

The Ombudsman

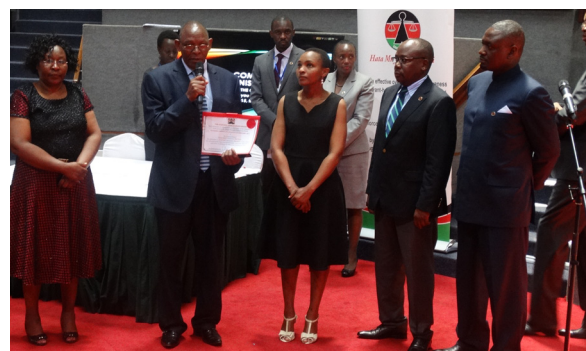
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REWARDING EXCELLENCE

Huduma Ombudsman Awards Winners Promoted

Winners of the Huduma Ombudsman Awards (2015) – an awards scheme that recognises exemplary service in public service - have been promoted. Mr. Samwel Kimiti who emerged winner in the individual category has been promoted from position of Deputy County Commissioner II (Job Group P) to Senior Deputy County Commissioner (Job Group R). The first-runner up, Mr Nicholas Kipsang' Maswai who served in the capacity of Senior Superintendent of Prisons (PG 8/ Job Group L) has been promoted to position of Senior Assistant Commissioner of Prisons (PG 10/Job Group N).



Left: Chief Justice Dr. Willy Mutunga hands over a certificate to Mr. Nicholas Maswai; Above: The Attorney General Prof Githu Muigai and CAJ Chair Dr. Otiende Amollo look on as Mr. Samwel Kimiti give an acceptance speech.

Mr. Kimiti, Senior Deputy County Commissioner for Meru Central, was rewarded for dedication in service, and innovatively using sports to create synergies for enhanced performance and environmental conservation, fight social ills, and create awareness on the Millennium Development Goals and the Kenya Vision 2030. Mr. Maswai on the other hand was rewarded for outstanding leadership skills, steering infrastructural transformation at Manyani Maximum Security Prison, conscientiousness and excellent management skills that have made the institution a work station of choice.

The Teachers Service Commission on the other hand has assured the Commission that teachers who received letters of commendation courtesy of the Huduma Ombudsman Awards will have an added advantage during promotional interviews. Those who received letters of commendation are Ms. Milkah Njoki Gaita, a teacher at Ndururumo High School in Laikipia County; Mrs. Sophia Atieno Odumo, a teacher at Kamondi Primary School in Migori

County; and Mr. Richard Mwangi Macharia who is teaching at Nadir Primary School in Garissa County.

Huduma Ombudsman Awards is an initiative of the Commission that seeks to reward outstanding public officers and institutions, and celebrate excellence in service delivery. The 2015 Huduma Ombudsman Awards ceremony was held on 31st July at the

Kenyatta International Convention Centre. Huduma Kenya was feted for demonstrable excellence in service delivery, providing a model for public institutions, and raising the bar in professionalism thereby promoting confidence in the integrity of public offices.

Others who were honoured include the Late Corporal Benard Kipkemoi

Tonui of recce company who was posthumously awarded in the Ombudsman Valor category for selfless sacrifice in public service even in the face of imminent danger that cost his life. Corporal Kipkemoi died during the Garissa University terrorist attack. Sheikh Abdulhalim H. Athman, Principal Kadhi, Mombasa Law Courts was recognised for dedication and excellence in service in handling matters at the Chief Kadhi's Court in Mombasa thereby contributing to transformation of the Judiciary while Sing'ore Girls High School for consistent impressive academic performance based on sound pedagogy and holistic approach, complemented by high standards of discipline, innovation, and mentorship. The Kenya Forest Service, Ndaragua Forest Station was also honoured for commitment and championing collective approach to environmental conservation thereby saving Ndaragua Forest, and initiating a process of restoring and preserving the ecosystem ■



Head of of Huduma Kenya Secretariat Mr. Dennis Mutuku gives an acceptance speech after Huduma Centre was declare winner of the Huduma Ombudsman Award in the institution category.

SCORECARD

Rating Constitution Implementation

Though a little laboured, implementation has been steady, but political seesawing threatens progress

August 27th 2015 marked the fifth year since the promulgation of the Constitution of Kenya 2010. The supreme law that bestowed so much hope and promise has been hailed as one of the most progressive constitutions in the world. But it is one thing to have the law in paper and another to have it applied to bring about the desired changes. Two lawyers who formed part of the defunct Committee of Experts on Constitutional Review (CoE) that put together the Constitution – Dr. Otiende Amollo and Ms. Atsango Chesoni – give their perspectives on the progress of



Former President Mwai Kibaki shows off the Constitution of Kenya 2010 during its promulgation at Uhuru Park on 27th August 2010.

implementation. The Ombudsman Dr. Otiende Amollo rates the success of implementation at 75 percent, while Ms. Atsango Chesoni former Director of the Kenya Human Rights Commission gives it a score slightly above average: 60 per cent.

In three years alone, the country has successfully rolled out the devolved system of governance. This is particularly an enormous achievement if you consider some of the push factors for a new constitutional dispensation was the need to decentralise power.

Dr. Amollo posits that the country has made strides in the right direction with respect to critical areas, chief among them, devolution. In three years alone, the country has successfully rolled out the devolved system of governance. This is particularly an enormous achievement if you consider some of the push factors for a new constitutional dispensation was the need to decentralise power. Speaking in the same vein, Ms Atsango says harsh criticism on devolution particularly as witnessed in 2014 are unjustified noting the structures were only put in place in 2013 and should, therefore, not be compared with old structures.

Dr. Amollo also thinks the country has done itself proud by establishing the Senate, constitutional commissions and independent offices which are now operational. Another key indicator of success he gives is establishment of a lean cabinet. The number of cabinet secretaries currently stands at 18 (before the election of the first government under the new law, Kenya had 44 Ministers).

Further, Dr. Amollo says Kenya now has a more robust Judiciary and prosecutions have also improved owing to the independence the office of the Director of Public Prosecutions now enjoys. Other indicators ethnic and regional balance as well as gender considerations for appointive office.

There are, however, some critical areas where we have performed dismally. Dr Amollo, for instance, notes that impunity is still embedded in our systems. He cites vetting which he observes remains a formality as elected leaders and those who are appointed to various offices are found wanting particularly in respect to the integrity provisions. Ms Atsango agrees that Chapter Six of the Constitution has been undermined. In this regard, a case pending in Court challenging the eligibility of the MP for Embakasi Central, Hon. John Ndirangu Kariuki, to contest in 2013 General Election. Hon. Kariuki is among 27 individuals the Commission had deemed ineligible to run for or hold public office because they had been criminally convicted for abuse of power. The Ombudsman moved to Court after the Independent, Electoral and Boundaries Commission cleared him to vie for office despite its recommendation.

Dr. Amollo is also concerned that land matters which were one of the priority areas still remain unattended. Land reforms have stalled owing to the conflicts between the Ministry of Land, Housing and Urban Development and the National Land Commission. He also thinks the country has performed dismally on police reforms and some transition aspects such as restructuring of the

provincial administration to align it with the new law which has resulted to, among other things, in conflict between the national and county governments.

Other sticking issues that have marred implementation of the Constitution are the supremacy wars between the Senators and Governors, and Senators and Members of the National Assembly. The Ombudsman also says limiting access to information as in the case of information held by the Auditor-General is retrogressive.

The two former CoE Members think that Parliament has become imperial as exemplified by passing legislation that negates the Constitution. Ms. Atsango advises on the need to remain vigilant to guard against abuse of power entrusted on the Legislature.

Ms. Atsango observes that citizens have an important role to play in fighting impunity but are yet to cease the opportunity. "Every time we have an opportunity we have gone for those in violation or alleged violation of integrity provisions. Our actions do not speak of a nation interested in fighting corruption..." she avers. The two experts concur that changing the law is the easier part, but implementing it is the real work. And so, the work goes on ■

Shaping the Governance Agenda

The Commission continues to contribute to promotion of good governance, constitutionalism and public administration in various ways, including through membership to key taskforces. Here are some of them.

Task Force for the Review of Rationale of Establishment of Tribunals in Kenya

The Commission has been participating in the Task Force for the review of rationale of establishment of tribunals in Kenya. The Task Force, which comprises representatives from the public and private sectors, was established by the Kenya Law Reform Commission pursuant to a reference by the Attorney General. The main objective is to examine the existing system of tribunals in Kenya and propose ways of streamlining the governance and operational structures in line with Article 169(1) of the Constitution.

While the Task Force appreciated the place and role of tribunals in the dispensation of justice in Kenya, it noted that the system had not been rationalised thereby leading to uncoordinated establishment of tribunals, weak independence and accountability, differences in appointments, qualifications and terms and conditions of work, lack of uniformity and standardisation of operations, and limited knowledge about tribunals by the public.

The Task Force has so far developed a Bill which is still under further consideration.

The Commission is represented by Mr. Edward Okello, Director and Special Advisor to the Chair.

The Task Force on the Review of Legal, Policy and Institutional Framework for Fighting Corruption in Kenya

Over the last twenty years, since the end of the Cold War, corruption has been an issue of major concern at national, regional and international levels. The end of the Cold War ushered in an era of liberalism with concomitant demands for good governance. In Kenya and many other developing countries good governance reforms have enhanced constitutionalism, respect for human rights, democracy, transparency, accountability and economic liberalisation.

Nevertheless, in spite of the many institutions and anti-corruption laws Kenya has put in place, corruption has remained rampant and Kenya's ranking in international corruption perception surveys has been poor. Even locally, media reports and corruption perception surveys portray a grim picture of rampant corruption in a number of public institutions.

In his State of the Nation Address to Parliament (and to the nation) on 26th March 2015, the President directed the Attorney General to co-ordinate a comprehensive review of the legal, policy and institutional framework for fighting corruption in Kenya, with a view to strengthening the anti-corruption instruments of the state.

Consequently, the Attorney General appointed a Task Force on the Review of the Legal, Policy and Institutional Framework for Fighting Corruption in Kenya, vide Gazette Notice No. 2118 of 30th March, 2015 (published in The Kenya Gazette (Special Issue) of 31st March, 2015).

The Task Force was required to examine the legal, policy and institutional framework for fighting corruption in Kenya with a view to recommending appropriate interventions for enhancing the fight against corruption. The Task Force undertook its assignment from April, 2015.

The CAJ Chairperson Dr. Otiende Amollo is a member of the task force and the senior legal manager of CAJ Mr. Vincent Chahale is a member of the technical committee. The task force has since inception held various meetings both internally and with stakeholders, and is set to present the report to the President in September 2015.

The Judiciary Task Force on Sentencing

The Chief Justice, working with the Judiciary Training Institute, in May 2014 constituted a task force - The Judiciary Task Force on Sentencing - to spearhead discussions towards the harmonisation of sentencing for similar offences in Kenya. The task force was constituted in the wake of concerns raised over significant and unexplainable disparities between sentences meted out to different persons found guilty of similar offences committed under similar

circumstances in different courts. The task force brings together various actors in the criminal justice system. The terms of reference of the task force include collating past studies undertaken on sentencing in Kenya and the drafting of a sentencing policy and guidelines.

The task force is about to complete its work and has, after various stakeholder and validation meetings, drafted its report and sentencing guidelines which will be handed over to the Chief Justice by end of September 2015. The recommendations of the task force, once implemented, will go a long way in enhancing objectivity in sentencing, and reducing corruption within the criminal justice system in Kenya.

The Commission is represented by the Senior Legal Manager Mr. Vincent Chahale.

Task Force to Review Fluorspar Mining Concerns by Resident in Kimwarer

The Commission is part of a taskforce looking into issues that have been raised overtime by residents of Kimwarer area in Elgeiyo Marakwet County in regards to the fluorspar mining in the area. The task force appointed by the Cabinet Secretary, Ministry of Mining in May 2015 is mandated, *inter alia*, to conduct a comprehensive review of the license area under which Kenya Fluorspar Company Limited operates, investigate claims by the locals on unfair treatment by the company as well as circumstances under which alleged compensation funds were diverted to other uses by past and present administrators and politicians, and explore ways of compensating residents for their

land that was compulsorily acquired to make way for the mining.

The task force has since visited the Kimwarer and held meetings with the County Government, National Government officers, the community and the Company. The team has also conducted comprehensive desk review of all relevant information.

Ms. Samantha Argwings-Kodhek is the representative of the Commission in the task force. Other members are drawn from the Ministry of Mining, Ministry of Environment, National Land Commission and advocates from private practice. The local community is also represented with five of its members sitting in the task force.

The taskforce is expected to submit its report to the Cabinet Secretary by end of September 2015.

Advisory Opinions

Set up task force to resolve boundary disputes - Ombudsman

The Commission has issued a number of advisory opinions on the improvement of various aspects of public administration.

Recently, the Commission issued an advisory opinion on the boundary disputes between county governments. The Commission recommended to the President setting up of a special technical task force comprising representatives

of the Department of Surveys, Department of Lands and other relevant technocrats to affix the beacons as per the law establishing the boundaries of all counties. The Commission further advised that county governments should embrace consultation, co-operation and alternative dispute resolution as redress mechanisms.

The Commission gave the advisory on the basis of recent boundary controversies pitting county governments. The controversies have mainly taken two perspectives: first disputes regarding the actual boundaries of the counties, and second, disputes on the allegation that the current boundaries are unfair since they are based on historical injustices. This has created tension and taken violent dimensions in some cases leading to loss of lives and property, and displacement of people in the specific areas where they have happened.

Counties are critical to Kenya's governance system as they are the means through which the objects of devolution are realised. The objects of the devolution of government include: to promote democratic and accountable exercise of power; to recognise the right of communities to manage their own affairs and to further their development; to protect and promote the interests and rights of minorities and marginalised communities; and to ensure equitable sharing of national and local resources throughout Kenya.

All eyes are now on the President: will he implement the recommendations of the Ombudsman ■

This and other advisories issued recently – advisory opinion on the HIV/AIDS directive and advisory opinion on the restructuring of EACC - are available on the website.

CAPACITY BUILDING

CAJ to Train 180 Public Institutions by January 2016

Trainings for public officers for the 2015/16 Financial Year will begin on 28th September 2015. The trainings that target 180 public agencies are designed for heads of complaints handling committees and complaint handling officers. Eight regional trainings have been scheduled to take place between September 2015 and January 2016 with the first one targeting about 50 officers from 18 institutions set to take place in

Mombasa from 28th to 30 September 2015.

The trainings kick off after the review of the training curriculum to incorporate new aspects including organizational culture, service delivery, servant-hood in public service, Alternative Dispute Resolution Mechanisms, and principles of administrative justice. The trainings are steered by the

Compliance and Risk Directorate which also oversees implementation of the performance contracting obligations by the Commission. The Commission is responsible for the indicator “Resolution of public complaints” which accounts for five per cent of the total score in performance contracting. The Commission rates public institutions and gives feedback every quarter, and issue certificates on an annual basis ■



Compliance and Risk Director Mr. Ismail Maaruf facilitating a session during a previous training.

COURTS

In the Corridors of Justice

The Commission participates in a number of matters of national importance before the court as a way of promoting public administration. There are also instances when the Commission has been taken to court. Below is a list of ongoing matters.

Parties	Nature of the Case	Capacity of CAJ in the Case	Nature of Representation	Status
Evans Arthur Mukolwe vs. the Commission on Administrative Justice; Nairobi High Court Civil Case No. 182 of 2013.	A civil suit filed by Evans Arthur Mukolwe against the Commission on alleged defamation. This is with respect to recommendations on list of individuals considered not fit to serve in public office the Commission released in late 2012	Defendant	Represented by an external Advocate (Nzamba Kitonga).	Statement of defence and witness statement have been filed. The hearing date is yet to be fixed.
Michael Maina vs. CAJ; Nakuru High Court Petition No. 53 of 2014	A petition by Michael Maina seeking orders to compel the Commission to investigate and determine his complaint that he lodged before the Commission.	Respondent	Represented by an internal Advocate.	Judgment to be given on notice.
Michael Maina vs. CAJ; Nakuru High Court Petition No. 54 of 2014	A petition by Michael Maina seeking to declare a determination by the Commission regarding a complaint he lodged with it null and void.	Respondent	Represented by an internal Advocate.	The matter will be heard on 6 th October 2015.
CAJ vs. The Permanent Secretary, Ministry of Interior and Coordination of National Government; Nairobi High Court Misc. Application No. 17 of 2014	<p>An application by CAJ seeking leave of the court to commence judicial review proceedings against the Principal Secretary, Interior and the Attorney General and to compel them to pay Liza Catherine Wangari Mwangi Sh7,122,915, being decretal amount in Embu HCCC No. 31 of 2007.</p> <p>Liza Catherine was finally paid Sh5 million and an amount contested (due to legal fees) amounting to Sh4 million was put to court.</p> <p>The matter pending in court is computation of interest on the total amount awarded. When CAJ moved to court to seek orders to compel compliance, it sought not only to have the amount awarded paid, but also the interest accrued for the time the payment was delayed.</p>	Interested Party	Represented by an internal Advocate.	The case will be Mentioned on 12 th October 2015.
Donald Obimbo Mustapha vs. CAJ; Thika CMCC No. 1014 of 2013	A civil suit seeking damages out of a road traffic accident involving the Commission vehicle.	Defendant	Represented by an external advocate (Nungo, Oduor and Waigwa Advocates)	The matter will be heard on 4 th November 2015.
Commission on Administrative Justice vs. John Ndirangu Kariuki and the Independent Electoral and Boundaries Commission; Nairobi High Court Petition No. 408 of 2013	Petition seeking to implement the findings and recommendations of CAJ regarding the names of persons declared by the Commission not fit to serve in a public office. John Ndirangu Kariuki is among the 27 persons whose names were forwarded to IEBC in December 2012 with a recommendation to bar them from running for public office on the basis that they had been criminally convicted for abuse of power. IEBC cleared Mr Ndirangu and was consequently elected MP for Embakasi.	Petitioner	Represented by an internal Advocate.	The matter will be heard on 15 th October 2015.
Pascal Imbinda Omama & Michael Maina vs. CAJ & 4 Others; Nakuru High Court Misc. Application No. 235 of 2014	An application seeking the orders of the court to stop proceedings of Nakuru Criminal Case No. 1191 of 2013, R Vs. Pascal Omamo.	Respondent	Represented by an internal Advocate.	The case will be heard on 27 th October 2015.
Appeal No. 141 of 2015, CAJ vs. Kenya Vision 2030 Delivery Board & 2 others	An appeal against the decision of the High Court in <i>Republic vs. Kenya Vision 2030 Delivery Board & CAJ</i> ; Nairobi High Court Judicial Review No. 223 of 2014. The High Court matter sought orders of Mandamus to compel the Kenya Vision 2030 and Delivery Board to implement the findings and recommendations of the Commission on Administrative Justice. The application was however ruled against CAJ and an appeal was sought at the Court of Appeal.	Interested Party	External representation (Nungo, Oduor and Waigwa Advocates).	The date for hearing the matter is yet to be issued.
Nairobi Industrial Petition No. 47 of 2015; Kizito Lubano vs. KEMRI & 8 Others	An Industrial Court Petition challenging the dismissal from employment of Kizito Lubano by KEMRI. CAJ is sued as the 9 th Respondent after the petitioner had lodged his complaint at CAJ regarding the alleged unfair dismissal.	Respondent	Represented by an internal Advocate.	Judgment on the matter will be rendered on 24 th September 2015.

INVESTIGATIONS

Tackling Maladministration through Investigations

The Commission conducts both specific and systemic investigations. Below are some of the reports the Commission has released in the recent past.

Report on Use of Excessive Force by Police

This report examined the alleged excessive use of force by police officers, and improper conduct by other public officers in the Lang'ata Primary School demonstration of 19th January 2015.

The report reveals a number of officers - including police officers and Head Teacher of Lang'ata Road Primary School - were culpable of wrongdoing or in dereliction of duty. The Commission has, therefore, recommended to the Inspector General of Police to, inter alia, review the Riot Manual to meet international standards, and implementation of the Safety Standards Manual for Schools in Kenya, by the Principal Secretary of Education. Further, the Commission

has recommended disciplinary action against those officers found culpable of wrongdoing.

Report on Acquisition of Lang'ata Road Primary School Playground

The investigation by the Commission revealed that the School was allocated 3.8216 hectares by 1975 (3.0233 hectares was allocated in 1970 and 0.7973 in 1975) although it does not have ownership documents. The land has, however, been encroached by private developers reducing the space on which the school sits. The investigations further revealed a disputed plot that was allegedly hived from the School, and which prompted demonstrations earlier in the year, was acquired by M/S Airport View Housing Limited in 1989, 14 years after the same piece of land was allocated to Lang'ata Road Primary School.

The Ombudsman has recommended to the National Land Commission (NLC) to survey and confirm the actual acreage of Lang'ata Road

Primary School land, and repossess grabbed land. The Ombudsman has also asked NLC to investigate similar cases in 13 other public schools in Nairobi City County and revoke any illegal acquisition, and facilitate issuance of title deeds to forestall grabbing.

Report on the crisis of Acquiring Identification Documents in Kenya

The report identifies corruption, inefficiency, absenteeism and lack of awareness on application requirements as some of the challenges that contribute to the crisis that characterises issuance of vital documents in Kenya. It also points to how inaccessibility of identification and travel documents hampers economic empowerment, fuels insecurity and makes for police harassment ■

Full reports are available on our website. You may contact the Research and Investigations Directorate for more information.

PARTNERSHIPS

Sema! Piga Ripoti

A new system that will facilitate referral of complaints with more ease is set to be operational by October 2015. The development of the system is facilitated by GIZ under the Integrated Public Complaints Referral Mechanism initiative dubbed *Sema! Piga Ripoti*.

Sema! Piga Ripoti is an initiative that allows oversight institutions to refer complaints electronically through an online platform. The initiative is one of the ingenious ways of ensuring accessibility at various parts of the country. It leverages on partnerships allowing members of the public to lodge complaints with any of the

partner institutions that have offices in their localities, after which the complaints are transferred to the relevant institutions where they are addressed.

The institutions participating in the initiative are CAJ, Ethics and Anti-Corruption Commission, Kenya

National Commission on Human Rights, National Cohesion and Integration Commission, National Anti-Corruption Campaign Steering Committee and Transparency International (Kenya).

The partner institutions are set to carry out public awareness activities in December 2015 and April 2016 to publicise the initiative in North Eastern, the Coast region, North Rift, Western and Mount Kenya Regions as well as in Nairobi.

Plans for AOMA General Assembly Underway

African Ombudsman and Mediators Association (AOMA) is set to hold the 5th General Assembly in September 2016 in Arusha, Tanzania. This will coincide with the commemoration of establishment of the Office of the Ombudsman in Tanzania. The first to be established in Africa, the Tanzania's Office of the Ombudsman will be celebrating 50 years.

A technical committee will be meeting in Arusha later this year for planning.



Ombudsman of Tanzania Hon. Tom B. Nyanduga during a visit to the Commission Offices at West End Towers on 17th September 2015. With him are Director, Finance and Administration Mr. Daniel Karomo and Senior Legal Officer Robi Sarara.

The Chairperson of the Commission Dr. Otiende Amollo is the current General Secretary of the continental body, and Mr. Robi Sarara, Senior Legal Officer, is the focal person in the secretariat for all AOMA matters.

UNDP Project Wrap-up

The Joint Human Rights and Access to Justice Project funded by the UNDP is set to wrap in October 2015. The project is implemented by the three Article 59 Commissions – CAJ,

KNCHR and NGEK. Some of the activities supported under this project are county visits, regional colloquium of African Ombudsman Institutions and Huduma Ombudsman Awards. This comes almost the same time when UNDP focal person Ms. Hanna Ferguson is re-assigned. Ms. Ferguson relocates to the UNDP Country Office in Myanmar. Her previous role will be taken up by Mary Njoroge who is part UNDP's Amkeni Wakenya initiative. We at the Commission wish Ms. Ferguson the very best in her new role.



Chairperson of the Commission Dr. Otiende Amollo addresses participants during the launch of the Nairobi Defender.

Partnership with the Nairobi Defender

The Standard Media Group launched a column dedicated to highlighting complaints from members of the public. Launched on 3rd September 2015, the new column titled "The Nairobi Defender" provides an avenue for referral of complaints and telling stories of ordinary people and their quest for justice. A number of complaints have since been referred to the Commission courtesy of the initiative. The Commission seeks to work closely with the paper in referral of cases and sharing of stories ■

OUTREACH

CAJ Heightens Awareness at Grassroots

The Commission has intensified awareness to publicise Huduma Centres where it has desks, and new branch offices. In August and September 2015 alone, the Commission carried out awareness activities in Embu, Kajiado and Nyeri counties and distributed Information, Communication and Education materials, conducted awareness through mini-road shows, as well as had direct engagements with the public. As a result, the number of complaints lodged at the four Huduma Centres increased to 31 as at 22nd September 2015 up from nine lodged in July.



CAJ Legal Intern Eclay Wawira engages some youth at the Jua Kali section in Embu Town.

A similar activity is scheduled to take place in Uasin-Gishu County on 30th September and 1st October 2015

where the Commission will cover Eldoret Town, Maili Nne, Langas and Kisumu Ndogo ■

INSTITUTIONAL STRENGTHENING

Commission Opens Branch Office in Eldoret

The Commission has opened a branch office in Eldoret. CAJ Eldoret Branch Office is located at the Kerio Valley Development Authority Plaza, 7th Floor on Oloo Street. This brings the number of branch offices to three. Plans are also underway to open a branch office in Isiolo.

Coverage remains one of the challenges the Commission has to contend with owing to budgetary limitations that have hampered establishment of offices at the devolved units. The Commission has employed a number of strategies to minimise these challenges thereby ensuring accessibility in various parts of the country. One such approach is setting up desks at Huduma Centres with the Commission currently present at 10 locations: Kakamega, Kisii, Eldoret, Kisumu, Nakuru, Nairobi (Teleposta Towers), Kajiado, Mombasa, Embu and Nyeri). The Commission is also a partner institution of the Integrated Public Complaints Referral Mechanism (IPCRM) that provides for referral of complaints among the member organisations ■

Branch Offices

Kisumu Branch Office, Central Square Building, 2nd Floor, Oginga Odinga Street

Mombasa Branch Office, Mombasa Trade Centre (formerly Ambalal House, 2nd Floor, North Wing, Nkrumah Road

Eldoret Branch Office, Kerio Valley Development Authority Plaza, 7th Floor, Oloo Street

DID YOU KNOW?

Government centralises Advertising

The Government has created an agency to handle all advertising by public bodies. The Government Advertising Agency (GAA) under the Ministry of Information, Communication and Technology now manages all matters relating to advertising by government entities. Consequently, all allocations relating to this component were directly channeled to GAA.

Socio-economic Audit of the Constitution

A team from the Commission has interacted with the Taskforce on the Socio- Economic Audit of the Constitution of Kenya, 2010. The team enlightened the Taskforce

on the role of the Ombudsman, while situating the Office of the Ombudsman in Kenya. The Taskforce, in its interim report pointed out that functions of some constitutional commissions particularly Article 59 Commissions (CAJ, KNCHR and NGEK) overlap. The audit commissioned by the Budget and Appropriation Committee on behalf of the National Assembly is mandated to assess the impact of the Constitution on the economy, public institutions and Kenyans, and develop recommendations to assist the National Assembly to perform its oversight role and to audit process.

International Ombudsman Institute Grant

The Commission is a beneficiary of the International Ombudsman Institution (IOI) subsidy of about Sh825,938 (€7,000). The grant

is aimed at promoting knowledge sharing, experiences and best practices between African Ombudsman and Mediators Association (AOMA) institutions. The grant will support the publishing and dissemination of the report of the Regional Colloquium of African Ombudsman Institutions, 2015. The theme for the 2015 colloquium held in February was "Securing the Ombudsman as an Instrument of Governance in Africa". The project commenced on 1st September 2015 and is expected to end in 24 months.

IOI is a global organisation for the cooperation of Ombudsman established in 1978. IOI is organised in six regional chapters (Africa, Asia, Australasia & Pacific, Europe, the Caribbean & Latin America and North America). The organisation supports good governance and capacity building through training, research and regional subsidies for projects ■

COMPLAINTS HANDLING

Success Stories

Complaints handling is one of the main ways through which the Commission tackles maladministration in the public sector. The number of complaints the Commission is handling currently stands at about 120,000. In this issue, we highlight some of the successes from our Mombasa Branch Office which is currently handling over 600 complaints, and a record of over 1,000 contacts and inquiries.

Yusuf Saad vs. Kenya Power and Lighting Company

The complaint was against installation of a transformer in his premises as it posed great danger to life and property. The Commission engaged the Kenya Power and Lighting Company through inquiries and the company in turn relocated the transformer, all to the gratification of the complainant.

Salim Omar vs. Ministry of Land, Housing and Urban Development (Kilifi)

This is in reference to a complaint against the Kilifi Land Registry for allegedly refusing to provide the complainant with results of a search he conducted on 19th May 2014 in respect to land parcel number Kilifi Township/Block 3/359 L.R. No. 5054/503. Inquiries

by the Commission prompted the respondent to attend to the complainant. Mr. Omar was finally issued with certified copies of the land documents he had sought from the Kilifi Land Registry.

Billy Oginga vs. Department of Environment, Water and Natural Resources Mombasa County

Mr. Billy Oginga was cleared to erect a bill board on his parcel of land when the Commission inquired from the Department of Environment, Water and Natural Resources, Mombasa County why it had rejected his request. Mr. Oginga had filed the complaint when a request to erect a bill board on his parcel of land - plot number MN/XXVI/21 situated within Mombasa County - on 25th June 2014, was rejected by the Department without an explanation.

Benson Maina Mwangi vs. Urban Police Station, Mombasa

Mr. Benson Mwangi filed a complaint alleging controls and verification procedures during picking of certificates of good conduct at Urban Police Station, Mombasa were inadequate, and he feared certificates could easily get lost. The Commission convened a meeting where the matter was discussed, and, subsequently, measures put in place to rectify the situation. The Station also offered an apology to the Complainant.

Transparency International (Kenya) on behalf of Jomvu Residents vs. Ministry of Interior and Coordination of National Government

This is in reference to a complaint against the Assistant Chief of Jomvu Kuu Sub- Location for allegedly delaying to endorse a village elder and his assistant who were elected by the residents in March 2014. As in many other cases, the Assistant Chief swung into action when the Commission initiated inquiries into the matter.

Gervas Francis Buluma vs. Postal Corporation of Kenya

Mr. Gervas Buluma who retired from the Postal Corporation of Kenya in December 2010, accused his employer of not remitting his NSSF contributions since 2003, a matter that was delaying his retirement dues. The Commission initiated inquiries after the complaint was lodged on 6th February 2015. The employer took the necessary action and the complainant was finally paid all his benefits on 8th June 2015.

Milramsy Wangila Nasike vs. Judiciary (Kwale)

This was a case of unexplained delay in which the complainant, Ms. Milramsy Wangila Nasike, could not get her husband's passport from the Court even after she had fulfilled her obligations. The complainant said

that her husband who is an accused person in a criminal case at Kwale Law Courts was required to travel to Germany for treatment but could not get his passport which was retained by the Court. She made an application to Court to release the passport, and was ordered to give another that would be retained in lieu of the Passport. The Court, however, did not keep its part of the bargain even after she had deposited a logbook, thereby prompting her to lodge a complaint. At the intervention of the Commission, the complainant was immediately given the passport

Jeff Otieno and Meshack Amboka vs. Huduma Centre (Mombasa)

Mr. Jeff Otieno and Mr. Meshack Amboka filed a complaint contesting the high prices charged for renewal of driving licences at the Huduma Centre, Mombasa. They alleged that they visited the Huduma Centre cyber café in Mombasa for purposes of renewing their driver's licences and despite paying the standard charges for renewal, via M-Pesa, the attendants at the cyber café charged them Sh250 each, for the using the online renewal process & printing.

The Commission engaged with the Manager of the Centre who advised them to write to the Huduma Headquarters as the issue cut across all Huduma Centres. Consequently, Huduma Centre took action, reviewing downwards all costs for services rendered at the cyber cafés with the new cost of renewing a driving licence put at Sh150 ■

PROFILE

Akinyi Onam
has worked with the Commission since June 2013, first as an Intern, then as a United Nations Volunteer, and now in the capacity of Legal Officer. She tells us about her experience with the Ombudsman.

My Story

I studied at Kampala International University where I graduated with a Bachelor of Laws in 2010. While studying there, I had an opportunity to work in the Office of the President where I came across the concept of Ombudsmanship albeit remotely. The Office of the President had a desk where the public would launch complaints but it did not have a specific name and there was no structured way of dealing with the issues raised. But it never once crossed my mind that I would end up handling complaints.

Fast forward to June 2013, and I find myself here helping *wananchi* find solutions to their problems. I have had an opportunity to be at the forefront of fighting impunity, fostering accountability and administrative justice. My core duties are to receive complaints and conduct inquiries on the same and render advice to the complainants. Interactions with the clients of the Ombudsman, who are



Akinyi Onam engages members of the public during a past outreach event in Kitale.

primarily members of the public has changed my perception about the public and public service in general. There has been unprecedented re-engineering and shift of attitude. Kenyans are able to assert their rights in regards to service delivery. This, can, by and large, be attributed to the growing impact of the Office of the Ombudsman.

In the period that I have been with the Commission, I have learnt that the Office is often considered a lifeline for individuals who feel that public officers are too overbearing and bossy. Instead of silently suffering, they have sought refuge in our office. To this end, I have witnessed identification documents that had taken months or years to process materialise in a matter of days, services that had been arbitrarily withheld provided, and pensions withheld for years finally paid at the intervention of the Ombudsman.

I am grateful for the opportunity to be a part of this great institution for various reasons. Obviously, it is a milestone in the progression of my legal career and better understanding of the law.

Additionally, the experience has awakened my consciousness that, as the citizens of Kenya, we have a duty to improve the current systems. To borrow a quote from the Chairperson of the Commission, “we need to stop lamenting and start complaining” for only then will we create avenues for addressing challenges we face. I have been able to convince people that they ought not to despair in circumstances where they feel like they are at the end of their wits in administrative matters against any public body or officer. The Ombudsman is here to champion their rights, at no charge to them. There is no greater feeling!



For comments and further information, write to communications@ombudsman.go.ke