

# mbudsman

## Newsletter



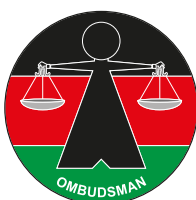
**Outstanding Public Officers  
and Institutions Feted at  
Fourth Huduma Ombudsman  
Award Ceremony**



**Student Placed to a University  
Two Years Later**



**FLloCA County  
Engagements**



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

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**THE EDITOR'S NOTE****Celebrating Excellence and Changing Lives**

Our most beloved readers, on behalf of the editorial team, it is a pleasure to present the eleventh issue of the Ombudsman Newsletter.

In this edition, we highlight the Huduma Ombudsman Award Edition Ceremony which was held on Thursday, November 23, 2023, at the Kenyatta International Convention Centre (KICC). During the event presided over by Cabinet Secretary, Ministry for Public Service, Performance and Delivery Management, sixteen exemplary public officers and five institutions were recognised in the Public Service Delivery Category, while three institutions stood out in the Access to Information Category.

The Commission also undertook prison visits at the Manyani Maximum Security prison and the Industrial Area Remand and Allocation Prison where it sensitised the inmates and prison officers on its mandate and received complaints.

The Commission continued righting administrative wrongs through complaints management. One of the outstanding complaints the Commission managed to resolve is of a visually impaired student who was finally placed at a university by the Kenya Universities and Colleges Central Placement Service (KUCCPS) following the intervention of the Commission.

The Commission also upscaled capacity building for public officers drawn from various MCDAs where it trained 2,971 officers on effective complaints management and access to information. Additionally, the Commission conducted public awareness and education in 10 Counties in partnership with the National Treasury and Economic Planning under the Financing Locally Led Climate Action (FLLoCA) program.

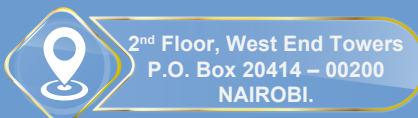
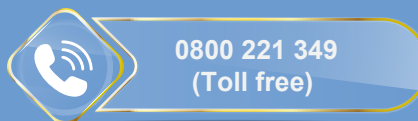
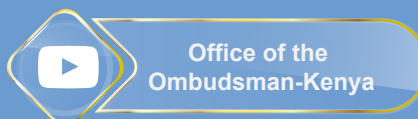
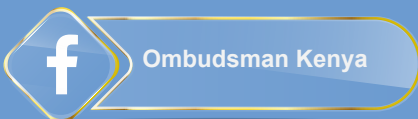
In conclusion, I wish to thank the Commissioners and staff of the Commission for the dedication in addressing maladministration and promoting the right of access to information and our stakeholders for their support in the promotion of good governance in Kenya.

Enjoy the read!

*Editor*

**Mr. Osman Mohamed**

Director - Public Education,  
Advocacy and Corporate  
Communications



## MESSAGE FROM THE CEO

## Taking Stock: Building a Society that Upholds Administrative Justice and Right of Access to Information.

By Mercy K Wambua, OGW, Commission Secretary/CEO

The Commission on Administrative Justice (Office of the Ombudsman) is established under Article 59(4) Of the Constitution, and the Commission on Administrative Justice Act, 2011 (Constitutive Act). The Mandate of the Commission is two-fold and extends to both National and County Governments. Firstly, the Commission has the mandate of tackling maladministration (improper administration) in the public sector. In this regard, the commission is empowered to, among other things, investigate complaints of delay, abuse of power, unfair treatment, manifest injustice, or discourtesy. Secondly, the commission has the mandate of overseeing and enforcing the implementation of the Access to Information Act, 2016.

In the quarter ending December 2023, the Commission hosted the Fourth Edition of the Huduma Ombudsman Award Ceremony under the theme **'Improved Public Service Delivery by Deepening and Strengthening Administrative Justice and Access to Information'**. Huduma Ombudsman Award is one of the approaches the Commission has adopted to enhance accountability and responsiveness in the public service as well as promote compliance with administrative justice and access to information. The Chief Guest, Cabinet Secretary, Ministry for Public Service, Performance and Delivery Management, Hon Moses Kuria commended the Commission for the progressive use of technology in handling public complaints through the Complaints Management Information System (CMIS). In his speech, he indicated that plans were underway to relaunch the CMIS system for wider public reach through support from his Ministry.

Section 8 (h) of the constitutive Act mandates the Commission to issue advisory opinions or proposals on the improvement of public administration, including review of legislation, code of conduct, processes, and procedures. This is reinforced by Article 249 of the Constitution which empowers the Commission to safeguard public interest and promote good governance. During the period, the Commission issued three advisory opinions key among them being the advisory opinion on enhancing road safety measures.

In line with our mandate, the Commission managed to register several success stories resulting from the resolution of public complaints. Further highlighted in this newsletter, includes a story on how a visually



impaired student was finally placed at a university by the Kenya Universities and Colleges Central Placement Service (KUCCPS) following the intervention of the Commission.

The Commission conducted prison visits to Manyani Maximum Security Prison and Industrial Area Remand and Allocation Prison in Mombasa and Nairobi counties respectively. The prison visits demonstrate the Commission's commitment to upholding the principles of administrative justice and human rights within the prison environment. Under the Financing Locally Led Climate Action Program (FLLoCA) implemented by the Commission with the support of the National Treasury, the Commission conducted county consultative forums where 38 county governments including their assemblies were reached by the Commission to build goodwill on Grievance Redress Mechanisms and Access to Information.

As part of our Corporate Social Responsibility and promoting staff wellness, the Commission on Sunday, October 29, 2023, participated in the Standard Chartered Nairobi Marathon. A total of 20 staff members participated in the full and half marathons and the 10km race.

I wish to register the Commission's appreciation of the support we have received from the various stakeholders which has enabled us to achieve great milestones and commit to continue with the excellent work of advancing good governance in Kenya by building on the accomplishments made and collaborations.



## HUDUMA OMBUDSMAN AWARD

# Outstanding Public Officers and Institutions Feted at Fourth Huduma Ombudsman Award Ceremony

By Edward Opany



Outstanding public officers and institutions were on Thursday, November 23, 2023, feted during the Fourth Edition of the Huduma Ombudsman Award ceremony held at the Kenyatta International Convention Centre. During the Award ceremony, Cabinet Secretary, Ministry for Public Service, Performance and Delivery Management, Hon Moses Kuria, represented the Chief Guest, His Excellency Dr. William Samoei Ruto, C.G.H., President of the Republic of Kenya.

Ms. Precious Dama Randu, the Assistant County Commissioner Matsangoni Division, Kilifi North Sub-County, Kilifi County, emerged the winner in the Public Service Delivery Category; Individual Category with the National Council for Law Reporting and the Kenya Revenue Authority emerging winners in the institutional category of the Public Service Delivery Category, and Access to Information Category, respectively.

Ms. Randu was awarded for distinction in efficiency, innovation, and servanthood in public service. She initiated Social Inclusivity Programmes aimed at ensuring marginalised groups, including special needs individuals and the elderly, have access to vital government services.

Notably, her collaboration with various government agencies and private institutions facilitated mobile outreaches, enabling the registration of 830 special needs persons for birth certificates and enrolling 1,456

individuals for National Identity Cards. Her efforts also addressed challenges faced by elderly citizens in accessing programs like the Inua Jamii Programme, providing logistical support and medical assistance.

Recognising educational barriers, she spearheaded campaigns such as "Return to School for pregnant girls and young mothers, significantly reducing school dropout rates and re-enrolling young mothers in secondary education. Additionally, her support for vulnerable groups, such as HIV/AIDS victims, widows, and persons with disabilities (PWDs), is evident through skills training programs and facilitating their access to government funds, enabling economic empowerment.



Cabinet Secretary, Ministry for Public Service, Performance and Delivery Management, Hon Moses Kuria, presenting a plaque to Ms. Precious Dama Randu the winner in the Public Service Delivery Category: Individual Category.



## HUDUMA OMBUDSMAN AWARD

Her relentless dedication to community welfare is further highlighted in her proactive efforts against drug abuse, conducting successful raids on illegal drug farms and illicit brews, showcasing her commitment to public safety.

The National Council for Law Reporting was awarded for advancing the rights of citizens through the provision of timely, accurate, and free legal information. Kenya Law has implemented policies enabling free access to public legal information, aligning with national and international calls for transparency and digitalization of government services. The Kenya Law website serves as a key platform for various legal resources such as case law, statutes, parliamentary data, and select publications, all available at no cost to users.

Additionally, Kenya Law developed and maintains a Bill tracker, offering real-time updates on the status of bills within parliamentary assemblies. It also provides value-added services by identifying legal issues and discrepancies in judicial reasoning, reporting them to relevant state agencies for necessary action, including passing pertinent information to County Assemblies.

Kenya Revenue Authority on the other hand was awarded for leveraging technology to effectively meet information needs and better serve its huge customer base.



Cabinet Secretary, Ministry for Public Service, Performance and Delivery Management, Hon Moses Kuria, presenting a plaque to Chief Executive Officer, National Council for Law Reporting, Prof. Jack Mwimali.

The Authority provides critical information supports stakeholders requesting information, and monitors to ensure that all Access to Information requests are processed within 21 days and has proactively disclosed information through its online platforms, including the KRA website, KRA TV, and social media platforms. Notable achievements include consistently maintaining compliance with Service Level Agreements (SLAs) and providing the necessary feedback to information requests from stakeholders/requestors.

The tax agency has also safeguarded the confidentiality of information obtained in the course of administering Tax Law, as mandated by Section 7 of the Tax Procedures Act, 2015, and adhered to the limitations on the right to access information outlined in Section 6 of the Access to Information Act, 2016.

The Ombudsman Valour Award went to Corporal Julius Karanja Irungu, a police officer at Kutulo Special Operations Group (SOG) station. Corporal Karanja was awarded for heroic services to the nation at great personal cost after he completely lost his sight as a result of the fragments from the improvised explosive device during a suspected Al-Shabaab attack.



Cabinet Secretary, Ministry for Public Service, Performance and Delivery Management, Hon Moses Kuria, presenting a plaque to Corporal Julius Karanja Irungu the Ombudsman Valour Award winner.

The Ombudsman Valour Award is dedicated to members of the disciplined forces for heroic acts in service to our country. This category was introduced to honour those who serve in the disciplined forces, several of who make the ultimate sacrifice to protect our liberties.

The award ceremony also saw thirteen outstanding public officer from various sectors including; Mr. Josephat Ngugi Ngama, County Coordinator, Civil Registration Department Kerugoya, Elvis Wafula Makokha, Huduma Centre Manager, Mr. Abdifatah Galgallo Godana, Marsabit County Convener, Ruth Wanjiru Wachera, Assistant County Commissioner, Kapenguria Division, Geoffrey M. Mwachofi, Assistant County Commissioner, Kasamen Division, Rose Muthee, Huduma Centre Manager Migori, Eldah Aketch Odongo, Head of Corporate Affairs and Communication, Kisumu Water and Sanitation Company Ltd, Ninah Musanga Sitti, Lawyer, Capital Markets Authority, Edward Inzofu Indimuli, Advisor/Ombudsman, County Government of Kakamega, Mr. Ahmed Hassan Surow, Clerk, Mandera County Assembly, Bernard Omolo Oloo, Administrator/Chief, Maweni, Mombasa County, Joyce Thairu, Lecturer, Multimedia University of Kenya, and Mr. Okongo Kimari Orlale, Research and Innovation Officer at the Kenya Revenue and two institutions Agricultural Finance Corporation and Kisumu Water and Sanitation Company Limited (KIWASCO) being issued with letters of commendation win the Public Service Delivery Category.



## HUDUMA OMBUDSMAN AWARD

Position two and three in the Public Service Delivery Category: Individual Category went to Ms. Joyce Khanali Khamala, Senior Head Teacher, Kimilili FYM Primary and Junior School in Kimilili Sub- County, Bungoma County, and Dr. Dr. Andrew Gitau Kimani, CEO, Transport Licensing Appeals Board.

Ms. Khanali was awarded for her dedication, innovation, and servant leadership in public service within the education sector having demonstrated tenacity and innovation that have significantly contributed to the improvement of school infrastructure, academic performance, educational quality, and access to education for the disadvantaged in her community.

Dr. Kimani, on the other hand, was awarded for leadership, dedication, servant-hood in public service within the justice sector. Dr. Kimani has demonstrated a commitment to improving access to justice at the Transport Licensing Appeals Board. He has assisted individuals with prior convictions in accessing employment opportunities. Under his leadership, teamwork, dedication, and customer focus, the Transport Licensing Appeals Board has been awarded the best Tribunal by the Judiciary for two consecutive years, 2020/2021 and 2021/2022.



Ms. Joyce Khanali Khamana receiving a plaque from the Ombudsman of Zambia, Her Excellency Mrs Caroline Sokoni

Huduma Kenya was awarded for innovatively reaching out to citizens through "Huduma Mashinani", Service by Appointment Platforms, and redefining efficiency in public service delivery with KRA being awarded for leveraging on technology, public education campaigns and alternative dispute resolution.

National Cancer Institute on the other hand was awarded for advancing citizens' health rights through dissemination of information with the KYBEB being awarded for promoting the right to access information by consistently packaging and availing government information in a variety of publications.



Ombudsman of Zambia, Her Excellency Mrs Caroline Sokoni presents a plaque to Principal Secretary, the State Department for Public Service, Mr. Amos N. Gathecha, and the Ag. CEO Huduma Kenya, Mr. Mugambi Njeru

In the institutional category for Public Service Delivery and Access to Information Categories, Huduma Kenya and Kenya Revenue Authority emerged in positions two and three, respectively in the Public Service Delivery Category, with the National Cancer Institute and Kenya Year Book Editorial Board (KYBEB) emerging position two and three in the Access to Information Category.



Ombudsman of Zambia, Her Excellency Mrs Caroline Sokoni presents a plaque to the CEO, the National Cancer Institute, Dr. Elias Melly



## HUDUMA OMBUDSMAN AWARD

The award ceremony also saw four institutions; Capital Markets Authority, Competition Authority of Kenya, University of Embu and Ol'lessos Technical Training Institute being recognised for outstanding performance on the 'Resolution of Public Complaints' and 'Implementation of Service Delivery Charter' indicators for the Last Six Financial Years (2017/18-2022/23) with four county governments and assemblies namely Vihiga, Kisumu, Elgeyo Marakwet, Bungoma, and Siaya being issued with compliance certificate under the Commission's Performance Contracting Framework.

The Ugatuzi Award Category also saw four governors being awarded for championing devolution. County of Homabay Governor, Hon. Gladys Wanga was recognised for advocating for climate change and open governance. Homabay County is at the forefront of enhancing access to information at the county level. The County launched the Climate Information Centre in October 2023, which is used to collect, analyse, and disseminate climate data on variables such as temperature, rainfall, wind, soil moisture, lake conditions, and extreme weather indicators.



The Cabinet Secretary for Public Service, Performance and Delivery Management, Hon. Moses Kuria presents a plaque to Homa Bay County Attorney, Mr. Fredrick Oregu who represented the Homa Bay Governor, H.E. Gladys Wanga

Governor Cecily Mbarire, County Government of Embu, was recognised for promoting access to information for enhanced public service delivery with Embu County being among the pioneering counties in the domestication of the Access to Information law and is currently further localising the law in accordance with section 96(3) of the County Governments Act, 2012.

The county has also in partnership with Fahamu initiated an Open County platform that provides access to information about county budgets and documents. Through the digital platform known as the Embu Open Governance Interactive Platform, the residents of Embu can engage in public participation using their phones. The digital platform creates an avenue for residents to interact with the county government, enabling them to contribute their opinions on the budget-making process and various government projects.



Principal Secretary, State Department for Public Service, Mr. Amos N. Gathecha, presents a certificate of recognition to the CEO, Capital Markets Authority, Mr. Wyckliffe M. Shamiah for outstanding performance on the Resolution of Public Complaints and Implementation of Service Delivery Charter.

Their counterparts from Makueni and Murang'a were also feted under the Ugatuzi Category. Hon Mutula Kilonzo Junior, the Governor of the County Government of Makueni was recognised for leveraging technology and innovation for enhanced transparency and social accountability.

Makueni County has established an online platform to manage its development budget. The County Projects Management System currently monitors budget allocation and performance data for various programs and projects across the 30 wards implemented since the 2013/14 fiscal year, primarily supporting the realisation of the County's Vision 2025. This initiative has notably reduced project delays, incompletions, and frequent cost overruns.

Hon. Dr. Francis Irungu Kang'ata, Governor, County Government of Murang'a on the other hand was recognised for digitisation of county government services for improved transparency and efficiency. Under his leadership, Murang'a County Government has endeavoured to automate and digitise its key government services, aiming to ensure effective and efficient service delivery.



The Cabinet Secretary for Public Service, Performance and Delivery Management, Hon. Moses Kuria presents a plaque to H.E. Dr. Francis Irungu Kang'ata, Governor, County Government of Murang'a



## HUDUMA OMBUDSMAN AWARD

The revenue collection system has played a pivotal role in achieving effective, efficient, transparent, and accountable local revenue collection. The county's Own Source Revenue (OWR) has notably increased from Kshs. 520M in the FY 2021/22 to Ksh650M in the FY 2022/23, attributed to the county government's automation of all its local revenue streams, including single business permits, physical planning, liquor licensing, among others.

The Huduma Ombudsman Award is one of the approaches the Commission has adopted to enhance accountability and responsiveness in the public service as well as promote compliance with administrative justice and access to information.

The broad objective of the award is to reward the contributions of a public officer or a public institution that lead to a more effective, accountable, and responsive public service.



Cabinet Secretary, Ministry for Public Service, Performance and Delivery Management, Hon Moses Kuria, delivering the key note address on behalf of the Chief Guest, His Excellency Dr. William Samoei Ruto, C.G.H., President of the Republic of Kenya.



CAJ Commissioners pose for a photo with Huduma Ombudsman Award finalists in the Public Service Category; Individual Category.

## HOW WE HAVE HELPED - SUCCESS STORIES

### Student Placed to a University Two Years Later

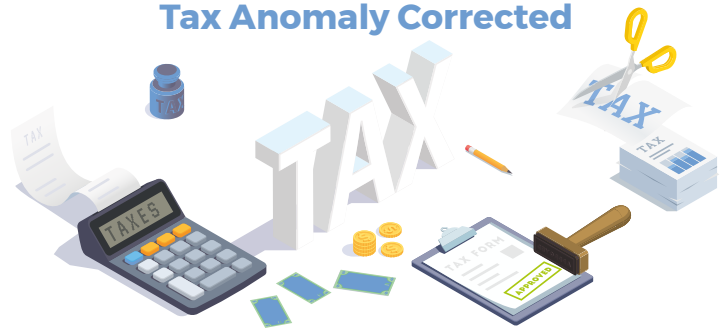
A visually impaired student was finally placed at a university by the Kenya Universities and Colleges Central Placement Service (KUCCPS) following the intervention of the Commission.

According to 22-year-old George Ojwang, he sat for his Kenya Certificate of Secondary Education (KCSE) exams at the Salvation Army Thika School in 2020 and scored a mean grade of C+. He was then placed by KUCCPS at Masinde Muliro University in 2021.

The university, however, wrote back to him indicating that it could not admit him because it did not have special facilities for students with special needs like him. The university, therefore, gave him a release letter to take to KUCCPS which he submitted together with other relevant documents. He later, out of his initiative, went to Mt. Kenya University and got an admission which he took to KUCCPS for his admission but they failed to place him. Following a further follow-up, he was informed that KUCCPS was busy with the admission of students who sat for their KKCSE in 2021 and 2022. The unresponsiveness by KUCCPS and his continued suffering impelled him to share his story on Ramogi TV on 18th September, 2023, which prompted the Commission to take up the issue on his behalf.

The Commission by way of inquiry took up the matter with the Chief Executive Officer, KUCCPS, on 20th September, 2023, leading to the placement of Mr. Ojwang to Kenyatta University to undertake a Bachelor of Education (Arts) French course.

### Tax Anomaly Corrected



A businessman finally had his bank accounts re-opened by the Kenya Revenue Authority (KRA) following the intervention of the Commission.

Mr. Mike Mwangi complained to the Commission alleging a delay by KRA to rectify a tax anomaly. According to him, an anomaly occurred when he was filling his Value Added Tax (VAT) for the tax period 2016. Whilst submitting his VAT returns, he erroneously filed his returns as Kshs. 11,583,147 as opposed to Kshs. 1,158,314 and upon noting this inadvertent error he filed an amended return which KRA failed to process.

Consequently, in June 2022, KRA issued a demand to him claiming Kshs. 7,519,482 and proceeded to direct the closure of all his business accounts. Upon lodging his complaint with KRA and furnishing the supporting documents thereto, there was a delay in resolving the matter which hampered his business operations despite his numerous follow-ups. His predicament impelled him to seek the intervention of the Commission on 19th May 2023.

The Commission by way of inquiry took up the matter which led to the issue being addressed and the reopening of his bank accounts.

### ID Card Issued

A citizen was finally issued with a national Identification Document (ID) card thanks to the intervention of the Commission in a case of inordinate delay.

Mr. Christopher Kwata complained to the Commission alleging a failure by the National Registration Bureau to issue him with a replacement for his identification card because his fingerprints were greatly damaged. Mr. Kwata sought the replacement of his identification card upon losing the same in 2020. He was advised that he should wait for his fingerprints to grow and afterward apply for the identification. However, he unsuccessfully applied for the replacement numerous times in 2021 and 2022, and feeling aggrieved with the suffering occasioned him due to lack of an identification card, he sought the Commission's intervention.

The Commission took up the matter with the National Registration Bureau leading to the issuance of an ID card.





## HOW WE HAVE HELPED - SUCCESS STORIES

### Land Compensation Finalised



A resident of Kwale County finally received compensation for his land from the National Land Commission (NLC) thanks to the Commission.

Mr. Edward Tunu complained to the Commission on behalf of Mwinyi Hamisi Mwalimu alleging the delay by the NLC to process compensation for land parcel number Kinango/ Mazeras/944 in Kwale acquired for purposes of the construction of the Standard Gauge Railway. The delay and the unresponsiveness from the NLC pushed him to complain to the Commission.

The Commission by way of inquiry and several correspondences between the Commission, the Kenya Railways, and NLC. Consequently, the Kenya Railways instructed NLC to utilise the compensation funds held in their accounts for SGR phase-one to pay all cleared and determined cases. The NLC eventually paid the full compensation amount of Kshs. 633,478 in September 2023 resolving the complaint.

### Land Compensation Made Following Ombudsman Intervention

Four residents of Naivasha were compensated by the Kenya Electricity Transmission Company Limited (KETRACO) following the intervention of the Commission in a case of inordinate delay.

The four; John Kiragu, Haron Njenga, David Njihia, and Isaac Kiruri, complained to the Commission alleging delay by KETRACO to settle dues owed as compensation following the compulsory acquisition of portions from their respective land parcels in Mwachiringiri Block 4 adjudication section in Naivasha, Nakuru County, for the construction of the Olkaria-Lessos-Kisumu 400/220kv transmission line project.

The Commission by way of inquiry took up the matter with the Chief Executive Officer, KETRACO, leading to payment of their dues amounting to Kshs. 3,200,000.



### Salary Arrears Settled

A teacher finally received his salary dues from the Teachers Service Commission (TSC) following the intervention of the Commission.

Mr. Benson Musimbi complained to the Commission alleging delay by TSC to settle dues owed to him in salary arrears whilst he was on interdiction for two years despite his disciplinary proceedings having been concluded on 23rd October 2022 where a verdict of dismissal from service was rendered for the charge of conduct that was levelled against him whilst attached to Bishop Sulumeti Secondary School, Kakamega County. The delay he said was occasioning him pain and suffering as a consequence of the financial constraints impelling him to seek the intervention of the Commission.

The Commission by way of inquiry took up the matter with the Chief Executive Officer, TSC, leading to his dues being paid on 27th October 2023.



### University Student Graduates Two Years Later

Imagine your graduation being delayed for two years because of the inefficiencies of a university. This was the predicament that befell Victorine Kiprono a student at the University of Eldoret when her graduation was delayed for two years.

Ms. Kiprono complained to the Commission alleging inefficiency by UoE. According to her, she was a student of UoE Main Campus pursuing a Degree in English and Literature, Department of Languages and Literature. She completed the course in 2020 and was to graduate in March 2021. However, she could not graduate due to an anomaly in the University's system which led to the omission of her name.

In the 2022 graduation, she again missed out on grounds of missing marks in the University's system. In light of these inefficiencies and fearing that she was going to miss out on the 2023 graduation, she sought the intervention of the Head of Department who was unresponsive to her concerns. The predicament pushed her to seek the intervention of the Commission.

The Commission took up the matter with the Chairperson of the University's Complaints Committee leading to the resolution of the complaint and her name was included in the list of the 2023 graduands. Ms. Kiprono duly graduated on 30th November, 2023.

## PRISON VISITS

### Manyani Maximum Security Prison



CAJ Senior Legal Officer, Ms. Esha Mohamed sensitising the inmates during the prison visit.

The Commission, in collaboration with the National Legal Aid Service and the Office of the Director of Public Prosecutions, conducted a legal aid and outreach activity at Manyani Maximum Security Prison. The activity was designed to address the multifaceted needs of the incarcerated population.

One of the primary goals was to establish a platform for inmates to express their concerns and grievances, enabling the Commission to receive and address their complaints. The Commission aims to strengthen the existing complaint resolution system within the prison, making it more efficient and accessible to detainees. The outreach program aimed to educate both prisoners and prison staff about the principles of Administrative Justice and Access to Information, equipping them with knowledge of their rights and responsibilities.

The programme provided legal aid services to both convicted individuals and those in pretrial detention, ensuring that they have access to fair legal representation. This effort underscores the Commission's dedication to upholding the principles of administrative justice and human rights within the prison environment. Over the course of the initiative, 1,200 inmates were reached, and 300 complaints were received.

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



### Industrial Area Remand and Allocation Prison

In Nairobi, a team from the Commission led by Assistant Director Complaints, Legal Services, and Regional Coordination, Ms. Sarah Muthiga on Friday, December 15, 2023, conducted a prison visit to Industrial Area Remand and Allocation Prison to sensitise the prison staff, remandees, and other inmates on the mandate of the Commission. The team also provided legal aid to the persons in custody in the facility and to prison officers.



Assistant Director, Complaints Legal Services & Regional Coordination, Ms. Sarah Muthiga, presents various publications to the Deputy Officer in Charge of the facility, Mr. Wilson. Sirwongot.

This endeavour underscores the Commission's commitment to upholding the principles of administrative justice and human rights within the prison environment. Through the initiative, the team interacted with 30 officers and 1,500 inmates and received over 200 complaints in the process.



An Inmate presenting a memorandum to the Commission. The memorandum covered various issues affecting them within the legal system.

The Commission is mandated to receive correspondence from any person in custody (prison, remand, or mental institution) in confidence and under seal. The Commission works with relevant organs to remedy concerns raised by such persons including conditions of living and administrative injustices within the facilities.



## PARTNERSHIPS

### Commission hosts officials from the Institute of Certified Secretaries

The Commission on Tuesday, October 24, 2023, hosted officials from the Institute of Certified Secretaries led by the Chairman, FCS Joshua W. Wambua.

The meeting discussed areas of collaboration and mutual partnership, among them, Technical support in complaint handling and access to information by the Commission for the ICS management and staff, and joint public awareness and education forums. The ICS team also highlighted future training for the Commission on Governance.

Present at the meeting from the Commission were the Commissioner in Charge of Access to Information, Ms. Lucy Ndung'u, the Commission Secretary/CEO, Ms. Mercy Wambua, and various heads of departments and divisions. Accompanying the Chairman from ICS were the CEO, FCS Jeremiah N. Karanja, and other council members.



A team from the Commission led by the Commissioner in-charge of Access to Information, Ms. Lucy Ndung'u poses for a photo with a delegation from Institute of Certified Secretaries led by the Chairman, FCS Joshua W. Wambua.

## CUSTOMER SERVICE WEEK 2023

The Commission in October 2023 joined the world in the celebration of the Customer Service Week 2023 under the theme "Driving Customer Service Agility". The Commission utilised the week to extend its heartfelt gratitude to all its staff in customer service and its valued customers. At the headquarters, the Commission CEO, Ms. Mercy Wambua, led staff and customers to mark the start of the Week with a symbolic cake cutting.

Ms. Wambua commended the exemplary work done by the staff in delivering services to the public. The week was also marked at the Commission's regional offices including Kisumu, Eldoret, and Mombasa where staff took an opportunity to share a cake with the customers who are beneficiaries of Ombudsman Services.

In Meru, Kakamega, and Kisii, the Legal Assistants at the Huduma Centres utilised the week to undertake public outreach and to publicise the service points. In Meru, the Huduma Centre celebrated Customer Service Week by conducting public education along Njuri Ncheke Street where the Commission's legal assistant disseminated IEC materials and educated the public on the Commission's mandate.

During the week the team also conducted public outreach at the Meru main market (Gakoromone) where the public and the market vendors got an opportunity to learn more about the Commission and received legal aid. During the activity, over two hundred people were reached.



Commission Secretary/CEO, Ms. Mercy Wambua sharing a cake with customers and staff during the Customer Service Week.

In Kakamega, the Commission celebrated Customer Service Week by conducting a public outreach at Kakamega Municipal Market and Muliro Gardens on Wednesday, 4th October 2023 where the public was educated on the mandate of the Commission and received legal aid.

The Kisii Huduma Center organised a prison visit to the Kisii GK prison during Customer Service Week. During the prison visit, the Kisii Huduma Centre Legal assistant educated a total of 130 individuals comprising staff, select prisoners, and members of the public who had visited the prisoners, on the Commission's mandate and workings. The Commission also offered free legal aid to the participants.



## FLLOCA COUNTY ENGAGEMENTS



A team from the Commission led by the Commissioner in charge of Access to Information, Commissioner Ms. Lucy Ndung'u, during a courtesy call on the West Pokot County, Climate Change Unit led by Hon. Lucky Litole, the CEC Member for Water, Environment, Natural Resources and Climate Change.

As part of the continued engagements under the Financing Locally Led Climate Action (FLLoCA) programme in partnership with the National Treasury and Economic Planning, the Commission visited several counties in the months of October and November.

In West Pokot County, the Commissioner in charge of Access to Information, Ms. Lucy Ndung'u, on 17th October 2023, led a delegation from the Commission when they paid a courtesy call on the West Pokot County Governor H. E. Simon Kachapin, the Deputy Governor, H.E Robert Komolle, and Senior County government leadership. The visit was aimed at promoting the Commission's mandate of enforcing Administrative Justice and Access to Information for effective service delivery.



A delegation from the Commission led by the Commissioner in charge of Access to Information, Ms. Lucy Ndung'u during a courtesy call on the County Governor, West Pokot County Government, H. E. Simon Kachapin.

The Commission, in partnership with FLLoCA, committed to offering technical support on complaints handling and access to information arising from implementing the FLLoCA programme in the County. The Commission will also work hand in hand with the County Government of West Pokot to establish an effective mechanism for complaints resolution and access to information in the County.

The team later met with the West Pokot County Climate Change Unit led by Hon. Lucky Litole, the County Executive Committee Member (CECM) for Water, Environment, Natural Resources and Climate Change, and the West Pokot County Commissioner, Mr. Apollo Okello.

The delegation later on Thursday, October 19, 2023 paid a courtesy call on Trans Nzoia County Commissioner, Mr. Gideon Oyagi, and the County Governor of Trans Nzoia County, H. E. George Ntembeya, County Assembly representatives, and the County Climate Change Unit. The visit was aimed at promoting the Commission's mandate of enforcing Administrative Justice and Access to Information for effective service delivery.



A delegation from the Commission led by the Commissioner in charge of Access to Information, Ms. Lucy Ndung'u during a courtesy call on the County Governor, Trans Nzoia County Government, H. E. George Ntembeya.

In Samburu County, the Vice Chairperson, Comm. Washington Sati on Tuesday, October 24, 2023, paid a courtesy call on the Deputy Governor, County Government of Samburu, Hon. Gabriel Lenengwesi.

The team later held a consultative meeting with the technical team from the Samburu Climate Change Unit. The visit aimed to support the county in setting up proper complaints handling infrastructure for promoting the administration of justice and access to information.

The team later on Wednesday, October 25, 2023 paid a courtesy call on the Assistant County Commissioner. The Commission will partner with National Government Administration Officers to undertake public awareness and education through existing administration structures, complaints handling and capacity building of NGAO officers.



The Vice Chairperson, Mr. Washington Sati and the Deputy Governor, County Government of Samburu, Hon. Gabriel Lenengwesi addressing the media.



## FLLOCA COUNTY ENGAGEMENTS

### The Commission to Support County Assembly of Samburu on GRM and ATI



The Vice Chairperson, Mr. Washington Sati receiving a gift from the speaker of the County Assembly of Samburu Hon. Steve Lenamarle.

The Commission has undertaken to support the County Assembly of Samburu in the domestication of access to information law and the development of a county complaints handling policy. This was discussed when a team from the Commission led by the Vice Chairperson met with the Speaker of the assembly, Hon. Steve Lenamarle together with the Clerk and the Senior Management team on Tuesday, October 24, 2023 as part of the county engagements implemented by the Commission with the support of the National Treasury under the Financing Locally Led Climate Action Program (FLLoCA).

The Commission will also partner with the Members of the County Assembly in taking its services to the grassroots.

In Kwale County, the Commission led by the Chairperson, Hon. Florence Kajuju on Tuesday, October 24, 2023, paid a courtesy call on the Governor, County Government of Kwale, H.E. Fatuma Mohamed Ahani. The team also held a consultative meeting with the technical team from the County Government including representatives from the County Climate Change Unit. The visit aimed to support the county in setting complaints handling infrastructure for promoting administrative justice and access to information.



The Chairperson of the Commission, Hon. Florence Kajuju during a courtesy call on the Governor, Kwale County Government H.E Fatuma Ahani

The team later met with the County Assembly Speaker, Hon. Seth Mwatela Kamanza and County Clerk, Ms. Fatuma Mwalupa. The speaker pledged to support the Commission and the County Executive towards the establishment of the County Administrative Ombudsman.

The Director, Public Education, Advocacy and Corporate Communications, Mr. Osman Mohamed alongside the FLLOCA representative, Mr. Molu Huqa later visited the Kwale County County Commissioner, Mr. Meru Mwangi. The meeting aimed to brief the county leadership on the ongoing program. It was agreed that the Commission would work with the Commissioner's office to build the capacity of staff on complaints management and handling and processing of information requests.



The Director, Public Education, Advocacy and Corporate Communications, Mr. Osman Mohamed presents various publications to the County Commissioner, Kwale County, Mr. Meru Mwangi.

### The Commission to Support County Assembly of Laikipia in Domesticating Access to Information Law

The Commission has committed to partner with and offer technical support to the County Assembly of Laikipia in domesticating access to information law and in coming up with a County Complain Policy. This was discussed on Thursday, October 26, 2023, when a team from the Commission led by the Vice Chairperson, Mr. Washington Sati paid a courtesy call to the Deputy Clerk, Mr. Gichuki Waweru.

The meeting was part of the ongoing county engagements implemented by the Commission with the support of the National Treasury under the Financing Locally Led Climate Action Program (FLLoCA).

Cmmr. Sati was accompanied by Ms. Florence Mumbi, Director Complaints, Investigation, and Legal services, and technical officers from the various departments of the Commission.

## FLLOCA COUNTY ENGAGEMENTS

### Laikipia County to be a Model County on Grievance Redress and Access to Information

Laikipia County will be a model County for Grievance Redress and Access to Information. This was the commitment from the Governor, County Government of Laikipia, H. E. Joshua Irungu, when he met a team from the Commission led by the Vice Chairperson, Mr Washington Sati during the ongoing county engagement implemented by the Commission with the support of the National Treasury under the Financing Locally Led Climate Action Program (FLLoCA).

The Commission noted that the County has set up complaints mechanisms, and committed to building the capacity of County staff to facilitate resolution of public complaints and access to information.

Hon. Irungu committed to working closely with the Commission to strengthen the GRM and ATI mechanisms, as well as domesticate the county complaints handling.

Present during the meeting were the Deputy Governor, H.E Reuben Kamuri, and Senior County leadership.



Commission Vice Chairperson, Mr Washington Sati presents a gift package to the Governor, County Government of Laikipia, H. E. Joshua Irungu.

In Kilifi County, the Chairperson, Hon. Florence Kajuju led a team from the Commission during a courtesy call on Governor County Government of Kilifi, H.E. Gideon Mung'aro, on Thursday, October 26, 2023.

During this meeting, the parties delved into potential opportunities for collaboration and partnership, focusing on enhancing the resolution of public complaints and improving access to information.

The objective of the FLLOCA program and the Commission is to provide counties with technical support in effectively addressing complaints stemming from the program's implementation.



A team from the Commission led by the Commission Chairperson, Hon. Florence Kajuju during a courtesy call on the County Commissioner, Kilifi County, Mr. Josphat Biwot.

The team later paid a courtesy call on the Kilifi County Commissioner Mr. Josphat Biwott and the Kilifi County Assembly Speaker Hon. Teddy Ngumbao Mwambire.

An agreement was reached for the Commission to collaborate with the Commissioner's office and the County Assembly in enhancing the skills and knowledge of staff in managing complaints and processing information requests.

In Homabay County, a team from the Commission led by the Director Access to Information Ms. Viola Ochola together with National Treasury Financing Locally led Climate Action (FLLOCA) program representative Mr. Simon Ochieng with on Tuesday 31 October, 2023, paid a courtesy call to the Homabay County Secretary Prof. Benard Muok.

The meeting discussed the mandate of the Commission and its role in enhancing the county's capacity in complaint handling including resolution of FLLOCA related complaints. It was agreed that the Commission would continue to work closely with the County to support complaints resolution and enhanced access to information.



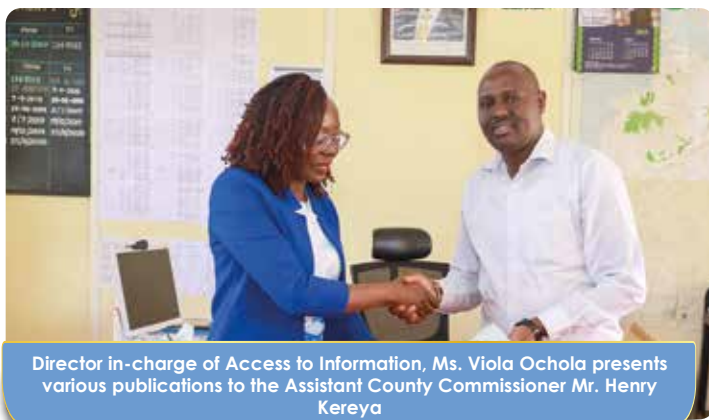
Homabay County Secretary, Prof. Benard Muok when he hosted a delegation from the Commission.



## FLLOCA COUNTY ENGAGEMENTS

The team later visited the newly operationalised Homabay County Climate Action Information; a one of a kind climate information unit that relies the weather forecast to farmers and Fishermen to help with planning on farm preparation and fishing decisions.

The team later paid a courtesy call on the Homabay County Commissioner Mr. Moses Lilan who was represented by Assistant County Commissioner Mr. Henry Kereya. The team also carried out a sensitisation session on the Homabay County Chief Officers and Directors on the mandates of the commission and the Commission's nexus in the FLLOCA program.



Director in-charge of Access to Information, Ms. Viola Ochola presents various publications to the Assistant County Commissioner Mr. Henry Kereya

Subsequently, the team held discussions with the speaker of Homabay county, Hon. Julius Gaya, regarding the domestication and implementation of the Commission's model complaints management policy and access to information policy within the county.

Later, the Commission Chairperson, Hon. Florence Kajuku paid a courtesy call on Homabay County Governor, H.E. Gladys Wanga. They explored measures to enhance the handling of complaints and improve access to information frameworks in the county, including the establishment of a County Administrative Ombudsman.

Hon. Kajuku also toured the Homabay County Climate Change Unit Information Center. This center plays a crucial role by providing real-time responses to information requests and enabling citizens in Homabay County to lodge complaints efficiently.



Commission Chairperson, Hon. Florence Kajuku presents a branded clock to the Governor, Kisii County Government, H.E. Simba Arati during a courtesy call.

In Kisii County, the Commission Chairperson, Hon. Florence Kajuku led a team from the Commission when they paid a courtesy call on Kisii County Governor H.E. Simba Arati. The team also met the representatives from the County Executive and explored steps to take in strengthening complaints handling and access to infrastructure frameworks in the county.

Later the team had consultative talks with Speaker of the Kisii County Assembly, Hon. Dr. Phillip Nyanumba and the Management Committee. The talks were focused on the domestication and implementation of the Commission's model complaints management policy and access to information policy within the county.



A delegation from the Commission led by Chairperson, Hon. Florence Kajuku during a meeting with Speaker of the Kisii County Assembly, Hon. Dr. Phillip Nyanumba and the Management Committee.

Subsequently, a delegation led by the Director Access to Information Ms. Viola Ochola together with National Treasury Financing Locally led Climate Action (FLLOCA) program representative Mr. Simon Ochieng paid a courtesy call on the Kisii County Commissioner Mr. Tom Anjere.





## FLLOCA COUNTY ENGAGEMENTS

### Commission to remedy deficiencies in public service



A team from the Commission led by the Commission Secretary/CEO, Ms. Mercy Wambua when they paid a courtesy call on the Deputy Speaker, County Assembly of Bomet, Hon. Leonard Rotich.

The Commission will take steps to remedy deficiencies in public service in some State agencies. Speaking in Bomet County, Commission Secretary, Ms. Mercy Wambua, disclosed that clergy and residents in the county had raised concerns about the delays in accessing marriage certificates, national identity cards, and pension for retired teachers and other public servants.

She spoke after consultations with senior County officials led by the Deputy Governor, H.E. David Shadrack Rotich, County Secretary, Mr. Simon Langat, County Executive Committee Members, Chief Officers, Directors, and other senior staff.

The engagement was part of the Commission's outreach to counties to support them put in place citizens' complaints resolution infrastructure under the Financing Locally-Led Climate Action programme, and the need for counties to domesticate the access to information law.



The Commission Secretary/CEO, Ms. Mercy Wambua addressing the media after a meeting with senior county officials led by the Deputy Governor, H.E. David Shadrack Rotich

On his part, H.E. Rotich appreciated the partnership initiative, emphasising that all public agencies serve the same citizens, hence the need to work collaboratively.

He appreciated the Commission's offer to support the County Ombudsman office to be effective and strong enough to devolve its services to the ward level.

The Commission also encouraged the Bomet County Assembly to pass progressive legislation to enhance service delivery and citizens' rights. The Commission Secretary/CEO, Ms. Mercy Wambua, also encouraged the Assembly to make it possible for public participation engagements to be meaningful through sharing of information in appropriate language and formats to make citizens better informed.

She spoke when she paid a courtesy call on the Assembly's Deputy Speaker, Hon. Leonard Rotich, and staff. Hon. Rotich expressed concern that many residents were suffering due to service failures in public offices and applauded the Commission for reaching to devolved units to strengthen their abilities to deliver on their mandates.

### The Commission to partner with Narok County to improve service delivery.



A team from the Commission led by the Director Strategy, Research and Compliance, Mr. Geoffrey Obonyo during a meeting with the County Commissioner, Narok County, Mr. Isaac Masinde.

The Commission will partner with the County Government of Narok, County Assembly of Narok, and National Government Administration Officers to improve service delivery and access to information by residents of Narok County.

This was disclosed when a team led by Mr. Geoffrey Obonyo, Director Strategy, Research and Compliance, paid a courtesy call on leaders of the three entities and conducted public awareness in the County on Thursday and Friday.

Narok County Commissioner, Mr. Isaac Masinde, said his office will support the Commission in addressing complaints from residents and jointly conduct sensitisation forums for wananchi and public officers to improve service delivery.



## FLLOCA COUNTY ENGAGEMENTS



A team from the Commission led by the Director Strategy, Research and Compliance, Mr. Geoffrey Obonyo poses for a photo with the Deputy Governor, County Government of Narok, H.E. Tamalinye K. Koech.

On his part, Deputy Governor, H.E. Tamalinye K. Koech, said the County will support the Commission's public outreach endeavours through its grassroots structures.

County Assembly Speaker, Hon. Davis ole Dikirr, at a meeting in his Chambers, expressed readiness to collaboratively work to serve residents of the county. Consequently, the Commission and the Assembly will undertake sensitisation of the leadership and members of the public to empower them to demand effective services and access to information.

Hon. Dikirr emphasised the need for government agencies at both levels to work collaboratively, noting with appreciation the cordial working relationship between the Assembly and the County Executive led by the Governor, Hon. Patrick ole Ntutu.

The Commission was visiting Narok County as part of sensitisation programme on resolution of public complaints under the Financing Locally-Led Climate Action programme which aims to strengthen climate resilience among communities in Kenya.

## CORPORATE SOCIAL RESPONSIBILITY

### The Commission Participates in Standard Chartered Nairobi marathon

As part of its Corporate Social Responsibility and promoting staff wellness, a team from the Commission led by the Vice Chairperson, Mr. Washington Sati, and the Commission Secretary/ CEO, Ms. Mercy Wambua, on Sunday, October 29, 2023, participated in the Standard Chartered Nairobi Marathon. The Commission participated in the full and half marathons and the 10km race.



Commission Vice Chairperson, Mr. Washington Sati, the Commission Secretary/ CEO, Ms. Mercy Wambua and staff during the Standard Chartered Nairobi Marathon.



**THE COMMISSION ON  
ADMINISTRATIVE JUSTICE**  
(Office of the Ombudsman)  
*Hata Mnyonge ana Haki*

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Mombasa Regional Office  
Isiolo Regional Office  
Nyahururu Regional Office  
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## VISIT HUDUMA DESK

Huduma Centres:

Kakamega, Nyeri, Embu, Kajiado,  
Nakuru, Kisii, Kwale, Meru,  
Makueni, Wundanyi, and Nairobi  
(Teleposta Towers)

## VISIT OUR OFFICES IN:

- Nairobi** : 2<sup>nd</sup> Floor, West End Towers Opposite Aga Khan High School off Waiyaki Way – Westlands
- Kisumu** : 2<sup>nd</sup> Floor, Central Square Building, Oginga Odinga Street)
- Mombasa** : 4<sup>th</sup> Floor, Posta Pension Towers (GPO, Digo Road – Mombasa City
- Eldoret** : 7<sup>th</sup> Floor, Kerio Valley Development Authority (KVDA) Plaza, Oloo Street
- Nyahururu** : Next to Laikipia West Constituency Offices
- Isiolo** : County Estate along Kiwanjani Road
- Garissa** : Hosted by National Gender and Equality Commission, Off Lamu Road)



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## OPINION

# Focusing On the Role of the Commission on Administrative Justice Through the Democratic Lens

By Erick Mwamba Odero

This article addresses the significant role played by the Commission on Administrative Justice to reinforce democracy and the rule of law—two tenets upon which the law is founded to stump its ability to effectively serve the citizens of Kenya. In doing so, it examines the contribution of the Commission towards redefining the quality of democracy. The technique taken to decipher the quality of democracy is by way of comparison with the role played by the courts. This will enable this article to elucidate the distinctive contribution of the Commission's norms and procedures. On the backdrop of this, it discerns the thin line that exists between legality and mal-administration.

### Introduction

Speaking from a contextual perspective, how do we discern the brisk growth of the Commission on Administrative Justice as an institution in Kenya? To answer this, this article focuses on two major tenets or what other quarters will call guidelines. These are the rule of law and democracy. These two guidelines have a profound effect that fettle both institutional and political circumstances under which the Commission on Administrative Justice functions and operates with the main goal of serving administrative justice to the citizens of the Republic of Kenya. Contemporarily, the rule of law and democracy are seen to be siamese pair that is inseparable. These two are however separable and far more technically perceptible from one another.

**RULE OF LAW** recounts a situation in which all the members of a particular society live and subscribe to a set of legal framework and that no other member of that society is above the law. Such findings were embedded by a famous French Law Scholar and Judge Baron De La Brede Et Montesque in his write up "THE SPIRIT OF THE LAW". Similarly scanty origins of the same can be traced back to the relationship between English Feudal Lords and Vassals which demonstrated a tight nexus of reciprocating rights and contractual obligations. Narrowing from these dissertations, the rule of law underpins the principle that every person is subject of law and shall not pay homage to any extraordinary arrangement.

A special footing in relation to the rule of law is that it also underpins its existence on *stare decisis* to emphasize that Courts play a critical role to build the basis upon which the rule of law is founded, developed and characteristically accepted (in what Max Weber refers to as legal-rational rule).



In totality, the drastic development of the rule of law has led to the development of socio-political arrangements which are characterized by the relationship between the powers that be and the subjects for that matter. It is from this perspective that it's demonstrated how power has never taken a direct trajectory but rather through mediation by institutions enjoying legal recognition such as the Commission on Administrative Justice. Such institutions place a limit on persons vested with authority to exercise the same within the structures of the law.

On this footing, the Commission on Administrative Justice is thus guided by previous court decisions and can only exercise its role by giving recommendations to the institutions or public offices involved. Distinctively, the courts determine the legal rights of aggrieved parties while the Commission on Administrative Justice takes into account the principle of administration. Secondly, the rules that apply in the administration of justice by the courts are strict while those applied by the CAJ are flexible. To this end therefore, the Commission on Administrative Justice carries the mandate of complementing the works of the court.

**DEMOCRACY** on the other hand as defined from a minimalistic point of view calls for preconditioning of legitimacy and effectiveness. Within such premises, there exists political liberties such as fair elections; existence of a multiparty arrangement and the absence of veto forces to subvert the popular will of the people. The implication of analyzing democracy from this angle cannot be associated with the legislature or conduct of elections alone.

A desultory focus on most nations the world over demonstrates that the forms adopted in carrying out their electoral process fall short of the criteria upon which democracy is defined within this context. From this backdrop, it is clearly demonstrated that there is a close relationship between democracy and legitimacy. Simply put, the acceptance of legitimacy by the citizens of a country paves way for the smooth operationalization of democracy. Arguing from this point, the modern democracy was constructed on liberty and equality. Similarly, the conceptualization of democracy in its ideal form is signaled by pluralistic approach in search for a premier stability between institutions.

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Suffice this to say that the expressive egalitarian principles demonstrated here spark a balance on the dense network of institutional checks and balance that are consistent with the mediated structure of power. This therefore creates a platform upon which quasi-governmental bodies such as the Commission on Administrative Justice swiftly move to provide a condition for the observance of the rule of law and democracy. Similarly, the Commission on Administrative Justice's capacity to fulfill its role critically depends on being purely impartial and non-partisan. This forms the basis of its independence.

### Norms in CAJ'S Works

Just like the courts, the Commission on Administrative Justice partakes cases on individualistic basis. The Commission ponders how cases should be treated by public authorities. Characteristically, the Commission on Administrative Justice establishes the guiding principles upon which public officers can operate. The office of the Commission on Administrative Justice does not handle cases on a reactive basis but rather proactively. This is distinctively exercised through a checklist of fair administrative practices and redressing maladministration through enquiries. The fact that the Commission on Administrative Justice had its powers to make binding decisions trimmed in the case of Commission on Administrative Justice vs Vision 2030 Delivery Board and 2 others [eklr 2015] demonstrate that its effectiveness as an office is hinged on moral authority and its ability to shape public opinion. In a setup where pluralist variances of democracy and rule of law are given relevance, public authorities and governmental bodies will embrace the recommendations of the Commission on Administrative Justice.

By contrast, within the realm of *stare decisis*, the concern is largely based on strict adherence to legality by the general public while for the CAJ; the paradigm is based on promotion of fair administrative action. Subsequently, it is worth noting that maladministration and legality lappet on one another. This is based on the fact that the role of managing public authorities is the mandate of rule of law. Suffice this to say that administering a public mandate should fall within the premises of the law or simply put, an act that is outside the law is a maladministrative action.

### Legality and Maladministration

Legality even though is based on the concept of law and fundamental rights; it is not exhaustive of good administrative governance. Rule of law calls for every state officer and departments to act within the premises of the law. Ultra vires actions are maladministrative and a gross violation of the law per se. Conversely, this is not necessarily correct because the fact that a public officer has acted within the law does not inhibit the prospects that he acted outside the premises of fair administration. This therefore justifies that the contribution of the Commission on Administrative Justice ameliorate the quality of democracy and the rule of law in Kenya.

Fair administration was initiated to serve the general good of the public.

Such an initiative is expressed through service mindedness, friendliness and the right to fair administration as spelled in Article 47 of the Constitution of Kenya 2010. The consequences bound within fair administration include the duties to observe politeness, fair judgment and reasonableness. Many a time, a thin line has been drawn between legal requirements which of course remain the duty of the court to determine and fair administration which recounts public authority than mere violation of the law. Suffice this to say that fair administration orbit around unrestricted practice or other the willful possibility to choose legality between two courses.

Article 50 of the Constitution of Kenya 2010 spells that every citizen has the right to judicial remedy and of course such a right extends to public administration. This remains a fundamental right protected by the Constitution. To this end however, initiating judicial proceeding for violation of a right to fair administration though sufficient enough, may not be a popular undertaking. This is because the approach taken by the Commission on Administrative Justice to dispose administrative complaints is cheaper and faster as compared to time and resources that would be invested during judicial proceedings. In such instances, the Commission on Administrative Justice engages the Alternative Dispute Resolution (ADR) gear to solve related cases. Secondly, the Commissions on Administrative Justice's services are free and complainants who cannot initiate judicial proceedings may as well acquire sufficient and satisfactory remedy on the spot. The end goal for this is that it widens the scope of obtaining justice in Kenya.

### Conclusion

Making an overall assessment of the contributions made by the Commission on Administrative Justice to democracy and the rule of law, this article sums it up that the courts remain the bedrock upon which the rule of law rests. Vacating the role of the judiciary as the custodian of democracy and rule of law diminishes by great length the complementary role played by the Commission on Administrative Justice. However, where the judiciary sufficiently performs its functions spells an excellent rendition of the Commission on Administrative Justice to reinforce democracy and the rule of law. The discretionary route adopted by the Commission on Administrative Justice serves to give complainants a range of democratic offers to enhance the quality of justice.

The evolution of the Commission on Administrative Justice as an institution to reinforce democracy and rule of law contributes to the development of a fair justice system in Kenya. To this end therefore, the Commission on Administrative Justice not only works to complement the works of the courts but also empowers the citizens by strengthening democracy and reinforcing the rule of law. It becomes the complementary foundation upon which the quality of constitutionalism that embodies democracy and rule of law rests on.





## OPINION

# Office of the Ombudsman has a critical role to play in the realisation of SDG 16

By Edward Opany

Sustainable Development Goals (SDGs) form the global development blueprint for 2015–2030, focusing on economic, social and environmental pillars. Specifically, SDGs represent the points of reference for development actors at all levels, and provide a framework for accountability, international co-operation and sustainable development.

SDG 16 particularly focuses on effective, accountable, inclusive and transparent institutions, and strengthening of national institutions through international co-operation and capacity building to promote the rule of law and conflict management. In this context, the SDG underscores the centrality of good governance and inclusive and responsive decision-making in ensuring sustainable development. The SDG also underscores the significance of institutions in actualisation of the SDGs and realisation of more peaceful, inclusive and just societies.

In Kenya, SDGs have not only been mainstreamed in the country's development agenda and programmes, but have also formed the point of reference for accountability by different institutions. This has been bolstered by the establishment of independent oversight institutions to promote constitutionalism by complementing the checks and balances represented in the conventional three arms of government.

Some of these independent oversight institutions include the Commission on Administrative Justice (commonly known as the Office of the Ombudsman), Ethics and Anti-Corruption Commission, Kenya National Commission on Human Rights, National Gender and Equality Commission, the Office of the Auditor General, and many others. These institutions play a central role in the implementation of SDGs ranging from the promotion and protection of human rights to ensuring the rule of law through accountable governance.

Generally, Ombudsman institutions play critical roles in the advancement of transparency, efficiency and accountability in governance. This is primarily achieved through promotion of administrative justice, ethical and accountable leadership as well as respect and protection of human rights. According to the Human Development Report of 2002 on the theme 'Deepening Democracy in a Fragmented World,' Ombudsman institutions are important pillars of state transformation that make democracy effective and meaningful.

In the context of SDG 16, the targets generally fall within the mandate of Ombudsman institutions. It is worth noting that the targets under SDG 16 are relevant to the realisation of all SDGs; peace, inclusivity, security and accountability are cornerstones that support the realisation of sustainable development. To this end, SDG 16 is an indispensable and facilitative goal.

The role of Ombudsman institutions in ensuring the realisation of this SDG is further demonstrated by their role and expertise in mediation which is important in peace-building and conflict management. The linkage, therefore, enables Ombudsman institutions to not only domesticate the goals, but also ensure accountability through monitoring the status of implementation of SDGs.

The Office of the Ombudsman of Kenya has significantly contributed to the realisation of SDGs, particularly SDG 16 in Kenya. First and foremost, the Commission has promoted the rule of law and access to justice by providing a cheap, accessible and impartial platform to the public, including marginalised and minority groups for redress of administrative injustices. Indeed, handling of administrative injustices forms the primary mandate of the Office of the Ombudsman to an extent that by end of June 2019, it had handled over 800,000 complaints out of which 87% had been resolved.

Second, the Office of the Ombudsman has also improved access to justice by providing an alternative to litigation which is generally tedious, lengthy and costly. The Office of the ombudsman offers free services and ensures speedy resolution of complaints. It also presents a unique platform where grievances between societies and the government are redressed through simple reconciliatory processes fostering trust in government institutions. The Office of the Ombudsman has also adopted an inquisitorial approach in the resolution of conflicts unlike Kenyan courts which are adversarial in nature.

Third, the Office of the Ombudsman mainstreamed and adopted Alternative Dispute Resolution (ADR) methods in the redress of complaints. This is in line with the Constitution and the Commission on Administrative Justice Act both of which empower the Office of the Ombudsman to promote ADR methods in the resolution of complaints. In this context, ADR complements the conventional judicial dispute resolution method.

## OPINION



ADR has, for instance, been employed in disputes relating to employment, disciplinary processes, payment of retirement benefits and land among others. Notably, the Office of the Ombudsman mediated a dispute relating to ownership of land in Ntulele, Narok County which had created tension in the community since it involved an order for eviction of many people from their land. This dispute had been referred to The Office of the Ombudsman by the High Court of Kenya. It is important to note that ADR is more suitable certain types of disputes than the formal judicial process. The positive outcomes of ADR methods so far employed has informed its mainstreaming in capacity building process in the public sector by the Office of the Ombudsman thereby promoting SDG 16 in relation to peace-building and conflict management.

Fourth, the enforcement of the right of access to information under Article 35 of the Constitution and the Access to Information Act, 2016 has promoted participation of the public in governance and open government. This has mainly been achieved through review of decisions of public and private bodies, promotion of proactive disclosure, capacity building to public institutions and officers as well as public education. To this end, the Office of the Ombudsman has reviewed 854 decisions, developed various publications on access to information and conducted a survey to determine the status of proactive disclosure by public institutions. The upshot of the foregoing is open and accountable government.

Fifth, the Office of the Ombudsman continually promoted a culture of responsive, transparent and accountable governance at the national and county levels through inquiries, investigations advisory opinions and reward system (Huduma Ombudsman Award) This is especially evident in instances of complaints of abuse of power, misbehaviour, unlawful conduct, misconduct and inefficiency in the delivery of public services. Indeed, public officers are presently aware that their actions can be questioned before the Office of the Ombudsman and that they would be personally liable for their actions.

Sixth, the Office of the Ombudsman has given advisory opinions and recommendation aimed at addressing systemic issues thus improving public administration. These include proposals on legal, policy, or administrative measures to address specific concerns of great importance at both of levels of government. For instance, following the President's directive to County Commissioners to collect up to date data on all HIV positive school going children, their guardians or care-givers and expectant and lactating mothers, the Ombudsman issued an advisory opinion to the President advising that the directive infringed on the right to privacy and was counterproductive in addressing the HIV/AIDS challenge. These proposals are usually aimed at safeguarding public interest which has improved good governance and led to responsive, participatory and representative decision making and reduced conflicts.

Seventh, the Office of the Ombudsman has championed and assisted in the development of complaints handling infrastructure in public institutions at both levels of government in Kenya. The Office of the Ombudsman has also come up with complaints handling guidelines for the Kenyan public sector and continuously trains public officers on the same. The Office of the Ombudsman also receives quarterly reports on complaints received and how they were handled from all public institutions. This has presented an avenue for early detection of concerns thus preventing escalation of conflicts. This has also improved service delivery, improved transparency and accountability in public institutions thus reducing corruption thereby promoting SDG 16 in relation to creation of effective and accountable institutions at all levels and substantial reduction of corruption and bribery.

Eighth, the Office of the Ombudsman has also sensitized members of the public on its functions and complaints reporting. This is done through offering legal advice on administrative justice matters and creating awareness on laws and services offered by the public sector.



## OPINION

Eighth, the Office of the Ombudsman has also sensitized members of the public on its functions and complaints reporting. This is done through offering legal advice on administrative justice matters and creating awareness on laws and services offered by the public sector.

The Office of the Ombudsman has held various legal aid clinics in various counties improving access to justice thus promoting SDG 16 on the protection of fundamental freedoms.

Ninth, the Office of the Ombudsman has also assisted members of the public in the procurement of vital documents such as identity cards, birth certificates etc. This has promoted SDG 16 in relation to the provision of legal identity for all persons. Tenth, the Office of the Ombudsman has fostered collaboration with national and international organizations for the promotion of good governance.

Notably, the Office of the Ombudsman is a member of the International Ombudsman Institute and the African Ombudsman and Mediators Association (AOMA) both of which seek to promote the rule of law and practice of ombudsmanship.

Towards realising the 2030 agenda and SDG 16, the Commission has put appropriate measures in place in order to fully realise the 2030 Agenda and SDG 16. These include:

- a. Scaling up public education and advocacy on administrative justice, access to information and ADR. This will go a long way in not only empowering the public, but also making the duty bearers (public officers and private actors) responsive and accountable for their actions.
- b. Strengthening the legal framework through amendment to the constitutive Act and development of regulations under the Access to Information Act.
- c. Leveraging on technology to enhance resolution of complaints in the public sector through the development of the Complaint Management Information System (CMIS)
- d. Enhancing mobilization of resources beyond the allocation by the National Treasury to facilitate full implementation of programmes and decentralization of services.
- e. Decentralising services of the Office of the Ombudsman to the counties to enhance accessibility to the public.
- f. Fostering partnerships and linkages with national and international stakeholders to enhance capacity and effectively deliver on its mandate.

Informed by the foregoing, it is evident that the Office of the Ombudsman has a critical role to play in the realisation of SDG 16. This is due to the fact that peaceful, just and inclusive societies and strong institutions are essential to the achievement of SDGs. It is imperative for governments and in particular the Office of the Ombudsman to develop and implement lasting solutions to deliver justice, combat corruption and ensure inclusive participation at all times. National public institutions must also become accountable and effective in the delivery of basic services to all persons without the need for rent-seeking or payment of bribes.

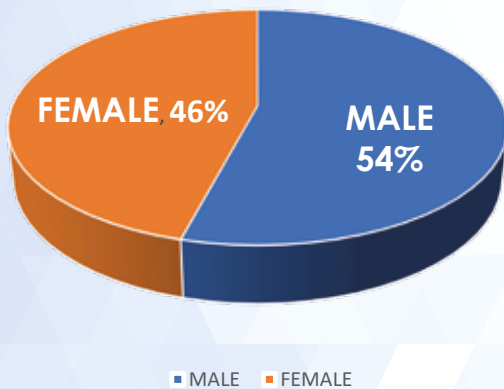


## CAPACITY BUILDING AND PUBLIC OUTREACH

### 2,971 Public Officers Trained

Being an important stakeholder in public service delivery, the Commission continued building and strengthening complaints handling capacity in line with Section 8 (e) of the Act. In this respect, the Commission trained 2,971 public officers drawn from Ministries, Counties, Departments, and Agencies (MCDAs) on effective complaints handling and access to information.

#### Gender Representation



CAJ officers during a training of the members of the Complaints Committee from the Biosafety Appeals Board

### The Commission Conducts Outreach in Ten Counties

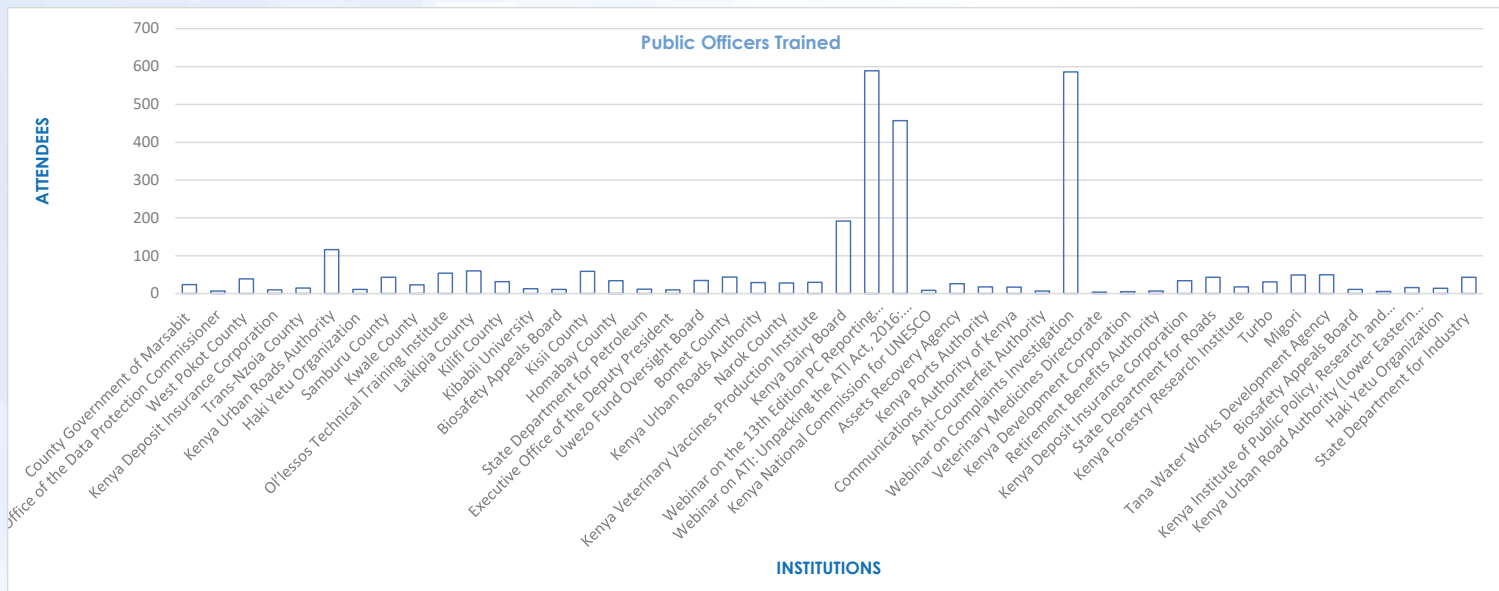


The Commission scaled up outreach programmes to enhance awareness on the mandate of the Commission, and to address the challenge of accessibility, limited awareness on the mandate of the Commission, and lack of adequate resources to devolve into the counties.

To this end, the Commission conducted public sensitisation in West Pokot, Transzoia, Bomet, Samburu, Kwale, Laikipia, Kilifi, Homabay, Kisii, and Narok counties in October and November 2023. To enlighten them on the mandate of the Commission and how they can lodge complaints related to service failures in public institutions.

The forums, conducted in partnership with the National Treasury and Economic Planning under the Financing Locally Led Climate Action (FLLoCA) program, provided a platform for the Commission to raise awareness and educate the community about its role in combating maladministration and upholding the right to access information.

The activities also presented an opportunity for the public to lodge complaints and receive legal aid. During the outreach programme, the Commission reached 3,000 people.





## PICTORIAL



The Commissioner in Charge of Access to Information, Cmmr. Lucy Ndung'u, after a presentation to Records Managers on Access to Information as an Enabler to Kenya's Digital Transformation at the 7th Records Management Conference organised by Kenya Association of Records Managers and Archivist (KARMA).



Commission Secretary/CEO Ms. Mercy Wambua with a delegation from the Commonwealth Lawyers Association (CLA), comprising the President, Mr. Peter D. Maynard KC, former President, Mr. Santhaaan Krishnan, and the Treasurer, Ms. Maria Mbeneka.



The Commission's Finance Team pose with a certificate for their recognition by the promoters of the FiRe Award for obtaining an unqualified audit opinion under the Commissions and Independent Offices reporting under IPSAS Cash category.



## PICTORIAL



A team from the Commission led by the Commission Secretary/CEO, Ms. Mercy Wambua during a consultative meeting with a team from the National Government Affirmative Action Fund (NGAAF) led by the CEO, Mr. Roy Sasaka.



A team from the Commission led by Commissioner in Charge of Access to Information, Cmmr. Lucy Ndung'u with officials from County Government of Bomet, led by the County Solicitor, Mr Geoffrey Kipngetich. The meeting discussed possible areas of partnership and collaboration in strengthening the County's Grievance Redress Mechanism and Access to Information.



A sensitisation on the Resolution of Public Complaints and Access to Information to members of staff from Kenya Urban Roads Authority, Lower Eastern Region.



## HUDUMA OMBUDSMAN AWARD 2023







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