the end of the year. When the pending bills are finally settled, such payments are included in the statement of receipts and payments in the year in which the payments are made.

6. Budget

The budget is developed on the same accounting basis (cash basis), the same accounts classification basis, and for the same period as the financial statements. The *Commission's* budget was approved as required by Law and as detailed in the Government of Kenya Budget Printed Estimates. A high-level assessment of the *Commission's* actual performance against the comparable budget for the financial year under review has been included in an annex to these financial statements.

7. Comparative figures

Where necessary comparative figures for the previous financial year have been amended or reconfigured to conform to the required changes in presentation.

8. Subsequent events

There have been no events subsequent to the financial year end with a significant impact on the financial statements for the year ended June 30, 2014.

COMMISSION ON ADMINISTRATIVE JUSTICE
Report and Financial Statements
For the Year ended June 30, 2014

X. NOTES TO THE FINANCIAL STATEMENTS

	2013 - 2014	2012 - 2013
	Kshs.	Kshs.
1. EXCHEQUER RELEASES		
1st quarter transfer	70,000,000	30,000,000
2nd quarter transfer	70,000,000	80,000,000
3rd quarter transfer	80,000,000	50,000,000
4th quarter transfer	77,300,000	55,800,000
Exchequer not yet received	-	11,303
Total	297,300,000	215,811,303
2. OTHER REVENUES		
Receipts from Administrative Fees and Charges - Collected as AIA	17,000	430,000
Total	17,000	430,000
3. COMPENSATION OF EMPLOYEES		
Basic salaries of permanent employees	99,556,323	55,955,124
Personal allowances paid as part of salary	36,443,637	23,778,018
Compulsory national social security schemes	161,680	-
Total	136,161,640	79,733,142
4. USE OF GOODS AND SERVICES		
Utilities, supplies and services	1,356,160	68,018
Communication, supplies and services	6,340,383	5,298,922
Domestic travel and subsistence	5,979,990	11,114,024
Foreign travel and subsistence	7,987,271	8,818,430
Printing, advertising and information supplies & services	12,587,417	17,910,555
Rentals of produced assets	33,174,483	19,819,884
Training expenses	3,456,512	6,403,372
Hospitality supplies and services	3,774,599	7,339,423
Insurance costs	14,396,180	9,957,380
Specialised materials and services	3,192,202	3,241,015
Office and general supplies and services	4,629,064	5,639,963
Other operating expenses	5,179,141	8,041,459
Routine maintenance – vehicles and other transport equipment	4,298,432	3,369,037
Routine maintenance – other assets	839,814	1,083,560
Total	107,191,648	108,105,042
5. OTHER GRANTS AND OTHER PAYMENTS		
Other capital grants and transfers	89,648	18,700
Total	89,648	18,700

The Commission is a member and subscribes to African Ombusman & Mediators Association (AOMA) and International Ombudsman Institute (IOI).

COMMISSION ON ADMINISTRATIVE JUSTICE
Report and Financial Statements
For the Year ended June 30, 2014

NOTES TO THE FINANCIAL STATEMENTS (Continued)

	2013 - 2014	2012 - 2013
	Kshs.	Kshs.
6. SOCIAL SECURITY BENEFITS		
Government pension and retirement benefits	817,522	1,734,588
Total	817,522	1,734,588

The Commission provides a 31% of basic salary as gratuity to staff on contract.

7. ACQUISITION OF ASSETS

Non Financial Assets

Refurbishment of Buildings	32,478,858	14,363,812
Purchase of Vehicles and Other Transport Equipment	-	8,858,886
Purchase of Office Furniture and General Equipment	7,428,100	3,400,673
Total	39,906,958	26,623,371

8. CASH AND CASH EQUIVALENT

a. Bank Accounts

Central Bank of Kenya, (Kshs) - Recurrent	12,846,556	-
Central Bank of Kenya, (Kshs) - Deposit	4,567,885	-
Total	17,414,441	-

b. Cash in hand

Head Office in Nairobi	231,923	15,157
Total	231,923	15,157

c. Outstanding Imprests

<i>Name of Officer or Institution</i>	<i>Date Imprest Taken</i>	<i>Amount Taken</i>	<i>Amount Surrendered</i>	<i>Balance</i>
Justus Manyasa	08/04/2014	23,904	-	23,904
Morgan Keya	24/06/2014	10,000	-	10,000
Total		33,904	-	33,904

COMMISSION ON ADMINISTRATIVE JUSTICE
Report and Financial Statements
For the Year ended June 30, 2014

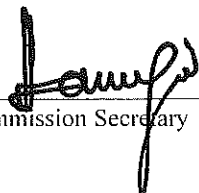
NOTES TO THE FINANCIAL STATEMENTS (Continued)

	2013 - 2014 Kshs.	2012 - 2013 Kshs.
9. RECEIVABLES		
Exchequer under issue	52,130	11,303
Total	52,130	11,303
10. PAYABLES		
Contractors Retention fee	4,567,885	-
Total	4,567,885	-
11. PRIOR YEAR ADJUSTMENT		
Receivables /Imprest	229	-
Total	229	-

12. PROCEEDS FROM DOMESTIC AND FOREIGN GRANTS

Name of the Donor	Date received	Amount in Foreign currency	2013 - 2014 Kshs.	2012 - 2013 Kshs.
UNDP	14/09/2012		-	2,100,000
UNDP	22/02/2013		-	10,000,000
UNDP	17/09/2013		3,000,000	-
UNDP	10/12/2013		4,500,000	-
UNDP	26/06/2014		9,600,000	-
			17,100,000	12,100,000

The Commission received these funds from UNDP through Kenya National Commission on Human Rights
The fund has been audited for the period January to December 2013 by Ms. Ernst & Young


Commission Secretary


Director Finance & Administration

COMMISSION ON ADMINISTRATIVE JUSTICE
Report and Financial Statements
For the Year ended June 30, 2014

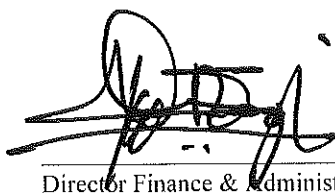
NOTES TO THE FINANCIAL STATEMENTS (Continued)

13. PROGRESS ON FOLLOW UP OF AUDITOR RECOMMENDATIONS

The following is the summary of issues raised by the external auditor, and management comments that were provided to the auditor. We have nominated focal persons to resolve the various issues as shown below with the associated time frame within which we expect the issues to be resolved.

Reference No. on the external audit Report	Issue / Observations from Auditor	Management comments	Focal Point person to resolve the issue (Name and designation)	Status: (Resolved / Not Resolved)	Date of resolution
	FUEL COSTS- Kshs 2,539, 820- records not availed for audit verification.		CS & DFA	Resolved at Parliament	19th August ,2014
	CONSULTANCY SERVICES- Kshs 595, 000 single sourced in the year.		CS & DFA	Resolved at Parliament	19th August ,2014

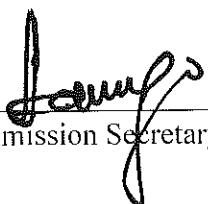

Commission Secretary



Director Finance & Administration

COMMISSION ON ADMINISTRATIVE JUSTICE
Report and Financial Statements
For the Year ended June 30, 2014

14. SUMMARY OF FIXED ASSETS REGISTER

Asset class	Historical Cost (Kshs) 2013/14	Historical Cost (Kshs) 2012/13
Land	-	-
Buildings and structures	-	-
Transport equipment	29,520,000.00	29,520,000.00
Office equipment, ICT equipment, furniture and fittings	10,300,000.00	-
Other Machinery and Equipment	-	-
Heritage and cultural assets	-	-
Intangible assets	-	-
Total	39,820,000.00	29,520,000.00


 Commission Secretary


 Director Finance & Administration