



A vibrant agency for responsive law reform

**KENYA LAW REFORM
COMMISSION**

ANNUAL REPORT

1st July **2016** - 30th June **2017**



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KENYA LAW REFORM COMMISSION

ANNUAL REPORT

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LETTER OF TRANSMITTAL

The Clerk,
Kenya National Assembly,
P.O Box 41842-00100,
Parliament Buildings,
Nairobi, Kenya.

Attention Mr. Sialai,

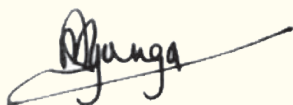
RE: ANNUAL REPORT FOR THE FINANCIAL YEAR 2016/2017

The Kenya Law Reform Commission (KLRC) has a mission to facilitate law reform conducive to social, economic and political development through keeping all the law of in Kenya under review, ensuring their systematic development and reform in conformity with the Constitution of Kenya 2010.

KLRC annually prepares a report capturing the goals, achievements, challenges and recommendations as experienced in the reporting period. The report is shared with the Office of the President, National Assembly and the Citizens of Kenya among other key stakeholders. This is hoped to promote feedback, enhance accountability and build commitment in our work.

It is our pleasure to formally present the 2016/2017 Annual Report in accordance with Section 32 of the KLRC Act of 2013.

We thank you in advance for the continued support.

A handwritten signature in black ink, appearing to read 'Mbage', is written over a horizontal line.

Mr. Mbage Ng'ang'a
Chairman

FOREWORD BY THE CHAIRPERSON

The Kenya Law Reform Commission (KLRC) is a statutory body that draws its mandate and functions from the Constitution of Kenya 2010, Section 6 of the KLRC Act of 2013, and the County Governments Act, 2012. These instruments broadly require KLRC to review all the laws of Kenya and to also provide technical support to both National and County Governments in matters relating to law reform. The Commission is honoured to publish the 2016/2017 Annual Report detailing the strategic and performance objectives, strategies, achievements, challenges encountered and succinct recommendations. This initiative is in accordance with Section 32 of the Kenya Law Reform Commission Act, 2013 and the standard practice observed by the Commission.



Mr. Mbage N. Ng'ang'a
Chairman

This year's annual report further documents the initiatives and statistical information towards the attainment of our mission of *facilitating law reform which is conducive to social, economic and political development*. This has been largely done through: legal research, development and review of bills, public education; stakeholder engagements; technical support to national and county governments and provision of information and advice to the public. We have also worked with both State and non-state actors in keeping all the law of Kenya (County and National) under review, ensuring their systematic development and reform in conformity with the Constitution of Kenya, 2010.

We are pleased that due diligence was exercised in the reporting period towards the attainment of our strategic goals as contained in the 2013-2017 Strategic Plan. The Commission equally undertook deliberate efforts to strengthen internal capacity and governance processes so as to effectively deliver on its constitutional and statutory mandates. A thorough, open and committed departmental performance contracting exercise was carried out. This was followed by a comprehensive staff training needs analysis and subsequent retraining and capacity building. At the apex and policy level, the Commissioners too benefited from continuous capacity development programmes that have leveraged the Commission with the relevant skills for optimum performance, policy formulation and execution of the Commission's mandate. We are pleased to have witnessed a wide range of milestones and success stories. Similarly, we have strengthened our collaboration with all our stakeholders. We are privileged to report a fully participatory and consultative process in policy formulation, legislative development and reform of the law.

Indeed, the achievements outlined above would not have been possible without the innovation, resourcefulness, commitment and hard work of the Commission members, staff, partners, and other stakeholders. In this regard, the Commission expresses gratitude to the KLRC Secretary/CEO, Mr. Joash Dache, MBS and the entire staff for work well done. The Commission also acknowledges the relentless efforts of the Vice-Chairperson, Ms. Doreen Muthaura, Commissioner Njoki Kahiga, and all other Commissioners. We remain indebted to our partners for their support in the 2016/2017 financial year.

In conclusion, we express our gratitude for the honour granted to us in service to the people of the great Nation of Kenya in various capacities at Kenya Law Reform Commission (KLRC). We are confident that the Commission, its partners and the people of Kenya will continue working closely in all areas in strengthening issue-based, citizen-centred, accountable and result-oriented law reform towards realizing the constitutional aspirations and Kenya Vision 2030's Social, Economic and Political development goals.



Mr. Mbage Ng'ang'a
Chairman

PREFACE BY THE SECRETARY /CHIEF EXECUTIVE OFFICER

I am delighted at the publication of the 2016/2017 Annual Report and Financial Statements of the Commission, especially as the lifespan of the 2013-2017 Strategic Plan comes to an end. This epochal report is thus a documentation of progress made in law reform in Kenya during the period under review and milestones in the 5 years of the Strategic Plan. The Strategic Plan outlined the strategic issues that needed attention in order to overcome constraints that continue to limit law reform. We therefore focused our interventions around seven strategic objectives needed to revive, revitalize and guide law reform in Kenya. The Strategic Plan has guided the Commission in safeguarding continuous and rapid responses to law reform needs informed by its firm belief that a performance culture sets standards for excellence in pursuance of its mandate.



Mr. Joash Dache, MBS
Secretary/CEO

Over the last few years, the Commission has been keeping all the law of Kenya under review to ensure their systematic development and reform, including, in particular their integration, unification and codification. This reform involves the elimination of anomalies, the repeal of obsolete and unnecessary enactments and general simplification and modernization of the law. However after the promulgation of the 2010 Constitution, KLRC acquired a direct responsibility in coordinating with the office of the Attorney General in the preparation and tabling in Parliament legislation required to implement the Constitution. The demand for KLRC to deliver on its mandates compelled it to formulate and vigorously pursue a new strategic direction. The ultimate result was anchored in the reviewed KLRC Strategic Plan 2013-2017 which built in interventions to meet the legal challenges anticipated under the new constitutional dispensation, and more particularly to implement the relevant government priorities.

While the year 2016/2017 was not without its challenges, the management team of Kenya Law Reform Commission (KLRC) continued to successfully implement its mandate and to advance its goals and objectives as outlined in the Strategic Plan and by the Commissioners. The KLRC Management Team is grateful for the continued support of the Chairperson, the Vice Chairperson and the Commissioners for their

strategic direction, leadership and oversight of the Secretariat which has enabled us to accomplish our mission during the year.

We will remain dedicated and committed in achieving our vision of being “a vibrant agency for responsive law reform” and our mission of “facilitating law reform conducive to social, economic and political development”. The Secretariat will continue to ensure the effective implementation of the programmes of the Commission including supporting implementation of our next Strategic Plan, 2018-2022.



Mr. Joash Dache, MBS
Secretary/ Chief Executive Officer

ACKNOWLEDGEMENTS

The Commission extends its utmost appreciation to its members, staff, partners, stakeholders and all who in one way or another shared their constructive insights, precious time and commitment towards our activities in the financial year 2016/2017. We also acknowledge the unflinching support and guidance of the Attorney-General, the Cabinet and respective Ministries, Departments and Agencies at both levels of government (National and County) for the shared success. The support of the Leadership of Parliament, individual Members of the National Assembly and Senate and Committees has and will always be invaluable. We are especially grateful to the Budget and Appropriations and Legal Affairs and Administration of Justice Committees for the allocation of resources which have facilitated our projects.

The publication of this edition of the Commission's 2016/17 Annual Report has been made possible by the generous financial contribution of the International Development Law Organization (IDLO) through its Kenyan Office. Mr. Isaac Okero, Team Leader and his dedicated colleagues, Mr. Felix Kyalo and Mr. Bernard Mosesti, deserve special mention in this regard. In the same breadth, we want to sincerely thank Mr. Amos Omollo (Design Consultant) and KLRC officers: Mr. Joash Dache, MBS (CEO); Ms. Josephine Sinyo (Director, Legislative Services); Mr. Peter Musyimi (Head of Legislative Drafting); Ms. Joan Onyango (Legal Researcher); Mr. Jacob Otachi (Head of Corporate Affairs and Communications); Heads of Departments and all who made contributions during the preparation of this report.

Finally, the Commission is indebted to the People of Kenya for entrusting us with this critical mandate and believing in our ability to deliver.

Asanteni Sana!

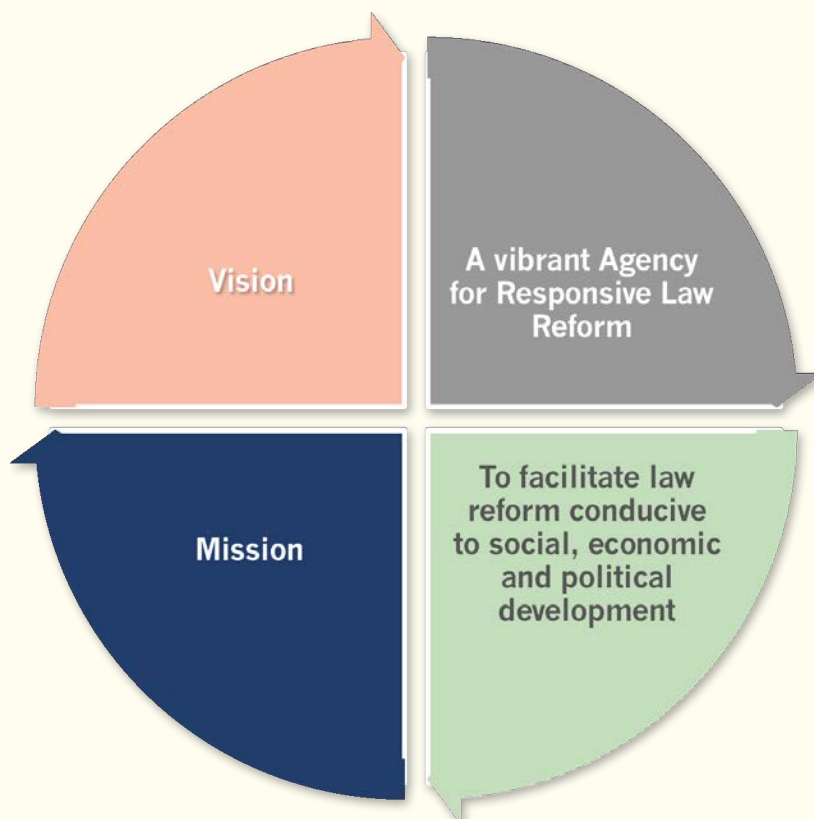
LIST OF ACRONYMS

AFFA	Agriculture, Food and Fisheries Authority
AG	Attorney General
CAF	County Assemblies Forum
CAF	County Attorneys' Forum
CAJ	Commission on Administrative Justice
CEO	Chief Executive Officer
CIC	Commission for the Implementation of the Constitution
CIOC	Constitutional Implementation Oversight Committee
CoE	Committee of Experts
CoG	Council of Governors
CoK, 2010	Constitution of Kenya, 2010
EACC	Ethics and Anticorruption Commission
GJLOS	Governance, Justice, Law and Order Sector
IEBC	Independent Electoral and Boundaries Commission
IIBRC	Interim Independent Boundaries Review Commission
IICDRC	Interim Independent Constitutional Dispute Resolution Court
IIEC	Interim Independent Electoral Commission
ISO	International Organisation for Standardization
KLRC	Kenya Law Reform Commission
KNCPD	Kenya National Council for People with Disabilities
KSG	Kenya School of Government
MDA	Ministry, Department or Agency
MoDP	Ministry of Devolution and Planning (MoDP)
OAG&DJ	Office of the Attorney General and Department of Justice
PSC	Public Service Commission
SCAC	State Corporation Advisory Committee
SRC	Salaries and Remuneration Commission
SUNY-AHADI	State University of New York- Agile and Harmonized Assistance for Devolved Institutions
SP	Strategic Plan
UNDP	United Nations Development Program
USAID	United States Agency for International Development

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KENYA LAW REFORM COMMISSION



CHAPTER

1

THE KENYA LAW REFORM COMMISSION

1.1 Introduction

The Kenya Law Reform Commission (the Commission) is established by the Kenya Law Reform Commission Act, 2013 (No. 19 of 2013) as a successor to the Law Reform Commission, previously established under the repealed Law Reform Commission Act, Cap 3. The Commission is a body corporate with perpetual succession, which serves both National and County governments in matters of law reform.

As is now well documented, our country endured such a difficult episode in the early months of 2008. Together with other players, the Commission was in its statutory capacity called upon to help return the country to normalcy. It is in this context that the Commission assisted in developing the Constitution of Kenya Review Bill, 2008 and the legislative frameworks for Agenda Four Commissions, among others. Upon enactment, these endeavours effectively set in motion the process of national healing through constitutional reform and the attendant legislative enactments. It is for this singular reason we are happy to report that the Commission played its small bit in bringing the new constitutional dispensation to fruition and as a matter of law, continues to shape the legal and constitutional reforms in our jurisdiction by being directly involved in the constitutional implementation process. This report captures the projects undertaken by the Commission in the execution of its dual constitutional and statutory mandate.

1.2 Brief History of the Commission

The Kenya Law Reform Commission was established by the Law Reform Commission Act, No. 2 of 1982 (now repealed) as a primary agency to spearhead law reform and review processes in the country. Its mandate as contained in section 3 of Chapter 3 of the Laws of Kenya (repealed statute) was: “to keep under review all the laws of Kenya to ensure its systematic development and reform, including in particular the integration, unification and codification of the law, the elimination of anomalies, the repeal of obsolete and unnecessary enactments and generally its simplification and modernization.”

At inception, the Commission operated as a Department within the Office of the Attorney-General. However upon reorganization of Government Ministries and functions vide Presidential Circulars Nos. 1 of 2003 and 2008, the law reform function and the Kenya Law Reform Commission were administratively moved to the Ministry of Justice, National Cohesion and Constitutional Affairs. Subsequently, KLRC's critical role in law reform became central in the realization of the projected national development goals under Kenya's Vision 2030.

The statutory mandate was expanded by the Constitution of Kenya 2010 (CoK, 2010) which, under Clause 5(6) (b) of the Sixth Schedule, required the Commission for the Implementation of the Constitution (CIC) to coordinate with the KLRC and the Attorney-General (AG) to prepare for tabling in Parliament legislation required to implement the CoK, 2010. The CoK, 2010 placed the ultimate emphasis on law reform beginning with the express demand for construing of all laws existing immediately before its effective date. Specifically, the laws would be construed with alterations, qualifications and exceptions necessary to bring each into conformity with the CoK, 2010 (Clause 7 of the sixth schedule). Further, both the County Governments Act, 2012 and the Kenya Law Reform Commission Act, 2013 require the Commission to assist County Governments and MDAs in the preparation and reform of their legislation respectively.

Further, the Kenya Law Reform Commission Bill, Bill No. 67 of 2012 was passed by the 10th Parliament on 9th January, 2013, and assented to on 14th January, 2013 and set in motion the current functions under Section 6 of the Kenya Law Reform Commission Act, 2013. It is on the basis of this constitutive Act that the current Commissioners were appointed and sworn into office on 14th January, 2014.

The Commission therefore draws its current legal mandate from three primary instruments of governance which also inform its establishment, structure and operations. These instruments are the Kenya Law Reform Commission Act, 2013, the State Corporations Act (Cap 446) and the CoK, 2010.

1.3 Mandate of the Kenya Law Reform Commission

The mandate and functions of the Commission are set out in Section 6 of the Kenya Law Reform Commission Act (2013), which provides that the Commission shall—

- (a) keep under review all the law and recommend its reform to ensure—
 - (i) that the law conforms to the letter and spirit of the Constitution;
 - (ii) that the law systematically develops in compliance with the values and principles enshrined in the Constitution;
 - (iii) that the law is, among others, consistent, harmonized, just, simple, accessible, modern and cost-effective in application;
 - (iv) the respect for and observance of treaty obligations in relation to international instruments that constitute part of the law of Kenya by virtue of Article 2(5) and (6) of the Constitution;

- (v) keep the public informed of review or proposed reviews of any laws; and
- (vi) keep an updated database of all laws passed and reviewed by Parliament;
- (b) work with the Attorney-General and the Commission for the Implementation of the Constitution (defunct) in preparing for tabling, in Parliament, the legislation and administrative procedures required to implement the Constitution;
- (c) provide advice technical assistance and information to the national and county governments with regard to the reform or amendment of a branch of the law;
- (d) upon request or on its own motion, undertake research and comparative studies relating to law reform;
- (e) formulate and implement programmes, plans and actions for the effective reform of laws and administrative procedures at national and county government levels;
- (f) consult and collaborate with State and non-State organs, departments or agencies in the formulation of legislation to give effect to the social, economic and political policies for the time being in force;
- (g) formulate, by means of draft Bills or otherwise, any proposals for reform of national or county government legislation;
- (h) upon request or on its own motion, advise the national or county governments on the review and reform of their legislation;
 - (i) undertake public education on matters relating to law reform; and
 - (j) perform such other functions as may be prescribed by the Constitution, this Act or any other written law.

1.4 Vision

“A vibrant agency for responsive law reform”

1.5 Mission

“To facilitate law reform conducive to social, economic and political development through keeping all laws in Kenya under review, ensuring their systematic development and reform in conformity with the CoK, 2010”

1.6 Core Values

To achieve its Vision and Mission, KLRC endeavours to articulate and execute its functions with fidelity to the following core values:

(i) Professionalism

We shall conduct our affairs with utmost sincerity, offer timely and accurate information to our stakeholders, portray a positive attitude at all times, be courteous, provide an impartial approach to issues and people and apply relevant knowledge in execution of our functions.

(ii) Integrity

We shall uphold highest standards of acceptable moral principles and virtue in our work and honesty in all our operations.

(iii) Innovation

We shall seek and adopt alternative and transformative ways of making our work more efficient, cost effective, accessible, reliable and effective.

(iv) Teamwork

We shall always nurture cooperation and coordination amongst our stakeholders in execution of common tasks and goals.

(v) Networking

We shall develop and promote systems and a corporate culture that allows information sharing and interaction amongst our stakeholders in furtherance of our mission and goals.

(vi) Accountability

We shall responsibly account and accept consequences for all our activities and actions and share outcomes with all our stakeholders.

(vii) Consultative

We shall constantly seek information and guidance from stakeholders and other experts in the execution of our mandate.

(viii) People-focused

Our operations and services shall be citizen-centered in order to promote their well-being.

(ix) Results-oriented

We shall enhance implementation of our plans, mobilize required resources and develop mechanisms for monitoring the outcomes.

(x) Equity and Equality

We shall focus on preserving a fair, just and amiable working environment for everyone.

1.7 Principles and Attributes of the Commission

Other than our Vision, Mission and Values, the Commission subscribes to the principle that the law reform function should ordinarily repose in an agency with certain distinguishing characteristics. That is to say: it should be permanent, authoritative, full-time, independent, generalist, consultative and implementation-minded. The

Commission has strived to and continues to hold these ideals as it executes its mandate. What are the practical implications of these attributes for the Commission?

A. Permanent

The permanence of the Commission provides some inherent advantages over more ad hoc arrangements in furthering the law reform process. These include retention of process expertise, ability to engage in long-term projects and publicity.

B. Authoritative

A critical factor in winning and maintaining respect for the Commission is ensuring that its scholarship is absolutely first class. Law reform work must always proceed from a meticulous treatment of the law and a clear understanding of the surrounding processes. Only after that is it possible to consider intelligently the possibilities for reform and to make recommendations that are authoritative, realistic and achievable. So that even where they are not acted on immediately, they may serve to shape attitudes, values and understandings into the future, laying the groundwork for reform at a later time.

C. Full-time

Many different models have emerged in the Commonwealth and elsewhere about how to structure and manage the operations of standing Law Reform Commissions, driven mainly by considerations of funding rather than optimal performance. Our view is that to be an effective law reform agency, the Commission needs at least some full-time and engaged Commissioners and a critical mass of excellent research staff in order to deliver high quality products and services.

D. Independent

It is fundamental to success that the Commission maintains its independence. To some extent, this flows from its formal institutional establishment by statute—although our enabling Act specifically uses the term ‘independent’.

Internally, this refers to the Commission’s intellectual independence— the willingness to make findings and offer non-partisan advice and recommendations to government Ministries, Departments and Agencies without fear or favour. Without this essential quality, the Commission would be no different from a government department operating under political direction, or a consultancy contracted to deliver a desired result. Although intellectual independence must be fiercely guarded, it is also true that, as a public agency, the Commission must remain accountable and operate within boundaries defined by its constitutive legislation and other accountability frameworks in the public service.

E. Generalist

With the great proliferation and dispersal of law reform activity in Kenya, much of it in the hands of *ad hoc* Committees, Task Forces and other organizations, one of the most important contributions the Commission can now make is to remain a generalist body, endeavouring to work in any area of law or procedure, when asked, and making a virtue of this flexibility. Indeed, the most exciting references are those that take one outside their comfort zone.

F. Consultative

An additional defining characteristic of the Commission is that it operates fully in the public domain. A deep commitment to undertaking extensive stakeholder consultation as an essential part of research and policy development is the *sine qua non* of the Commission. Ultimately, this is the attribute that distinguishes the Commission from other bodies that have a law reform aspect to their work. The element of public participation is especially important since the Constitution itself demands public participation in various spheres:- the National Values (Article 10); the principle that authority assigned to a State Officer is a public trust (Article 73); public participation in the legislative process (Articles 118 and 119); and involvement of the public in policy formulation (Article 232), amongst others.

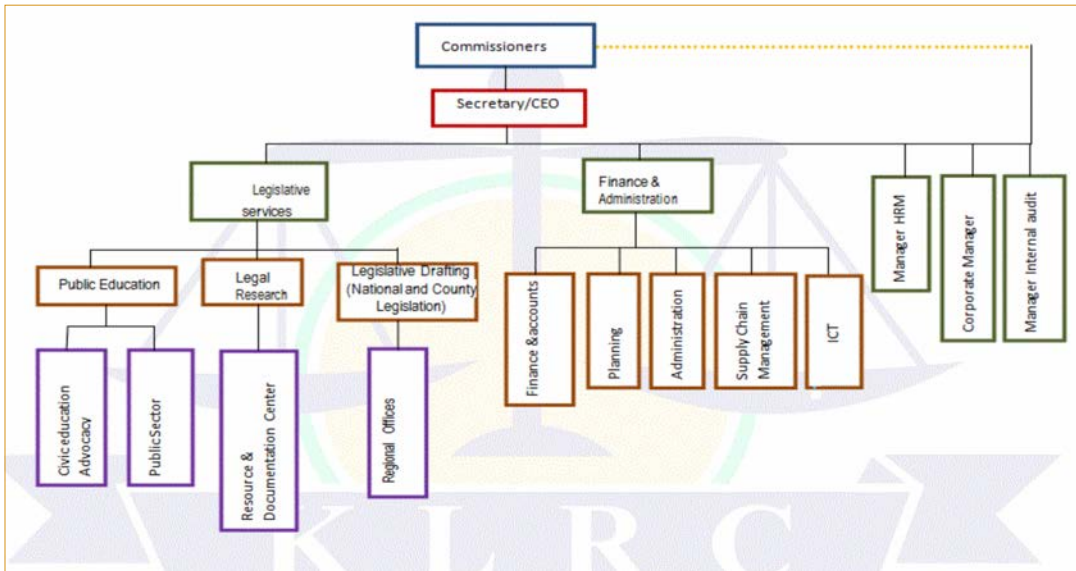
G. Implementation-minded

Except for constitutional implementation bills, the Commission reports are not self-executing. The Commission may provide advice and recommendations about the best way to proceed, but implementation is always a matter for others. The extent to which the Commission can influence policy and maintain public confidence and the respect for the rule of law at both levels of government and stakeholders will depend substantially upon its ability to craft recommendations that are practical and susceptible to ready implementation.

1.8 Structure and Administration of the Commission

At the apex of the Commission is the Board of Commissioners headed by the Chairperson. This is the policy organ of the Commission. The Secretary is the Chief Executive Officer and is responsible to the Commission for day-to-day administration. All the Commissioners meet at least once a month to review projects and programmes of the Commission and provide appropriate direction to the Secretariat. When there is need, Commissioners may meet more frequently. The full organizational structure of the Commission is captured in the organogram below.

1.8.1 The Commission's Organization Structure



1.8.2 Representation in Appointment of Commissioners

According to the provisions of Section 8 of the KLRC Act, 2013, the Commission shall consist of –

- (a) a chairperson appointed by the President through an open and competitive process;
- (b) two members appointed by the Cabinet Secretary through an open and competitive process;
- (c) two members, one of whom shall be a member of the Law Society of Kenya appointed by the Attorney-General;
- (d) a representative of the Director of Public Prosecutions appointed in writing; and
- (e) a representative of the Chief Justice appointed in writing.

In addition, Section 11 (1) of the KLRC Act, 2013, stipulates that the chairperson and members of the Commission shall be appointed by a selection panel to be constituted by the President whenever a vacancy arises. This panel comprises individual nominees from:

- (a) the Office of the President;
- (b) the Office of the Attorney-General;
- (c) the National Council for Science and Technology;
- (d) the National Economic and Social Council;
- (e) the Association of Professional Societies of East Africa;
- (f) the Law Society of Kenya;
- (g) the Federation of Women Lawyers, and;
- (h) the National Council for Persons with Disabilities.

1.8.3 Profile of Current Commissioners



Mr. Mbage N. Ng'ang'a - Chairman, KLRC

Mr. Mbage N. Ng'ang'a is the Chairman of Kenya Law Reform Commission. He is an Advocate of the High Court of Kenya and a Member of the Certified Institute of Public Secretaries, Kenya. He holds a Master of Laws Degree in International Business Law and a Master of Science Degree in Agricultural Development, both from the University of London. He is a Bachelor of Laws graduate of the University of Nairobi.

Mr Ng'ang'a has undertaken further Executive Education Programs in Financial Law, Economic Development, Public Enterprise Reform and Regulatory Law in leading universities and other institutions of higher learning which include: Harvard University – Kennedy School of Government, Cambridge University, University of Florida, Duke University and Georgetown University in conjunction with International Law Institute.

He was until his appointment to the Commission, a Senior Partner in the Law Firm of Waruhiu K'Owade & Ng'ang'a Advocates. As a Member of the Law Society of Kenya (LSK), he served in various Committees of the LSK, including as Convener of the Property Law, Conveyancing and Land Reform Committee.

Mr. Ng'ang'a has contributed to law reform in Land Law, Company Law, Partnerships Law, and Law of Moveable Property Rights, among others. He has been a Member of various Government Taskforces to review and advise on policy, legal, institutional and administrative reforms on fighting against corruption, institutional and regulatory reforms in the legal sector and policy and law relating to Intersex persons.



Ms. Doreen Muthaura - Vice-Chairperson, KLRC

Ms. Doreen Muthaura is the Vice-Chairperson, Kenya Law Reform Commission. She holds a Master of Laws (LL.M) in Advanced Legislative Studies, Bachelors of Laws (LLB), a Postgraduate Diploma in Legal Studies, a Certificate in Legislative Drafting from RIPA International-London, Certificate in Evidence Based Policy Making and Certificate in Policy Formulation and Implementation. She worked as a Principal

Program Officer – Legislative Drafting, a Senior Program Officer and a Researcher at the Commission for the Implementation of the Constitution and as a Parliamentary Counsel in Legislative Drafting Department- Office of the Attorney-General (State Law Office). She has trained legal officers and County officials amongst others on Legislative Drafting, policy formulation and Law Reform at the Kenya School of Law. She drafted, in collaboration with others, the first ever Guide to the Legislative Process in Kenya (2016). She has drafted several Policies, Regulations, Rules and other legal and administrative instruments. She has drafted and reviewed various Bills (now Acts of Parliament) to implement the Constitution of Kenya, 2010. She has also drafted several County Government Bills. She has contributed heavily in legal drafting, law reform and constitutional implementation. Ms. Doreen Muthaura is Member of the Commonwealth Association of Legislative Counsel (CALC); Member of the Law Society of Kenya; Member of the Federation International De Abogadas (FIDA- Kenya) and a Chevening Scholarship Alumni. She has participated in several task teams and committees on Law Reform matters.



Ms. Njoki Kahiga, HSC,OGW - Commissioner, KLRC

Ms. Njoki Kahiga is a Commissioner at the Kenya Law Reform Commission. She holds a Master of Science in Human Resource Management degree from Salford University, UK. She also has a Bachelor of Education (B.ed) degree from the University of Nairobi. She has been trained on mediation and is a certified mediator, Advanced Management Programme – IESE Business School, University of Navarra, Corporate Governance Course – Institute of Corporate Governance, Advanced Training of Trainers - USAID and Strategic Negotiations in the Public Sector – Jamaica. Ms. Njoki Kahiga has worked as an Ag. Permanent Secretary – Ministry of State for Public Service and Secretary Human Resource Development. She was also a Director, Human Resource Development, a Deputy Director of Human Resource Development and a Senior Assistant Director, Human Resource. She is Member, Kenya Institute of Management, Treasurer of Kenya Association of Public Administration and Management (KAPAM) and Member of African Association of Public Administration Management (AAPAM).



Ms. Ruth Kirwa - Commissioner, KLRC

Commissioner Ruth Kirwa is an Advocate of the High Court and Commissioner for Oaths and also serves as the University Secretary at the Technical University of Kenya. She draws a vast wealth of experience having previously consulted with: the Africa Nazarene University, Kenya, and Messrs Kalya & Co Advocates, Eldoret. She was a Research Fellow at the Moi University School of Environmental Studies and taught at the University of Nairobi Faculty of Law as well as tutoring at the Kenya School of Law. Other roles that she performs include but not limited to being; a Lead Expert with the National Environmental Management Authority (NEMA) in conducting Environmental Impact Assessments (EIAs), and an Auditor and Implementer of the International Standards Organization (ISO) 9001:2008 She holds a Masters in Law (LLM) (Corporate Law and Finance); Bachelor of Law (LLB) and a Diploma in Law from the Kenya School of Law. She is also trained in Legislative Drafting (Kenya School of Law) and Intellectual Property Rights Patent Drafting (Kenya Industrial Property Institute, KIPI). Her other professional affiliations include: Federation of Kenya Employers (FKE), the Institute of Certified Public Secretaries of Kenya (ICPAK) and the Chartered Institute of Arbitrators (CIArb-Kenya). In addition, she has assisted as a volunteer lawyer for Kituo cha Sheria and lately has provided pro bono services to the Child Welfare Society of Kenya.



Mr. Apollo Mboya, HSC - Commissioner, KLRC

Mr. Apollo Mboya, HSC, is a Commissioner of the Kenya Law Reform Commission. He holds a Masters of Arts degree in International Studies (Diplomacy & International Relations), Bachelor of Law (LL.B) as well as a Bachelor of Arts degree (Political Science & History). In addition, he holds a Diploma in Law from Kenya School of Law, Post Graduate Diploma in Human Rights from the Institute of Social Studies (The Hague); and Diploma in Security Studies from the National Defence College, Nairobi. He has worked as a specialist with the United Nations Development Programme (UNDP). He also worked as a State Counsel in the Department of Treaties and Agreements, Office of the Attorney-General. He previously served as Secretary/CEO, Law Society of Kenya. He is a member of the Institute of Certified Public Secretaries of Kenya, International

Commission of Jurists, East African Law Society, Commonwealth Lawyers Association, Outreach Official of the International Bar Association (Africa Region) and a Certified Professional Mediator, Mediation Training Institute.



Mary M. Wairagu - Commissioner, KLRC

Mrs. Mary Wairagu is an Advocate of the High Court of Kenya and a Commissioner for Oaths and a Notary Public having been admitted to the Bar on 19th December 1991. She has an LLB degree from the University of Nairobi (1990), and also a Post Graduate Diploma in Law, Kenya School of Law (1991). In addition, Mary Wairagu has Post Graduate Diplomas in Gender and Human Rights; Legislative Drafting (Parliament of India, 2012); and Strategic Leadership Development Programme (SLDP); Kenya School of Government (2011), Governance, Ethics and Anti-corruption Reforms, ESAMI (2009); Corporate Governance and Ethics Strategies (Commonwealth Training, 2009); and of Uppsala University, Sweden (2008).



Ms. Linda Murila - Commissioner (Ex-Officio)

Ms. Linda Musilivi Murila is a Commissioner (Ex-Officio) of the Kenya Law Reform Commission. She holds a LL. B (Hons) degree from the University of Nairobi, Faculty of Law. She has a Diploma (Law) from the Kenya School of Law and an Advanced Diploma in Legislative Drafting from the University of West Indies, Barbados. She was a member of the drafting team, Proposed Constitution of Kenya; Multi Sectoral Constitutional Review Committee; Member of the Technical Team to Review Laws Relating to Elections; Member of the Task Force on the review of Health and Health-Related Acts; Draftsperson to the Inter-parties Parliamentary Group on Constitutional Reforms; Member of various taskforces, including taskforces to review laws relating to labour, health, landlords and tenants, companies, partnerships, insolvency and investment, housing and the built environment, and; Member of the drafting teams for various East African Community legal instruments.



Mr. Joash Dache, MBS - Secretary/CEO, KLRC

Mr. Joash Dache is the Secretary/Chief Executive Officer of the Kenya Law Reform Commission. He is a holder of LL.M. degree (Monash University, Australia), a Diploma in Law (Kenya School of Law) and LL.B. degree (University of Nairobi) and a Certificate in Legislative Drafting (University of London). He is a Certified Public Secretary CPS (K) and an Advocate of the High Court of Kenya. Mr. Dache has undertaken the Strategic Leadership and Development Programme (SLDP) of the Kenya School of Government and various other professional courses both locally and abroad. He participated in the development of the Guide to the Legislative Process in Kenya (2016) and County Model Laws. He specializes in International and Comparative Law and has studied International Criminal Justice; International Aspects of Foreign Investment; World Trade Organization [WTO] Law and Policy; European Union [EU] Law and Policy; Intellectual Property Law; Regulatory Fundamentals; Privatization Law and Policy; Law of the Internet; and Legislative Drafting at post-graduate level. His core expertise include: Constitutional Development and Law Reform; Legislative Drafting; Legal and Policy Research; and Programme Coordination. He is a member of the Law Society of Kenya, Commonwealth Association of Legislative Counsel (CALC), Commonwealth Association of Law Reform Agencies (CALRAs) and the Association of Law Reform Agencies in Eastern and Southern Africa (ALRAESA).

CHAPTER

2

COMMISSION'S METHODOLOGY AND STRATEGIES

2.1 Introduction

This chapter is a summary of the Commission's strategies adopted during the financial year 2016/17 to realise its goals and objectives. Key among them include: Research and Development; Public Education; Review of Legislation; Public Participation; Stakeholder Mapping, Consultations and Collaborations, and; Capacity Building. It also captures best practices acquired from existing expertise and past experiences.

2.2 Research and Development

The Commission conducted various researches on constitutional and law reform matters and other emerging areas. Some of the research conducted in the reporting period included Desk Reviews; Focus Group Discussions; Bench Marking and Customer Satisfaction Surveys. The research outputs ensured that the Commission was kept on the cutting edge of legal, administrative and governance scholarly work. Research findings also augmented its advisory and capacity building role for its stakeholders and customers. In addition, the Commission re-invigorated its research database by upgrading the publications in its information resource centre. Further, the Commission subscribed to leading international law journals to access the latest research and publications on diverse areas of law reform and legislative development.

2.3 Review of Legislation

The Commission carried out comprehensive review of legislation upon receipt of legislative proposals/references from National and County Government MDAs. This was achieved by development of guidelines that guaranteed conciseness and proper definition of the legal problems. The Commission also prioritized the legislation targeted in the Performance Contract of the FY 2016/17 and the attendant work. Feedback mechanisms were established for information sharing and engagement especially by adopting project Committees, stakeholder mapping engagements and collaborations. The Committees specifically addressed the issue under review by:

a) Undertaking comprehensive research to determine the prevailing legal position and

- the deficiencies in the law that may require rectification;
- (b) Setting time-frames for the review;
- (c) Receiving, collating and analyzing views, including peer review by other legal staff and Commissioners;
- (d) Organizing the requisite consultative fora;
- (e) Preparing the necessary reports and draft bills; and
- (f) Producing an Issues or Position (Discussion) Paper as a key product of its initial research. The Issues or Position (Discussion) Paper must generally include the background information and the specific issues identified for examination.

2.4 Stakeholder Mapping, Consultations and Collaboration

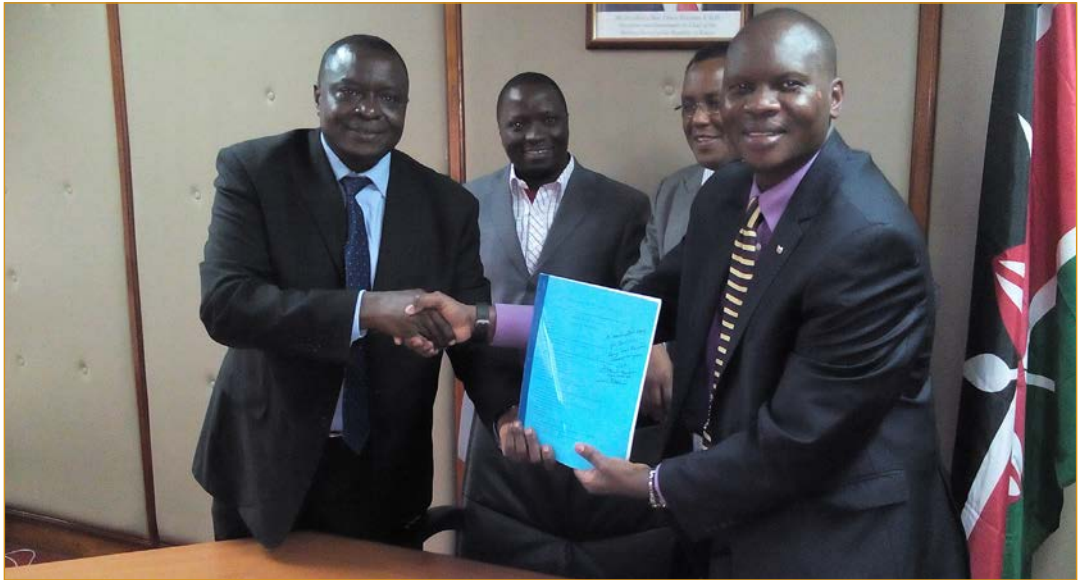
The Commission acknowledged that its major work of law reform and Constitutional Implementation is a dynamic milieu that is never time-bound. It is a product of lengthy processes that require in-depth engagements, research and consultation both locally and internationally. The Commission worked with relevant stakeholders to facilitate technically sound and practical solutions to meet the peoples' ever changing social-political and economic needs through the following approaches:



Constitutional Sensitization Workshop (Kitui County Staff) in Masinga.

2.4.1 Stakeholder Mapping

The Commission identified and developed a database of all its stakeholders. These were further categorized under various broad themes upon which outreach interventions were proposed. Through identification and incorporation of different stakeholders, the Commission has been able to approach development partners who have supported programme planning, monitoring, review and implementation. Further mapping of stakeholders has enhanced service delivery in accordance with our mandate.



Cooperative Alliance of Kenya pays a courtesy call to KLRC.

Stakeholder Map¹

Description	Behaviour/Strength	Opportunity
National Government and their MDAs	<ul style="list-style-type: none"> • Receptive of on-going reforms • Central control of resources and facilities <p>Hold the key to accessing and engagement of a wide national audience/stakeholders</p>	<ul style="list-style-type: none"> • Capacity building • Fundraising • Networks
County Governments / Assemblies, and their agencies	<ul style="list-style-type: none"> • In charge of County Governments and resources • Goodwill to entrench law reform that are development-centered • Experience in Constitutional Implementation (devolution) 	<ul style="list-style-type: none"> • Capacity Building • Partners in law reform initiatives at the County level • Access and awareness creation through their County-wide reach
Other commissions	<ul style="list-style-type: none"> • Knowledge on policy and reform gaps in areas of expertise 	<ul style="list-style-type: none"> • Partnerships • Policy development
Civil Society	<ul style="list-style-type: none"> • Long-term experience in promoting service delivery and advocacy on law reform matters 	<ul style="list-style-type: none"> • Networks • Capacity building
Private Sector	<ul style="list-style-type: none"> • Goodwill and support from the local community • Wide network and contact base 	<ul style="list-style-type: none"> • Engagement in law reform issues • Partnerships
Citizens and residents in Kenya	<ul style="list-style-type: none"> • Understanding of development needs 	<ul style="list-style-type: none"> • Need for public participation in law reform and policy development • Partners in awareness creation

¹ (Adapted from the KLRC's Communications Strategy and Policy)

Description	Behaviour/Strength	Opportunity
Development partners	<ul style="list-style-type: none"> • A wide range of networks and linkages • Expertise in anti-corruption strategies and solutions • Support from the public 	<ul style="list-style-type: none"> • Partnerships in law reform initiatives • Good will
The Media	<ul style="list-style-type: none"> • National and International reach • Wide listenership and viewership • Popularity • Experienced and talented staff 	<ul style="list-style-type: none"> • Broadcasting of law reform initiatives to a wide audience • Awareness creation • Public dissemination and engagement
Academia and professional bodies	<ul style="list-style-type: none"> • Research expertise 	<ul style="list-style-type: none"> • Research on law reform • Comparative studies on development and law reform • Awareness through publications and other research products
Other law reform agencies	<ul style="list-style-type: none"> • Expertise • Experience on matters of law reform 	<ul style="list-style-type: none"> • Partnerships • Capacity building
Commission Staff	<ul style="list-style-type: none"> • Experience 	<ul style="list-style-type: none"> • Networks • Conduct public education • Carry out assessments • Relay mandate of the commission to the external audience/customers
Online audience/Community	<ul style="list-style-type: none"> • Fast flow of information online (face-book, twitter) • Increased literacy and access to the internet in learning centers • Supportive 	<ul style="list-style-type: none"> • Cost effective means of sharing information • Build on already existing platforms to reach out to targeted audience

2.4.2 Stakeholder Consultation and Collaboration

The Commission established various avenues for stakeholder consultation and collaboration such as use of project committees. Such an approach secured understanding, consensus and focus in the work of the Commission. On average, most stakeholders were accorded an opportunity for participation and involvement in the law reform process. The feedback and insight by stakeholders and the public by large was translated into reports which are in turn disseminated both online and offline with the findings and recommendations expected to translate to better and more responsive programming and service delivery.



Prof. Paul Chepkwony, Governor Kericho County (Middle) leads participants in a group photo after officially opening a KLRC function in Kericho.

2.5 Capacity Building and Training

2.5.1 Staff Capacity Building

During the reporting period, the Commission buttressed its internal capacity to deliver on the Commission's mandate, including alignment of activities with service outcomes by implementation of the Commission's Customer Feedback Survey and Customer Satisfaction report. Through training and recruitment, the Commission has continuously enhanced its capacity. Additionally, the Commission enhanced peer-learning, internships and mentorships. This approach empowered staff and improved service delivery.

2.5.2 Public Communication, Education and Participation

As part of the endeavour to improve its public communications and engagement with key stakeholders and the public in general, the Commission inaugurated an interactive feedback function on its website that features an online survey (questionnaire) and an anti-corruption complaints form. Through this mechanism, the Commission has continued to receive direct and valuable feedback on the impact of its programmes and initiatives as well as suggestions for service delivery improvement from diverse corners of the Republic.

2.6 Performance Contracting, Monitoring and Evaluation

The Government of Kenya introduced performance contracting in the public service to, among other reasons: improve service delivery; improve accountability and transparency among public officers; deal with impunity in the public service; promote increased commitment and ownership among public servants; promote good governance in the public service; reduce political interference in government projects/activities, and; reduce poverty levels among its citizens. The Commission signed a Performance

Contract (PC) with the Hon. Attorney General (through the relevant Cabinet Secretary) for the financial year 2016/17. Among the core priorities of the Commission were to: strengthen NMDAs, County Governments and County Assemblies through various interventions. These obligations formed the basis of regular monitoring and periodic evaluation.

CHAPTER

3

ACHIEVEMENTS AND MILESTONES

3.1 Introduction

This chapter contains a summary of key achievements and milestones of the Commission in the financial year 2016/17. Key among them include: effective constitutional implementation; technical assistance to county governments; enhanced national presence ;reforms towards effective electoral process in Kenya; the fight against corruption; enhanced capacity in the Commission and improved service delivery. It also documents some success stories that emanated from activities carried out during the reporting period. These have been captured in key strategic and performance areas and a summary of lessons learnt have also been documented.

3.2 Effective Constitutional Implementation

3.2.1 Alignment of Existing Legislation to the Constitution

There existed over 700 pieces of legislation, policies and regulations prior to the promulgation of the Constitution on 27th August, 2010. In addition, legislative bodies (County Assembly, National Assembly and the Senate) have also enacted other laws since the constitutional promulgation. While legislative authority is vested in these arms of Government at the National and County levels, KLRC has been given an express role of providing technical support in drafting and review of existing legislation in conformity with the Constitution.

In the reporting period, KLRC participated in the development and review of bills required to implement the Constitution. Among these were: Contempt of Court Bill, 2016; Public Service Commission Bill, 2016; Survey/Physical Planning Bill, 2016; Review of the proposed amendments to the Health Bill, 2014; Review of the Proposed Amendments to The Community Health Workers Bill; Review of the Kenya Blood Policy; Analysis of the Kenya Wildlife Laws; Firearms (Amendment) Bill; Livestock and Livestock Products Marketing Bill, 2016, and; the Medical Fund Bill. Some of the bills have been enacted into law and are being implemented. The Commission also engaged in the Review of 150 laws in order to align them to the Constitution.



Chair of the CIOC Hon. Baya (11th Parliament) makes remarks at a legislative meeting organized by KLRC in Naivasha.

3.2.2 Electoral Reforms

Chapter Seven (7) of the Constitution of Kenya, 2010 provides for representation of the people. It broadly stipulates the general principles (Article 81) for the electoral system and specifically requires Parliament to enact legislation (Article 82) for effective management of the electoral process in Kenya. In that regard, the Commission participated in the development of several bills, electoral regulations and administrative procedures. Some of the bills have since been enacted into law and operationalized. Key among them include: the Elections Offences Bill, 2016 (now enacted), Election (Amendment) Bill, 2016 and the Political Parties (Amendment) Bill, 2016. The Commission further supported the Review of the Elections Act, Review of IEBC Act, Election Regulations and the Review of Election Offences Act. These efforts were made in collaboration with other stakeholders so as to consolidate and strengthen the electoral system in Kenya in accordance with the Constitution. More specifically, the reforms would culminate into successful General Elections that were conducted on 8th August, 2017.

3.2.3 The Fight against Corruption and Good Governance

The letter and spirit of Constitution of Kenya, 2010, is that of good governance, transparency and accountability. Several chapters and articles are dedicated towards this realization especially Article 10 (National Values and Principles of Governance) and Chapter Six (6) (Leadership and Integrity). The fight against corruption in Kenya has equally attracted a multi-sectorial stakeholder approach (State and Non State Actors). The Commission appreciated its role and contributed by way of drafting a number of far-reaching legislation which have been enacted while some are awaiting debate in

Parliament. These include: the Anti-corruption (Amendment) Bill 2016; the Whistle-Blowers Protection Bill, 2016, and; the Kenya Prisons Service Paralegal Policy. The Commission also implemented the Presidential directives on corruption by developing the National Anti-Corruption Campaign Steering Committee Bill, 2016. Their on-going implementation has impacted positively on the dispensation of justice and in the war against corruption.

Internally, the Commission made significant contributions to combat and prevent corruption, unethical practices and promote standards and best practices in governance in line with the Ethics and Anti-Corruption Commission Act No. 22 of 2011 and the Leadership and Integrity Act of 2012. This was achieved by carrying out a Risk Assessment and developing a Risk Mitigation Plan; submission of procurement plans to EACC; establishment of a gift register; and capacity building of heads of departments and staff. The Commission has also established a Corruption Prevention Committee (CPC) whose members have been trained on corruption eradication. Similarly, staff were trained on risk management. To further provide leadership on anti-corruption and integrity, Commissioners signed the Mwongozo Code of Governance in 2016/17. Since then, the Commission has been submitting periodic reports to SCAC on critical governance issues such as governance and legal audits. A certificate from SCAC is available.

3.2.3 Development and dissemination of County Model Laws

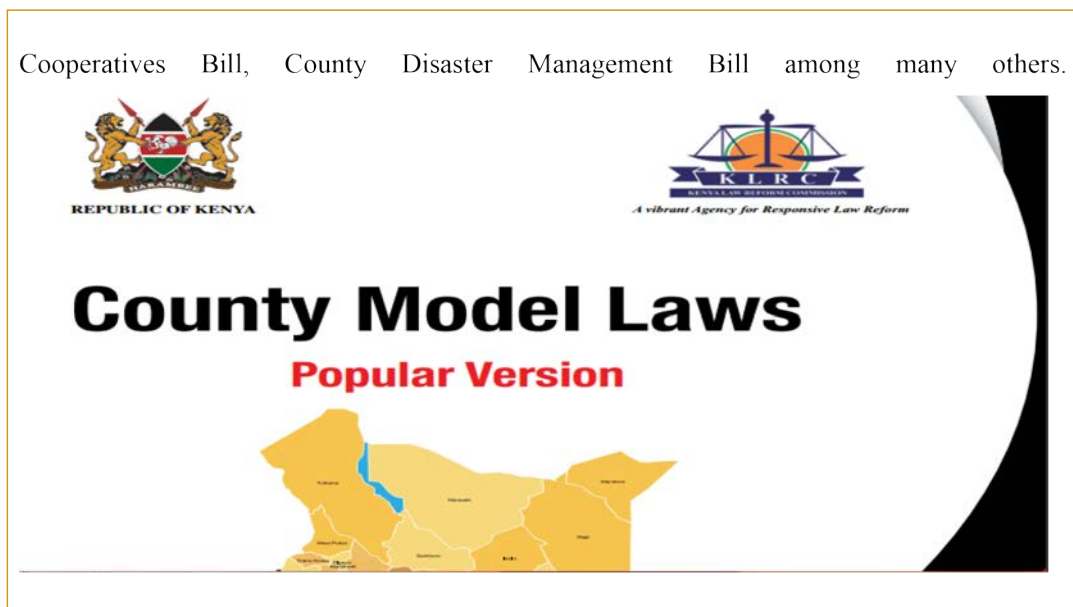
The Commission, the Office of the Attorney General and Department of Justice and the Ministry of Devolution and Planning have all proactively engaged in supporting effective



Commission Staff Showcase KLRC Model Laws to members of the public at a Nairobi Trade Fair.

implementation of devolution through development of county legislation as envisaged in the CoK, 2010. The Commission further recognized that the birth of devolution with the 47 county governments was one such milestone that required a quality legislative, policy and administrative environment. KLRC further appreciated the need to have a model legislative framework for optimum realization of the gains of devolution in the 14 County Government functions listed under the 4th Schedule to the Constitution.

County model laws were thus developed with an aim of providing standard legislation which could be adapted and customized to suit county-specific needs. Consequently, through a comprehensive stakeholder consultation process, the “Model Laws” were subjected to a multi-stakeholder introspection and review in 2015. The Commission in collaboration with the Ministry of Devolution and Planning launched the County Model Laws in November 2016. Upon request, the Commission further assisted counties on revision of the county model laws; County Sand Harvesting Bill, 2016; County Water and Sanitation Bill, 2016; County Cooperatives Bill, and; County Disaster Management Bill, among many others.



3.3 Technical Support to National and County Government MDAs

In the reporting period, KLRC assisted various Ministries, Departments and Agencies to review and develop legislation. The Commission also undertook various Projects/ Programmes in line with the Second Medium Term Plan of the Kenya Vision 2030. These efforts were in line with its mandate, functions and performance contracting obligations. The support took the following forms.



KLRC CEO Mr. Joash Dache, MBS makes remarks during the launch of the Dissemination of the Guide to the Legislative Process in Kenya at the Kenya Institute for Curriculum and Development (Looking on are Country Directors/Representatives of IDLO, USAID/AHADI, KLRC Chair and Speaker, West Pokot County Assembly)

3.3.1 Review and Development of Legislation

Specifically, the Commission participated in the development of over 20 bills and the formulation of several pieces of regulations. Key among of them (see full list in Appendix 2) include: the Movable Property Security Rights Bill, 2016; Computer and Cyber Crime Bill 2016; the Tribunals Bill, 2016; the Associations Bill, 2016, and; the Land Value Index Laws (Amendment) Bill, 2016. These bills have been finalized and forwarded to the Office of the Attorney General for onward transmission to the Cabinet and Parliament. The Commission further assisted several counties in the review and development of standardized legislation (see annex) in all the 47 counties.

3.3.2 Public Education and Training

The Commission adopted myriad strategies to conduct public education, training and capacity building. For instance it conducted a nationwide Training of Trainers of Trainers (TToTs) on the Legislative Process in Kenya. *The Guide to the Legislative Process in Kenya* was disseminated in the 47 counties by the TToTs under 12 clusters (see appendix 3). The Commission also launched of 50 County Model Laws in October 2016. In addition, the Commission conducted several tailor-made trainings to various stakeholders, namely: County Assembly, County Executives and National Government MDAs. It specifically trained Nyeri and Kilifi County Governments on the legislative process and policy formulation within the County Governments. Sensitization forums on the Constitution and Law Reform were also conducted using online media, public barazas and stakeholder meetings. Overall, there has been increased knowledge of law reform among our stakeholders.



Commissioner Njoki Kahiga and other staff at devolution conference.

3.3.3 Provision of Advisory Opinions

The Commission provided professional comments and opinions on key law reform issues. Some of them include: Comments on the Auctioneers Act; Comments on the Bribery Act; Comments on the Languages of Kenya Bill, and; Comments on the Proposed Employment (Amendment) Act. It further offered legal opinions on the following topics:

- (i) Implementation of the Supreme Court Advisory on the respective roles of the Ministry of Land, Housing and Urban Development and the National Land Commission;



Constitutional Implementation AG and KLRC Chair Address Press

- (ii) Coffee Licensing regime-Roles of the Director AFFA and Governors in the coffee sector;
- (iii) Proposed amendment to the Transition to Devolved Government Act, 2012;
- (iv) The Prevention of Torture Act,;
- (v) The Kenya Institute Of Curriculum Development (Amendment) Bill, 2016; and
- (vi) The National Government Constituencies Development (Amendment) Bill, 2016.

3.4 Enhanced Commission Image and National Presence

The Commission endeavoured to improve its presence through proactive implementation of its Communications Strategy and Policy. Some of the initiatives adopted included county visits, customer care training to staff, advertisements and use of online media (website, Facebook, twitter and LinkedIn).

3.4.1 Communication Media and Customer Service

In particular there was a revamp and regular update of the commission's website, www.klrc.go.ke, where most stakeholders had the first feel of the Commission. The Commission additionally acquired a Safaricom mobile hotline (0799030716). This has enabled many citizens and stakeholders to engage and share feedback with the Commission. The Commission has further established an efficient customer service desk that received and responded to all customer queries.

3.4.2 Improved Communication and Knowledge Management

The Commission implemented the recommendations that arose from the 2014/15 Customer Satisfaction Survey report. Some of the initiatives included improving



Members of the media attend a KLRC press briefing on Constitutional Implementation.



Chair and Staff during at the Devolution Conference in Naivasha



National Police Service officers visit KLRC open day



Pupils engage with KLRC

communications; improved staff welfare and establishment of feedback mechanisms. In addition, a follow up survey was done in the 4th quarter and a report has been published detailing the impact of the recommendations. On knowledge management, procedures were put in place for capturing, developing and sharing of tacit and non-tacit information. This was achieved by developing a mechanism of sharing experiences and lessons learnt for integration and continuous improvement. The Commission also supported various departments in documentation of knowledge via back to office reports, news-letter articles and activity reports. The Commission regularly prepares its annual report.



Alice Githuka receives a member of the Public at the Annual Devolution Conference in Naivasha.

3.5 Effective Service delivery

The Commission tailored its efforts towards making its services more effective and efficient. This was done by:

3.5.1 Competency Development

The Commission finalized the preparation and revision of the necessary HR and Administrative Documents. The Commission Human Resource Manual was aligned to that of the Public Service Commission issued in July, 2016. The Commission's Career Progression Guidelines were also aligned to meet the State Corporation Advisory Committee standards. These have assisted the Commission to facilitate proper HR practices as well as to attract and retain skilled and qualified staff for effective implementation of our mandate. The following key areas were addressed in the reporting period:

(i) Staff succession/promotion

The Commission continued with the implementation of its Succession Management Plan that was developed in November, 2015. In this regard, fifteen (15) officers were promoted and twenty (20) others were trained to attain requisite qualifications as contained in the Career Progression Guidelines. In addition, the trainings were tailored to address the knowledge gaps and to enhance staff performance and productivity.

(ii) Staff Recruitment

The Commission is faced with inadequate staff even with its expanded role of serving 47 County Governments and the National Government. To address this challenge, the Commission sought authority from the National Treasury and Parliament to recruit 13 additional staff growing, the complement to a total of 69 in the FY 2016/17. The

Summary of the recruitments was as follows: Corporate Communication Officer (1), Auxiliary Officer (1), Planning Officer (1), Finance Officer (1), Administration Officer (1), and Legal Officers (8).

(iii) Youth Internships/Pupilage

In line with internal HR policy and government directives, the Commission offered internships/attachments to 56 interns/pupils who had a chance to learn, acquire skills and experience. The following departments hosted the interns during the year:

Number of Interns/Pupils in the reporting period

Department/ Directorate	No of Interns/Pupils
Legal	12 pupils, 31 interns
Corporate Affairs	4 interns
Procurement	2 interns
Finance and Accounts	4 interns
Human Resources	2 interns
Library	1 intern

3.5.2 Enhanced Institutional Capacity

In the reporting period, the Commission made efforts towards improving the institutional capacities in key performance areas, namely: environmental sustainability; data safety and security; ISO Certification, and; asset management as summarized below.

(i) Environmental Sustainability

The Commission established and operationalized an Environmental Sustainability Committee. The Committee conducted an Environmental Sustainability Audit and prepared a compliance report in accordance with EMCA-1999. The Committee also developed a quality framework (policy) that is currently under implementation for better environmental sustainability. Subsequently some heads of departments and staff were trained on environmental sustainability in February 2017.

(ii) Data Safety and Security

The Commission put in place measures to enhance data and general security and safety of its staff. An ISMS system was designed to establish, implement, operate, monitor, review, maintain, and improve information security. Subsequently, seven (7) security officers were trained in November 2016.

(iii) ISO Certification

The Commission has aimed to join the global competitive stage by becoming ISO-compliant. In the reporting period, it made progress towards acquisition of the ISO

Certification by training eighteen (18) officers on the new ISO standard 2008: 2015 (October 2016). Additionally the staff and ISO internal auditors were trained in November 2016. Subsequently, a quality policy has been developed and approved by the Commission Secretary/C.E.O.

(iv) Asset/Inventory Management

The Commission made best use of its equipment, machinery and tools. This was achieved by regular update of the catalogue of its assets and property (inventory management), as well as maintenance and relevant repairs to prevent damages. Additional office space was acquired to cater for the increased staff.

3.5.3 Adoption of Technology

In the financial year 2016/17, the Commission finalized the preparation and adoption of its ICT Strategy in line with the government's National ICT Policy. Consequently, most services and operations have been automated. To enhance connectivity and technology, the Commission facilitated availability and provision of Internet within its premises for all staff, Commissioners and stakeholders. The ICT department also initiated the acquisition of procurement for financial and procurement software (ERMS). To protect data and information, several measures were put in place, including installation of cyberoam firewalls, staff trainings/sensitization and server protection. Currently the Commission staff to computer ratio is 1:1.

3.5.4 Effective Absorption of Allocated Funds

During the reporting period 2016/17, the Commission effectively utilized its allocation of Kshs. 330 Million in programmes, projects and activities for which they were appropriated and planned for. The Commission also ensured that all its financial obligations were met and sustained bills below 1% of the total budget at the end of the financial year. The Commission also adhered to the PFM Act, related Regulations and Treasury Circulars. This was achieved by timely preparation of the: Financial Programme Performance Reports; Annual Accounts; Annual Procurement Plans; Annual Work Plans and Cash Flow Projections.

3.5.5 Procurement Consistent with Government Regulation

The Commission made significant progress to comply with government procurement regulations and policies as highlighted below:

(i) Youth Capacity Building on Procurement Procedures

The Commission undertook to build the capacity of youth, women and persons with disabilities on government procurement procedures, the requirements for accessing government procurement opportunities, and the specific opportunities available within the Commission to the groups.

(ii) Minimum 30% of procurement budget dedicated to youth, women and persons with disabilities (AGPO)

The Commission allocated an approximate of 30% of the total budget for procurement of goods and services to youth, women and persons with disabilities. Pre-qualification of the registered groups under this category was done at the beginning of the financial year. This was to ensure that the groups are given opportunities for quotations and a summary report was shared with the PPOA. The Commission further implemented the requirement that 40 % procurement to be dedicated for locally produced goods and services.

3.5.6 Improved Staff Welfare

The Commission participated in the Job Evaluation (JE) exercise by the Salaries and Remuneration Commission (SRC) which was unveiled in May, 2016 and the model salary guidelines issued in July, 2017. The Commission is in the process of consulting on, harmonizing and implementing the model salary. The Commission further enhanced working conditions of persons with disabilities. This was achieved by holding a sensitization forum of Commission's Disability Mainstreaming Committee on the requirements of the performance activities in collaboration with the National Council for Persons with Disabilities. Staff also continued to enjoy medical cover and pension facilities, among other benefits.



Staff pose for a photo during a Strategic Review Workshop in Ukunda.



Luke Mikedon presents the Guide to a Nairobi resident.

3.6 Key Success Stories and Milestones

The Commission attained some key milestones and success stories over and above continuous implementation of its core mandates of Constitutional implementation and provision of technical assistance to both levels of government in matters of law reform.

3.6.1 Re-Dissemination of the Guide in the Counties

The Commission successfully completed the dissemination of the *Guide to the Legislative Process in Kenya* to all the 47 Counties in 12 clusters. Subsequently, Uasin Gishu and Baringo Counties wrote to the Commission in January 2017 indicating plans to do similar trainings in their respective counties. The Commission provided additional copies of the Guide where over 100 members were trained.

3.6.2 Invitation by the Catholic Justice and Peace Commission

The Commission was invited by the Catholic Justice Peace Commission (CJPC) in Kisii for a sensitization forum on the Constitution. 50 participants attended the occasion, among them: parishioners and catechists from various parishes in the region.

3.6.3 Hosting of the Zimbabwe Inter Ministerial Task-Force

The Commission hosted the Zimbabwe Inter-Ministerial Taskforce on Alignment of Legislation to the Constitution on Wednesday the 30th of November 2016. Led by the Zimbabwean Attorney General, Mr. Masha, the visitation (was part of the taskforce's study tour to Kenya which hinged on the Commission's work and contribution to Constitution implementation in Kenya. The Chairman of the Commission Mr. Mbage Ngàngà briefed the task-force and pledged to collaborate and partner with the Zimbabwe delegation in crucial law reform and constitution implementation fronts.



Chair KLRC receives an Inter-ministerial delegation on legislation from Zimbabwe headed by the Zimbabwean Attorney General, Mr. Masha.

CHAPTER

4

CHALLENGES AND RECOMMENDATIONS

4.1 Introduction

This chapter presents a summary of key challenges that the Commission faced in the reporting period. It further provides for recommendations and measures that could be utilized to mitigate the challenges. These have been clustered into general, specific and recommendations to various stakeholders.

4.1 Challenges

4.1.1 Perception Challenge

KLRC is perceived as being part of the National Executive and therefore not in a fully independent status to fairly and impartially execute its critical roles, especially that of advisory and technical assistance to County Governments.

Recommendations:

- a) KLRC to improve its public image through genuine and proactive involvement of all stakeholders in its undertakings;
- b) The Office of the Attorney General and Department of Justice to proactively support the Commission especially in addressing the perception challenges;
- c) Parliament to facilitate the operational and financial independence of the Commission through relevant legal and administrative measures; and
- d) SCAC to fully classify the Commission into the relevant domain as a National Parastatal.

4.1.2 Lack of Devolved Offices

In spite of the huge demand for its services across the country, KLRC has its headquarters located in Nairobi, from where it is required to give technical support to 47 county governments.

Recommendations:

- a) KLRC should endeavor to exercise this function by posting dedicated officers to the regions to address the county concerns;
- b) Relevant development partners to support KLRC to operate at least 12 regional (satellite) offices so as to devolve service delivery.

4.1.3 Stakeholder and Public Expectations

The Commission faces huge stakeholder and public expectations on the outcomes and impact of its work. For instance, Kenyans expect KLRC to follow up and update them on every single matter on the law reform and constitutional implementation terrain. While the Commission has put its best efforts so far, this challenge is yet to be fully overcome.

Recommendations:

- a) KLRC to facilitate an effective stakeholder engagement process by implementing its stakeholder engagement policy which has clear lines of accountability;
- b) KLRC to update stakeholders on the existence of its feedback mechanisms and a complaints referral mechanism for quick resolution;
- c) Development partners to support the Commission in communicating its vision and mandate to stakeholders' and the public;
- d) Stakeholders and the public to engage the Commission on a regular basis on matters of concern and public interest.

4.1.4 Operational Challenges

The Commission was declared a body corporate in 2016. This paved the way for semi-autonomous operations and continued implementation of its wide programmatic work. Among the operational challenges that faced the Commission in the reporting period included inadequate funding, inadequate office space and staff capacity constraints.

Recommendations

- a) KLRC to seek out partnerships in the programmatic work that is inadequately financed;
- b) KLRC to continue training its existing staff for full productivity;
- c) Parliament to continue boosting the Commission's annual allocation to the needed optimum amounts;
- d) County Governments to factor facilitative resources for technical assistance for programmatic work.

CHAPTER

5

CONCLUSION AND WAY FORWARD

5.1 Introduction

This chapter contains a summary of the Commission's strategic objectives and performance of contractual obligations in the financial year 2016/17. These are described and an indication of to what extent they were achieved given. A conclusion and way forward has been discussed especially on how the Commission could live up to its strategic objective which is: *to ensure that the law of Kenya is responsive to political, social and economic development needs.*

5.2 Summary of the Commission's Strategic Objectives

This Annual Report is the last in the Commission's Strategic Plan 2013-2017. During the strategic life-span of five years, the Commission worked tirelessly towards the realization of the strategic goals and objectives. The Commissioners and staff also demonstrated professionalism, transparency and accountability in performing their duties. The specific objectives of the Commission were to:

1. To facilitate preparation of legislation required to implement the Constitution;
2. To facilitate development and review of legislation required for the successful implementation of the Medium Term Plan;
3. To facilitate reform of the Law, Policies, Regulations and Administrative Procedures to conform to the Constitution and the Medium Term Plan; and
4. To enhance requisite institutional capacities for effective delivery of the Commission's mandate.

5.3 Commission's Contractual Obligations in the Financial year 2016/17

As a State Corporation, the Commission is party to the annual Performance Contractual Obligations of the Government. During the reporting period, the Commission made strides in meeting most of these obligations and in many instances exceeded the

set targets. It also demonstrated capacity and competence in the performance of its functions. Below is a summary of the prioritized areas:

5.3.1 Ensuring that systems are established to engender equality for all users of public services

KLRC lived up to this priority by discharging its duties and functions in a non-discriminatory, fair and impartial manner in the process of delivery of services. Where deemed necessary, the Commission implemented affirmative action so as to reach out to the disadvantaged groups of the society such as: provision of Braille IEC materials and hiring of sign language interpreters in public functions. The Commission was also in the forefront in promoting and championing National Cohesion and Values as provided for in the Constitution of Kenya, 2010.

5.3.2 Ensuring continuity of public services under all circumstances

The Commission understood its critical role in the Constitution implementation process both in the transitional and post-transition period. Particularly, its pivotal role would be handy in serving all the stakeholders (State and non-State actors). In this regard, the Commission established innovative feedback systems that were utilized by stakeholders in the circumstances of the Commission's absence such as: establishment of Communities of Practice (CoPs); institutionalization of a Rapid Response Team (RRT); publication of Guides and Manuals, and; Training of County Assembly Counsels and County Attorneys, among other initiatives. These approaches ensured continuity and adaptability of its public services to the needs of the users and the citizens of Kenya.

5.3.3 Ensuring effective, efficient and responsible service delivery

The Commission worked hand in hand with its staff and stakeholders towards meeting the set targets. To promote effectiveness, efficiency and responsibility, staff members were sensitized on the need to own the Commission vision and live its values. Beyond this, it endeavored to promote a culture of accountability and integrity in Public Service.

5.4 Lessons Learnt and Way Forward

The following were the three key lessons learnt by the Commission in the reporting period:

5.4.1 Interdependence of National and County Governments

The Kenyan people are one and no Government or its arm could on its own meet the needs and expectations of its citizenry. Therefore National and County Governments need more collaboration, consultation and co-ordination. On its part, KLRC shall revamp its engagement with NMDAs, Legislature, County Governments and Constitutional Commissions and Independent Offices to enhance these partnerships especially in law reform.

5.4.2 Proactive Civic Education key in law Reform

Public participation is a national value enshrined in the Constitution and a cross-cutting Constitutional requirement in governance. There is need to elevate the knowledge of the citizens by way of targeted civic education in order to make Public Participation effective and meaningful. KLRC will remain proactive by developing a robust stakeholder engagement model so as to enhance civic education in the devolved system of governance.

5.4.3 Appreciation of Stakeholders' and Development Partners 'role in Constitution Implementation

KLRC reckons that Constitution Implementation and Law Reform are not events but processes that are often elaborate, time-consuming, conflict-prone, and capital intensive. They undoubtedly need consensus-building, resource mobilization and goodwill; therefore the need to appreciate all stakeholders and development partners who in one way or another play a crucial role.

5.5 Conclusion

Together with other stakeholders, the Commission is pleased to have lived up to its vision of being a vibrant agency for responsive law reform and its mission of facilitating law reform conducive to social, economic and political development.

Appendixes

Appendix I: List of County Legislation and Regulations Prepared during the Period under Review

- a. Nyeri County Enterprise Fund Act, 2016
- b. Nyeri County Education Fund Act, 2016
- c. Laikipia County Disaster and Risk Management Act, 2017
- d. Baringo County Disaster and Risk Management Act, 2017
- e. Marsabit County Disaster and Risk Management Act, 2017
- f. Nyandarua County Investment Corporation Bill, 2017
- g. Nandi County Revenue Administration Bill, 2016
- h. Nandi County Single Licensing Bill, 2015
- i. West Pokot Public Service Board (Conduct of Business and Code of Conduct) Regulations, 2016
- j. Elgeyo Marakwet County Alcoholic Drinks (Licensing) Regulations, 2015
- k. Laikipia County Executive Car Loan Scheme, Regulations 2016
- l. Kakamega County Ward Development Fund Bill, 2016
- m. Nakuru County Hospital Management Services regulations, 2016
- n. Nyandarua County Veterinary Services Funds Regulations 2016
- o. Vihiga County Elderly Persons Fund Regulations, 2016
- p. Kakamega Small Scale Trade Development Regulations, 2016
- q. Kitui Pro Poor Guidelines, 2017
- r. Kitui Infrastructure Guidelines, 2016
- s. Nandi County Car Regulations, 2016
- t. Nandi County Mortgage Regulations, 2016
- u. Kajiado County Finance Management (Kajiado County Emergency Fund) Regulations, 2016
- v. Machakos County Emergency Fund Bill, 2016
- w. Nyamira County Education Support Fund Regulations, 2016
- x. Public Finance Management (Kilifi County Car Loan and Mortgage Fund) Regulations, 2015
- y. Public Finance Management (TharakaNithi County Assembly Staff Car Loan Fund) Regulations, 2016
- z. Public Finance Management (TharakaNithi Executive Staff Car Loan Fund) Regulations, 2016

Appendix II: List of Legislation Prepared for National Government MDAs

- a. Social Protection Bill, 2016
- b. Volunteerism Bill, 2016
- c. Nuclear Regulatory Draft Bill, 2016
- d. Older Persons Zero Draft Bill, 2016
- e. Science and National Technology (Amendment) Bill
- f. Nurses (Amendment) Bill, 2015
- g. Constitution of Kenya (Amendment) Bill, 2015
- h. National Crime Research Bill, 2015
- i. Draft Counsellors and Psychologists (Amendment) Bill, 2015
- j. Public Remuneration and Benefits Bill, 2016
- k. Prisons Draft Bill, 2015
- l. Borstal Institutions Draft Bill, 2015
- m. National Anti-Corruption Campaign Committee Bill, 2015
- n. Metrological Bill, 2015
- o. Occupational Safety and Health Act (Draft Bill), 2017

Appendix III: List of Counties and Clusters Visited during the Dissemination of the Guide

CLUSTER (REGION)	COUNTIES	VENUE	DATES
Lower Eastern (PILOT)	1. Makueni 2. Machakos 3. Kitui 4. Embu	Machakos	1st- 4th August, 2016
South Nyanza	5. Kisii 6. Nyamira 7. Migori	Kisii	9th-11th August, 2016
South Rift	8. Kericho 9. Bomet 10. Narok 11. Kajiado	Kericho	16th - 18th August, 2016
North Nyanza	12. Kisumu, 13. Homabay, 14. Siaya	Kisumu	12th -14th September, 2016
Western	15. Bungoma 16. Kakamega 17. Vihiga 18. Busia	Bungoma	31st August to 2nd September, 2016
Coast	19. Kwale 20. Mombasa 21. Kilifi 22. Tanariver 23. Lamu' 24. TaitaTaveta	Kwale	5th -7th September, 2016
North Rift	25. Turkana, 26. West Pokot, 27. Trans-Nzoia, 28. Uasin Gishu 29. Elgeyo Marakwet	Lodwar, Turkana	21st -23rd September, 2016
North Eastern	30. Garissa 31. Mandera 32. Wajir	Nakuru	27th – 30th March, 2017
Central Rift	33. Samburu 34. Nandi 35. Baringo 36. Laikipia 37. Nakuru	Nakuru	27th – 30th March, 2017
Eastern Upper	38. Marsabit 39. Isiolo 40. Meru 41. TharakaNithi	Nakuru	27th – 30th March, 2017
Central	42. Nyandarua 43. Nyeri 44. Kirinyaga 45. Muranga 46. Kiambu 47. Nairobi	Nakuru	27th – 30th March, 2017

Appendix IV:

I. AUDITED STATEMENT OF FINANCIAL PERFORMANCE For the Year Ended 30th June 2017

	Note	2016-2017	2015-2016
Government Grants –	3	330,000,000	249,025,000
Revenue from Exchange Transactions			
Other Income	4	630,619	42,000
Total Revenue		330,630,619	249,067,000
Expenses			
Employee Costs (Secretariat)	5	75,031,739	72,331,299
Commissioners Salaries	6	29,250,392	28,798,470
Contractual Employees	7	4,368,546	3,010,044
General Expenses	8	200,636,442	122,996,538
Repair and Maintenance	9	3,113,736	4,555,585
ICT related cost	10	4,076,500	3,290,140
Commissioners Allowances	11	2,869,055	1,260,000
Depreciation Expenses	12	5,676,583	5,247,143
Total Expenditure		325,022,993	241,489,219
Surplus		5,607,626	7,577,781

II. STATEMENT OF FINANCIAL POSITION For the Year Ended 30 June 2017

	Note	2016-2017	2015-2016
ASSETS		Kshs.	Kshs.
Non-Current Assets			
Property, Plant & Equipment	12	18,069,984	17,245,733
Inventory	16	2,295,347	1,053,121
Sub-total		20,365,331	18,298,854
Current Assets			
Cash and Cash Equivalents	13	2,766,559	765,272
Receivables from Non-Exchange	14	8,761,531	6,812,136
Sub-total		11,528,090	7,577,408
Grand-total		31,893,421	25,876,262
LIABILITIES			
Current Liabilities			
Trade & Other Payables from Exchange Transactions	15	2,271,977	1,862,444
Surplus (Opening)		24,013,818	16,436,037
Surplus for the year		5,607,626	7,577,781
Total Liabilities		31,893,421	25,876,262

III. STATEMENT OF CASHFLOWS

For the Year Ended 30 June 2016

	Note	2016-2017	2015-2016
		Kshs.	Kshs.
Cash flow From Operating			
Surplus for the year before tax		5,607,626	7,577,781
Adjusted for: Depreciation	12	5,676,583	5,247,143
Contributed assets		0	0
Working capital adjustments			
Decrease in inventory	16	(1,242,226)	1,999,224
Increase in receivable	14	(1,949,395)	(3,078,099)
Decrease in Payables	15	409,533	(1,819,795)
Net cash flows from operating actives		2,894,495	2,348,473
Cash flow from investment activities			
Purchase of property, plant and equipment	12	(6,500,834)	(9,165,254)
Net cash flow from investment activities		(6,500,834)	(9,165,254)
Cash flow from financing activities		0	0
Cash and cash equivalent as at the beginning of the year		765,272	4,272
Cash and cash equivalent as the end of the year.	13	2,766,559	765,272

Notes to the Financial Statements for the Year - Ended 30th June, 2017

1. Statement of Compliance and Basis of Preparation – IPSAS I

a) *Statement of Compliance*

The Kenya Law Reform Commission's Financial Statements have been prepared in accordance with and complied with International Public Sector Accounting Standards (IPSAS). The Financial Statements are presented in Kenya Shillings, which is functional and reporting currency of the Commission. The Accounting Policies have been consistently applied to the Year Presented.

b) *Basis of Preparation*

The Financial Statements have been prepared on the basis of historical costs, unless stated otherwise. The cash flow statement is prepared using the in-direct method. The financial Statements are prepared on accrual basis.

c) Revenue Recognition

Revenue from non-exchange transactions – (IPSAS 23) is recognized in the period in which it accrues. A Government grant is recognized when it is received.

d) Accounts Payables

Payables are stated at nominal value, less amounts not expected to be payable.

e) Reporting Currency

These financial statements are presented in Kenya Shillings (Ksh.) as the reporting currency.

f) Income Tax

The Commission being a non-trading entity is not subject to taxation

Appendix V: List of Development Partners

1. International Law Development Organization (IDLO) (Technical Support);
2. USAID Agile Harmonized Assistance for Devolved Institutions (AHADI) - Dissemination of the Guide and Development of the National Public Participation Policy championed by the AG;
3. United Nations Development Program (UNDP)- Provision of technical support to Arid and Semi-Arid Counties in Developing Disaster Management Policies and Legislation;
4. United States Agency for International Development (USAID);
5. Institute for Economic Affairs (IEA-Kenya) (Partners in research for Evaluation of the Fifth Schedule legislation and penal legislation).

Appendix VI: Administration of the Commission

Commissioners

The current Commissioners are:

1. Mbage Ng'ang'a – Chairperson (full time)
2. Doreen Muthaura – Vice-Chairperson (full time)
3. Njoki Kahiga, OGW – Commissioner (full time)
4. Mary Wairagu – Commissioner (Ex-officio)
5. Apollo Mboya – Commissioner (Part-time)
6. Ruth Kirwa – Commissioner (Part-time)
7. Linda Murila – Commissioner (Ex-officio)
8. Joash Dache, MBS – Secretary/CEO

The Secretariat

Headed by the Chief Executive Officer/ Secretary
Joash Dache, MBS

Assisted by:

Heads of Department

Directorate	Department	Head of Department/Directorate
1. Legislative Services		Josephine Sinyo (Director)
	Legal Research	Catherine Munyao
	Public Education	Mathew Kimanzi
	Legislative Drafting	Peter Musyimi
	Library Unit	Virginia Arina
2. Finance & Administration	Finance and Accounts	Victor Amos
	Accounts unit	John Kariuki
	Administration	Susan Kuria
	Records	Moses Oyolla
	Supply Chain	Julita Onyango
	ICT	James Ruteere
	Planning	Jackline Njuguna
	Audit	Abraham Wachira
	Human Resources	Felistus Kabiru
	Corporate Affairs & Communication	Jacob Otachi Orina



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