



KITUO CHA SHERIA
LEGAL ADVICE CENTRE
we care for justice

ANNUAL REPORT

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2014

We care for Justice

Produced by

Kituo Cha Sheria

(Legal Advice Centre)

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LIST OF ABBREVIATIONS/ACRONYMS

JC	Justice Centers
FMP	Forced Migration Programme
HIAS	Hebrew Immigrant Aid Society
LGBTI	Lesbian Gay Bisexual Transgender and Intersex
NALEAP	National Law Enforcement Against Prohibition
ICC	International Criminal Court
PJRP	Peace, Justice and Reconciliation Project
IDP's	Internally Displaced Persons
PEV	Post-Election Violence
TJRC	Truth Justice and Reconciliation Commission's
IEBC	Independent, Electoral and Boundaries Commission
KLRC	Kenya Law Reform Commission
AGCP	Advocacy, Governance and Community Partnerships
ADR	Alternative Dispute Resolution
CEU	Central European University
CBOs	Community Based Organizations
CJPC	Catholic Justice and Peace Commission
CSO	Civil Society Organization Network
ECOSOC	Economic and Social Council
EACOR	East Africa Collaboration for Economic Social and Cultural Rights
FA	Finance and Administration
GBV	Gender Based Violence
IEC	Information, Education and Communication
IRC	International Rescue Committee
JRS	Jesuit Refugee Service
KICODI	Kisauni Constituency Development Initiative
KISCOL	Kwale International Sugar Company Limited
KNCHR	Kenya National Commission on Human Rights
KCBO - Net	Kamukunji Community Based Organization Network
KTN	Kenya Television Network
LAED	Legal Aid and Education Department
LRF	Legal Resource Foundation
LSK	Law Society of Kenya
MRC	Minority Reform Consortium
MUHURI	Muslims for Human Rights
NPSN	Nairobi Peoples Settlement Network
NCSC	National Civil Society Congress
PASUNE	Paralegal Support Network
PIL	Public Interest Litigation
RCD/IT	Research Communications & Documentation/Information Technology
TI	Transparency International
UNHCR	United Nations High Commission for Refugees
UNDP	United Nations Development Programme
URIP	Urban Refugee Intervention Programme

EXECUTIVE SUMMARY

The year 2014 was a successful year for Kituo Cha Sheria (KITUO). It saw the launch of Kituo Cha Sheria's (KITUO) strategic plan 2014-2019 whose theme is "Towards Legal Aid, Legal Empowerment and Social Justice". The development of this strategic plan was informed by a thorough reflection and review of Kituo's landmark achievements, challenges, lessons learnt from the 2009-2013 period and future programme prospect.

KITUO, through its three offices and various programs, continued to walk the talk on access to justice through provision of legal aid services, civic education and representation on matters of land, labour, housing, refugees' rights and general human rights issues.

In 2014, AGCP continued in its efforts to build and strengthen existing community networks and build the capacities of poor and marginalized communities to be effective champions and monitors of their legal and human rights. This was through legal aid clinics at Kainuk, Lokichar and Lodwar sub locations in Turkana County and community paralegals awareness forums and refresher courses on the Industrial Court Act, Environment and Land Court Act, ADR mechanisms and organizational capacity building in Kisumu, Kitui and Nairobi. Kituo Cha Sheria was profiled through a feature by the Australian Broadcasting Corporation's program on legal aid and advice at prison justice centers by paralegals that are trained by Kituo.

The Legal Aid and Education Programme continued offering legal aid to persons who cannot afford legal services. In 2014 new and return clients served by the programme went past the 9,000 mark with the continued use of different strategies including out of court settlements and Alternative Dispute Resolution (ADR) mechanisms in addition to litigation.

In addition, to ensure a higher impact in our work and increased benefits of litigation to large groups and communities, the department took up carefully selected Public Interest Litigation on matters where public interest is at stake. In 2014 PIL matters saw Kituo involved in Leikiji, Nakuru County; Mutomo in Kitui County and Garissa County among others. In addition the department was involved in PIL Caucuses in Nairobi and Kakamega.

The Legal Aid programme also continued to link and work with its Volunteer Advocates throughout the country thus broadening the provision of legal aid services. There was also enhanced networking not only with advocates and stakeholders but also with other organizations working towards the same course.

KITUO's Forced Migration Programme (FMP) continued to fight for the rights of refugees and asylum seekers, mainly from Somali, Rwanda, Sudan, Burundi, Rwanda, Democratic Republic of Congo and Uganda. The programme served a total of 1, 781 clients in 2014.

The year was a difficult one not only for the country but also to those championing for refugee rights. Following a number of terrorist attacks around the country, the government once issued directives in March 2014 that urban refugees should relocate to camps and further directions that citizens do report to authorities refugees who do not relocate to the camps.

This was followed by immediate, widespread and later sporadic arrests of persons of concern especially within the Eastleigh area of Nairobi. The government also instituted an operation dubbed Usalama Watch where all foreigners and persons without identification were detained at the Kasarani Stadium for verification. All these occurrences disrupted the implementation plan of the programme mainly because the entire refugee community was destabilized thus rendering mobilization of persons of concern impossible.

KITUO's Mombasa office also continued to offer legal aid and training of paralegals not only in prison but also communities as well as litigation for the poor and marginalized in the region.

Of great importance was the LAPPSET project development that brought the need to educate the residents of Lamu of their rights especially in relation to eviction. Therefore, there was a need to train paralegals who will help the communities to be knowledgeable of their rights. The Community Justice Centers in Kisauni and Shimo la Tewa served to decentralize provision of legal aid services by taking it closer to the needy people at

the community level.

The Research, Communication and Documentation (RCD) and Information Technology (IT) department played its pivotal role of supporting the other programmes/departments. Through communication, Kituo was able to increase visibility of its various programs and linking them with external stakeholders, various publics and media. Various activities were highlighted on both social and mainstream media-something that increased visibility of KITUO in matters of land, labour, refugees and housing in the country and beyond. These activities were also documented for future reference.

In general, 2014 had a lot of upbeat for KITUO in its bid to continually roll the wheels of access to justice for the poor and marginalized and in line with its vision of, “A Society of Justice and Equity for All”

MESSAGE FROM THE CHAIR OF THE BOARD OF DIRECTORS



The year 2014 saw the finalization of Kituo Cha Sheria's (KITUO) strategic plan 2014-2019. This process culminated in bringing together representatives of all the stakeholders in a conference held at Elmentaita County Lodge. The theme of the new strategic direction is "Towards Legal Aid, Legal Empowerment and Social Justice". The plan will be officially launched in 2015.

KITUO maintained its traditional core areas of land, housing, labour and refugee rights in delivering its mandate. However, Kituo is still expanding its reach through opening of new Community Justice Centres around the Country.

KITUO's governance structure is composed of the General Assembly (AGM), the Board of Directors (BOD), Board of Trustees (BOT) and the Secretariat. The AGM meets annually to among other things, review the overall performance of the organization and receive the auditor's report. The BOD meets quarterly to receive programme and management reports from the Secretariat. I would like to thank all the Members of the three organs, AGM, BOD, BOT, for committing their

time to serve KITUO and also remaining faithful to our vision and mission.

KITUO wishes to take this opportunity to thank its development partners notably, MISEREOR, UNHCR, GIZ, USAID-CHF, REDRESS, FORD FOUNDATION, MacArthur Foundation, COMIC RELIEF and DUTCH EMBASSY for providing financial and technical assistance towards the implementation of our various programmes. We also extend our gratitude and appreciation to the Government of Kenya for providing a conducive environment for our operations and for the collaborations that KITUO has enjoyed through the various Ministries and agencies.

I sincerely wish to thank the members of staff at KITUO led by the Executive Director who worked tirelessly throughout the year. I thank my fellow Board members and do promise we will work even harder in 2015.

Finally, KITUO would like to laud the efforts of all the stakeholders who remain committed to the vision of access to justice for all.

Antony Mulekyo

MESSAGE FROM THE EXECUTIVE DIRECTOR



The year 2014 marked the finalization of the Strategic plan 2014 – 2019 and the implementation of its first year. As is normally the case in Kituo Cha Sheria (KITUO) the year began with drawing up of work plans and budgeting for the annual activities in all the programmes. This activity was done jointly, to enhance synergy within the various programmes, and was followed by immediate implementation of the objectives. I wish to congratulate and thank all Kituo staff for working so hard and diligently to realize the projected outcomes. Special thanks go to the Board of Directors led by the Chair Mr. Antony Mulekyo, for continuing to offer the necessary support and guidance to the organization.

During the year, the Forced Migration Program activities were greatly affected following the sporadic terrorists attacks across the country and the Government reaction of ordering removal of all refugees from urban centres. This situation however

normalized with time and FMP was able to discharge its mandate effectively the rest of the year.

The Kituo's Coast regional office received a two year support from USAID to implement a project called Coast Conflict Intervention and Action (CCIA). This project focuses on peace and reconciliation work around the Coast region.

Kituo is still pursuing the Micro Justice Project which seeks to provide better access to justice for fair and just outcomes for the poor living in urban and rural areas. Specifically, it seeks to provide affordable access to legal information that enables people to solve their legal problems by making use of modern information technologies e.g. internet and mobile telephones and also provide affordable access to just and fair outcomes that work for the legal problems of the poor by using tools based on best practices e.g. dispute resolution skills among others.

The Peace Justice and Reconciliation Project (PJRP) that Kituo started few years ago as a response to the Post-Election violence to assist victims has continued to be among our priorities. This project has extensively carried out trainings in areas that were rocked by post-election violence especially in the Rift Valley. Through the support of German Development Civil Peace Service Programme, Kituo has stayed on its course for peace building and transitional justice.

During the year Kituo was awarded the Distinguished award Winner 2014 by the Law Society of Kenya (LSK). We promise to work even harder and receive more recognition.

Lastly, Kituo is greatly indebted to all our funding partners especially MISEREOR and FORD FOUNDATION that have and continues to support Kituo as core grants and UNHCR, GIZ, USAID-CHF, REDRESS, MacArthur Foundation, COMIC RELIEF and DUTCH EMBASSY for supporting various specific projects within the organization. We thank all other partners who supported us throughout the year as elaborated by the Board Chairman.

In conclusion, 2014 was a great and insightful year for Kituo. Going forward, we reiterate our commitment to professionally and zealously advance our vision of a society of JUSTICE and EQUITY for all and working towards defending the poor and the marginalized.

Gertrude Angote

Executive Director



Members of the Board of Directors during a High Tea organised for the outgoing Chair Mr. Ken Nyaundi



Kituo Board members Sally Mbeche and Ken Nyaundi during a program briefing session



Kituo Staff celebrate after being awarded "The Distinguished Award Winner" by the LSK in they year 2014

LEGAL AID AND EDUCATION PROGRAMME

Introduction

The Legal Aid and Education Programme has in the past offered legal aid to persons who cannot afford legal services. This has been in the core areas of KITUO which are land, labor, housing and succession. In addition, to ensure a higher impact in our work and increased benefits of litigation to large groups and communities the department takes up carefully selected Public Interest Litigation on matters where public interest is at stake.

In 2014, the Programme attended to a total of 9,322 walk in clients both new and return. In the same year, the department litigated on several individual cases and public interest litigation matters.

Client Management

The matrix below is a summation of both new and return clients attended to and the cases they had in the year.

Walk in clients – New

MATRIX OF CLIENTS ATTENDED BY THE LEAP: JAN - DECEMBER 2014

MONTH	LAND			LABOUR			HOUSING			SUCCESSION			OTHERS			RETURN
	M	F	G	M	F	G	M	F	G	M	F	G	M	F	G	
JAN	13	5	1	19	5	1	5	1	2	1	4	-				275
FEB	10	5	-	22	7	1	4	5	-	3	4					381
MAR	13	5	1	19	5	1	5	1	2	1	4					430
APR - JUN	25	24	5	38	21	4	5	9	-	12	11	1				1,077
JULY - OCT	56	14	8	49	34	10	8	2	3	10	5	3	9	4	0	215
SUB TOTAL	117	53	15	147	72	17	27	18	7	27	28	4	9	4		2,378

LEGAL AID CLINICS

- Labour Day 30/4/14 = 98
- Kituo Birth day Legal Aid Clinic on 9/7/014 = 73
- November 13th 2014 = 145

TOTAL.....316

Total Number of New and Return clients attended to were:

Return client =6,628

New clients = 2,378

Legal Aid clinics = 316

TOTAL =9,322

In 2014, the Legal Aid and Education Department in Kituo's Mombasa Regional Office alone received a total of 733 clients comprising 593 new clients and 140 return clients.

The reason for the gender imbalance in the cases handled by the regional office was attributed to the male oriented nature of cases that Kituo cha Sheria mostly handles i.e. land, employment and housing. These clients received legal advice and representation on land, employment, matrimonial, succession, landlord and tenant, children matters and criminal issues.

The regional office had a success rate of 100 percent in employment cases. All clients who filed cases in the ELR court received an award; the only issue would be the quantum of the award.

In land and housing cases, the success rate was lower i.e. 60 percent due to the nature of clients i.e. mainly squatters with no title to land and facing eviction.

The Legal Aid Department at the Regional office in Mombasa also continued litigating single welfare and public interest cases. On average, the Legal Aid Department carried out 20 court attendances every month.

Legal Aid Clinics

i) Labour Day clinic – 30th April 2014

In marking Labour Day, the department conducted a free legal aid clinic open to the public at the Kituo cha Sheria grounds. The activity was carried out on 30th April, 2014 and the department screened and advised a total of 98 new clients. Clients attended to had different matters ranging from the core areas of KITUO to others that included; criminal, child maintenance, assault, accident/insurance claims and divorce cases.

The Legal Aid Clinic was carried out in partnership with SALAR students from The University of Nairobi and Kituo cha Sheria Volunteer Advocates.

ii) KITUO Birthday activities -9th July 2014

In celebrating Kituo's 41st Birthday, the department had a free legal aid clinic held 9th July 2014 at Kituo Head office and a total of 73 clients were attended to who had land, labour, housing, succession, criminal, accident, civil and tort claims.

iii) End of year Legal Aid Clinic on the 13th November 2014

Due to the large number of clients turning up for our services, the LAED decided to conduct a legal aid clinic on the 13th November 2014.

The total number of clients attended to were 186 who had land, labour, housing, succession, as well as Tort, Insurance cases and Advocates Complaints cases.

OUT OF COURT SETTLEMENTS – ALTERNATIVE DISPUTE RESOLUTION (ADR)

The department held several meetings to solve matters out of court in another strategy to settle matters. Some of those settled include;

1. Ms. Esther Achieng Okeno

- We managed to do a demand for our client for her terminal dues which had been withheld by her former employer.
- Following successful negotiations, our client on 3rd March 2014 was paid Kshs 95,175 as her terminal dues.

2. Hassan Hussein Mohamed

- Our client was unfairly terminated in April 2011 and his former employer declined to pay him his terminal dues.
- Following a demand sent to the employer in December 2013 and subsequent engagements, our client was paid Kshs 44,602.00 on 31st March 2014 as his terminal dues.

3. Violet Mukolwe

- We had filed a claim on behalf of our client for her terminal dues which her employer had failed to pay as she was indicating that our client had stolen from her.
- After service of the Memorandum of claim upon the former employer, the employer called us with intention to negotiate an out of court settlement.
- After various meetings and engagements, we managed to secure a payment on behalf of our client for Kshs. 120,000.00 on 13th March 2014 in a record 1 week after service of the summons. Hence, the court matter was marked as settled.

4. Angela Mbithe Nyamai

We managed to do a demand for our client for her terminal dues which had been withheld by her former employer. Alibhai Sharif paid her Kshs 83,330.00 as her terminal dues.

5. Thika CMCC No. 473 of 2013 – Wanjiku Wanjugu Kabuchu vs. Douglas Mundia

- Kituo filed this suit on behalf of our client the plaintiff and during the proceedings the defendant admitted the claim. Parties have signed a consent to settle the plaintiff's claim for Kshs. 470,000.00 with interest and costs of the suit.

After calculating the interest and costs a total of Kshs. 616,300.00 was paid to the client as at 15th August 2014 being full and final payment to our client.

6. Nairobi Industrial Court Cause No. 1994 of 2011 - Peter Sila Kiema vs. Francis Njuguna Ndwegwa t/a Sure Motors

- We filed this matter at the Industrial Court on behalf of our client the Claimant. The matter came up for hearing on 24th April 2014 when we managed to convince the Respondent to settle the matter.
- A consent judgment was entered by the court awarding our client a sum of Kshs 177,000.00 payable in monthly installments of Kshs 50,000.00 on 24th April 2014
- We have received three installments totaling to Kshs 150,000/= and the last installment was received on 15th November 2014.

7. Nairobi High Court Succession cause no. 2376 of 1995 – Estate of Mungai Gachengechi

- We act for the objectors who have filed summons for revocation of grant as their family had been left out in the distribution of the estate.
- The matter was heard on 8th November 2013 and a further hearing was to be undertaken on 5th May 2014.
- Due to negotiation efforts undertaken by us with the families’ representatives, the families were able to achieve consent in that our client’s family which had been left out was recognized as a beneficiary and what was remaining is on the mode of distribution.
- All parties agreed on the mode of distribution of the estate and have signed a consent on behalf of our client’s family and the same will be adopted by the court.
- The final consent was signed on 26th June 2014 and adopted by the court on 30th October 2014 whereof our client was awarded the equivalent monetary value of Kshs 5,095,000 (Five million and ninety five thousand) being the value of their share of inheritance.

8. NAIROBI INDUSTRIAL COURT, CAUSE NO.786 OF 2014 -(BENARD KIFORO KELWA -VS- KENYA TENTS LTD)

- We managed to write a demand letter on behalf of our client the claimant. When the demand was not replied. We proceeded and filed the matter in Court.
- Before the matter would proceed to full hearing we convinced the Respondent to accept an out of court settlement
- The client was paid Kshs.203,432 as full and final settlement of the claim

9. The following matters were also settled out of Court and through ADR

- i) Pamela Lihavi Kisienya vs. Anita Nyambura (Kshs.50,479.75)
- ii) Geoffrey Chanzu Alu vs. David Salmon (Kshs.61,050)
- iii) Jared Gwaka Owenga vs. Waithaka Loki (Kshs.82,000)
- iv) Richard Omanga Momanyi Vs John Waiganjo (Kshs.115,913)
- v) Alfred Macharia (Kshs.17,421)



Caption

10. INDUSTRIAL CAUSE NO 460 OF 2012 – JULIE LIDEDE VS TSC

- This is a case whereby our client was injured in the course of discharging her lawful duties as a acting principal whereof sulfuric acid was poured on her face by a colleague 1997. TSC despite knowing her condition stopped her salary in April 2000 and she attained her retirement age of 55 in November 2007 while still awaiting her dues.
- TSC had maintained the position that she was not eligible to any salary payment and that her benefits will be calculated using her latest pays lip of March 2000.
- After filing the case and putting pressure on TSC to negotiate and after many negotiation meetings, TSC has agreed to pay our client her salary from April 2000 to October 2007 amounting to Ksh 3,377,000 (Three Million, three hundred and seventy seven thousand) taking into account all increment over the period and that she will receive her full pension and injury benefits. The matter was finalized and consent is all that remains to be entered.

11. NAIROBI CMCC NO. 12021 OF 2006 - ALFRED MUTUA KIMUYU VS. KALUWORKS LTD

- This is an accident matter we came on record on behalf of the plaintiff after being filed by another Advocate who frustrated the Client. The Client was referred to Kituo and when we assessed the matter although it was not falling on our thematic areas, we decided to come on record.

After battle in court we managed to get the defendant to admit liability and make payments towards our client by recording a consent in a matter which had taken over 8 years in court.

The Court awarded our Client Kshs. 98,340/= which was paid to our client in full and final settlement of the matter.

12. INDUSTRIAL CAUSE NO. 1242 OF 2014 - JOSPHAT AKHOGO VS DR. M. D PATEL

- The Claimant was employed by the Respondent who terminated his services and refused to pay terminal dues. The Claimant approached Kituo and instructed Kituo to file this matter on his behalf in the Industrial Court.

Kituo filed matter and after service of summons, Kituo managed to convince the Respondent to settle the matter out of Court. Client was paid Kshs 91,500.00 on 7th October 2014 after successful negotiations.

13. INDUSTRIAL CAUSE NO 2452/2012 - LYDIA MAKENA VS ALPHINE FOODS

- The Claimant was employed by the Respondent who terminated her services and refused to pay terminal dues. The Claimant approached Kituo and instructed Kituo to file this matter on behalf of the claimant in the industrial Court. Kituo filed the matter on behalf of the claimant in the industrial Court. After service of summons. Kituo managed to convince the Respondent to settle the matter out of Court.
- Parties signed a consent and our client the claimant was paid Kshs.96,440.

14. INDUSTRIAL CAUSE NO 2454/2012 - EUNICE MWIKALI VS ALPHINE FOODS

The Claimant was employed by the Respondent who terminated her services and refused to pay terminal dues. The Claimant approached Kituo and instructed Kituo to file this matter on her behalf in the industrial Court. Kituo filed matter and after service of summons, Kituo managed to convince the Respondent to settle the matter out of Court. Client was paid Kshs96,440 .

15. INDUSTRIAL CAUSE NO 2453/2012 - BEATRICE KAMENE KANYOLU VS ALPHINE FOODS

Kituo filed this matter on behalf of the claimant in the industrial Court. Kituo managed to convince the Respondent to settle the matter out of Court. Parties signed a consent and our client the claimant was paid Kshs 124,520/=.

16. RENT RESTRICTION CASE NO 118 OF 2010 - JOHN KIOKO VS. ZAINABU:

- We applied to the Tribunal for a review of earlier orders issued by the Tribunal for eviction of our client from a City County House.
- This was issued without jurisdiction and after our application was heard, the Tribunal through a ruling delivered on 16th October 2014 vacated the earlier orders and advised any aggrieved party to seek arbitration with the County Government.

17. PETITION NO 264 OF 2013 CONSOLIDATED WITH 274 OF 2013 COTTON VILLAGE & UPENDO CITY COTTON VILLAGE-VS-MOI EDUCATIONAL CENTRE CO, LTD, THE ATTORNEY GENERAL & INSPECTOR GENERAL OF POLICE.

- City Cotton village is a slum village near Wilson airport.

Kituo came in contact with this village in 1997 when we filed the first case which never proceeded to final judgment because during the pendency of the case the clients lost interest and somehow the situation improved. Now last year new notices of evictions were issued and executed without regard to the evictions guidelines.

Kituo was approached by a section of the village and the others approached M/s Mbugua Mureithi and each of us filed separate suits/petition. When the matter went to court for hearing the petitions were consolidated. The suit proceeded before Justice Mumbi Ngugi and judgment delivered on 14th October 2014 awarding our clients closely to Kshs 83 million for damages.

- The Respondents have filed a Notice of Appeal and the appeal has been lodged. However this far our clients remain put on the land awaiting the outcome of the Court of Appeal case.

LITIGATION

In 2014, there were several court attendances by our court going Advocates on individual clients and the Public Interest Litigation cases.

Some of the individual cases include:-

a) Nairobi HC Petition No. 529 of 2012 – Zachary Musengi Saitoti and Anor –Vs- the DPP and 2 Others

- We act for the interested party, Sebastian Maina Ngunju who alleges to have lost a child and is trying to find out the truth.
- This is a highly contested matter with high stakes and risks.
- Our client's former advocates had allegedly signed a consent to terminate all cases and permanently bar our client from any future claims but the consent was done fraudulently without client's instructions.
- We applied to have the consent reviewed and the application was heard on 4th April 2014. Ruling was delivered on 23rd May 2014 dismissing our client's application.
- We have since filed an Appeal to the Court of Appeal and we are in the process of compiling the record of appeal. Matter is on going
- The client has filed a matter against his former advocate at the Advocates Disciplinary Committee and the same is slated for hearing on 11th August 2014. Matter is ongoing.

b) Nairobi Rent Restriction Tribunal No. 118 Of 2010 – John Kioko Vs. Zainabu Ibrahim

- We are acting for the plaintiff who had sued the defendant to stop harassments. However the case was filed in the tribunal wrongly by our client's previous advocates as the same lacked jurisdiction.
- The previous advocate was compromised and hence an adverse order was entered allowing eviction of our client.
- We filed an application for review of such orders and the same was heard on 16th April 2014. Ruling was delivered will be on 13th August 2014 in favour of Client. However there was an element of a criminal case that was on going and we are appearing for the accused who is our client.

c) Nairobi ELC No. 1030 of 2013 Haji Omari vs. Edward Njuguna Kangethe

- This is a land matter whereof our client who is the administrator of the estate of his mother found out that a land belonging to the estate had been fraudulently sold. The parties who were involved in the deal had moved to court in ELC no. 159 of 2011 – Edward Njuguna Kangethe vs. Mohamed Twahir Shaban whereof they colluded and obtained eviction orders and they demolished our clients houses on the property situated in Eastleigh in Nairobi.
- Investigations by CID office as well as by our client reveal that the Defendant name does not exist in State’s records and the ID number used for the sale transaction belonged to a different person. A criminal charge has been preferred against the accused person in Nairobi Criminal Case No. 230 of 2014 and we are watching brief in the matter. It is coming for hearing on 23rd July, 2014
- We have filed a suit for declaration orders and also for eviction of the defendant from the suit land.
- The defendant brought an application for stay of the suit arguing that there existed another suit being ELC 256 of 2012 which pending in court. The said application was heard on 6th November 2013 and parties filed their submissions.
- The court delivered a favorable ruling to our client on 27th March 2014 and allowed our client’s case to proceed.
- Directions will be given on 29th May 2014 whereof the court set down our application for temporary injunction for 22nd July 2014 and It came for directions the Defendant and his agents were restrained by an order of injunction pending final determination of the case. Matter is on going.

d) Nairobi High Court Civil Appeal No. 598 of 2009 – Robert Kihika Vs. Kirika Kamungu

- We are acting for the respondent in a land case whereof those having letters of administration were attempting to evict him. The lower court declined to grant eviction orders hence the appeal.
- The matter came up for parties’ submissions whereby all parties made their respective arguments in support or opposition of the appeal.
- A judgment was delivered on 9th April 2014 dismissing the Appeal with costs to our client. Hence our client will still remain on the land. However the aggrieved party has since filed an appeal in the Court of Appeal.

e) Machakos ELC CA No 184 of 2014 –Kitheka Nduvya & 6 Others vs Ngeta Ngeta



Former Executive director Ms. Priscilla nyokabi addresses participants during Kituos Access to Justice function



Kituo staff during a PIL caucus at Panafric Hotel

This was a land matter. Our client alleged that the land was acquired by his grandfather and was inherited by his father. The defendant our client further alleges that the plaintiff Ngeta Ngeta was a member of the consolidation board in their area and through his influence the land was registered in his name. There is evidence that sometimes in 1981 the land was registered in the name of the defendant, but in 1984 under unexplained circumstances the land changed ownership to the plaintiff. It is alleged the changed was fraudulently made. So after the change the plaintiff sued the defendants for eviction. The matter has been on and out of court for sometimes. The matter proceeded in our absence and witnesses gave evidence, and have filed an application to recall the witnesses. A judgment delivered on 31st July, 2014 in Mwingi RMCC No 45 of 2004, our clients who have occupied the suit lands since colonial times were declared trespassers and hence to be evicted.

- Our clients were aggrieved by that judgment and we managed to file an Appeal at the High Court Machakos and an application for stay of execution. Temporary orders were issued on 1st September 2014 and are still in force.
- Ruling on our application was delivered on 28th November 2014.

f) Mombasa Land Case No 24 of 2014 Fatuma Ismail -Vs- Achu Abdulrasul

This was another land matter wherein our Client successfully obtained orders of stay and leave to appeal out of time. We have since filed an appeal to the Court of Appeal and we are in the process of compiling the record of appeal.

Matter is ongoing.

g) Mombasa Criminal Case No 427 of 2014

The Department of Refugee Affairs and UNHCR were directed by the Court to ensure that our client, a Rwandese minor was reunited with his parents.

h) ELR Cause No. 441 of 2013 Neema Mbura Lewa -vs- Peter Petrausch

In this labour matter our client; a domestic worker was awarded 1.27 million Kenya shillings as damages for sexual harassment against her German employer including 6 months' salary as compensation for unfair termination

i) ELR Cause No. 129 of 2013 Samson Mwangi Gaita -vs- Kensalt Ltd

Our client who was employed as an excavator operator working with Kensalt Ltd was awarded Kshs 382, 200 for unfair and unlawful termination.

j) SRMCC Civil Case No. 78 of 2005 Florence Sada and Another –vs- Mombasa Parents Club

Two of our clients Florence Sada Joseph and Mose Jambo (Deceased) were awarded Kshs 201, for unlawful termination after we took up their matter.

k) ELR Cause No. 254 of 2014 David Kipkosgei Muttai –vs- Green Palms Academy

Kshs 60,000 plus costs and interest awarded to our client, David Muttai, a teacher, who represented himself in court with assistance from KITUO lawyers.

l) ELR Cause No. 418 of 2013 Moses Hinzano –vs- Mombasa Slaughter House

Kshs. 108,000 plus costs and interest were awarded to our client Moses Hinzano after taking the Mombasa Slaughter House to court and successful representation by KITUO lawyers.

m) ELR Cause No. 95 of 2013- Kshs 246,000 awarded to client for unfair termination by consent.

n) ELR Cause No. 164 of 2013 Miruka Mitema Ronald -vs- Swahili Beach Resort- Our client, a security guard was awarded KShs 42, 946 by self representation in the case of ELR Cause No. 164 of 2013 Miruka Mitema Ronald-vs- Swahili Beach Resort.

o) ELR Cause No.109 of 2012 Andrew Mwanyika and 18 Others -vs-Papillon Diani Ltd- Kshs 932,000 awarded to our clients for non-payment of house allowance in case in which they also represented themselves.

p) ELR Cause No. 312 of 2013 Edwin Owino and 14 Others -vs- Habo Group of Companies- Kshs 454, 975 awarded by consent to our clients for unfair termination.

q) ELR Cause No. 173 of 2012 Milton Mgalla Mvurya and 12 Others -vs- Devki Steel Mills- Kshs 286, 053 awarded to our clients for unlawful termination.



Boniface Muinde with a client who had just received her payment after an out of Court settlement

PUBLIC INTEREST LITIGATION (PIL)

Some of the Public Interest Litigation cases included:-

a) HC Petition No 168/011 Solomon Mulwa Mulyunga & Others -vs- The Athi River Mining & Others

Kituo Cha Sheria was approached by the residents of Kanziko and Mathima Locations of Mutomo District, Kitui County in sometime in 2008. They sought legal advice and representation in a land case they wished to commence against some mining companies that were carrying illegal mining activities in their land and thereof dispossessing them of the said parcels of land.

Upon receiving the instructions, Kituo conducted a fact finding mission in the suit land and discovered that some mining activities were already taking place. Upon further enquiries and investigations, it was established that the mining companies were Athi River Mining Co. Ltd, Bamburi Cement, Criss Cross Company, Devik Company. It was also established that these companies had approached people in the disguise of prospecting for minerals and offered the sum of Kshs. 20, 000 to the owners of the land for what they termed as disturbance allowance. In the process, the mining companies also made the land owners to sign documents acknowledging the receipt of the said sum without allowing them to access the documents and verify their contents.

It later turned out that the documents were land sale agreements purportedly making the residents consent to the buying of their lands by the Companies for the consideration of the Ksh. 20, 000. It is at this point that the residents discovered that they had been dispossessed of their land.

Armed with the above facts, Kituo Cha Sheria filed a constitutional Petition in Machakos High Court in July 2011 claiming constitutional violations of the rights of the residents of Kanziko and Mathima Locations to own property. The case was filed under certificate of urgency and heard on 20th July 2011 where the Honourable Court refused to grant the orders of injunction that were sought and directed that the application and petition be served on all parties for further Courts' directions on 27th July 2011. On 27th July 2011, the Judge further directed that the respondents do file their replies if any within the next 5 days and that the petitioners do file further affidavits in support of their case. This prompted Kituo Cha Sheria to carry out another ground visit between 7th and 9th August 2011 with a view to gathering more evidence.

Three officers and a VA conducted the visit and further evidence emerged on the activities on the ground as follows:

A lot of mining was taking place especially in parts of Mathima Location.

Many residents had vacated the area as a result of the notices to vacate and threats given to them.

The remaining residents still lived in fear of being evicted anytime and in fact when Kituo officers approached one of the homesteads, the owners started retreating due to fears of an impending eviction.

Most residents were bitter at this turn of events.

Upon this second visit, further affidavits were filed in court as per the court order and also replies to the Respondent's pleadings were filed and served.



Chair of the Board Mr. Mulekyo, Executive Director Ms. Angote and kituo staff during the Justice Cup football tournament

The matter is still pending in court for lack of ELC judges.

b) Pois Robo-Nyeri HCCC No. 154/2009

This is a land matter involving PoisRobo and Sunguroi communities and former president of Kenya Daniel Arab Moi who is the registered owner of the land known as L.R. NO 10068 that is situated at Laikipia East District measuring 17,100 acres. It alleged by our clients that MOI took title of the land while the two communities were in occupation. They have been on the land for a long time. Its averred that Moi sold the land to Africa Wildlife foundation. Our client filed a suit of claiming adverse possession that is pending in court. Their Advocate charged so much that they could not afford and therefore came to Kituo seeking assistance and we have filed an application dated 9th February 2011 to be enjoined as an interested party. Application has been heard and granted. We are a party to the suit.

- We attended the case in Nyeri High Court to establish whether the proceedings have been typed or not, in order to make a decision on whether to begin de novo or not. While there we got a complaint from the client that the KWS now enjoined as a party to the suit had caused the arrest and prosecution of 10 members of the community on alleged trespass.
- Consequently, we filed an urgent application to stop the prosecution of the 10 persons in Nanyuki Chief Magistrate's court on the grounds that:
 - i) KWS had no right to decide that they own the suit land. The ownership of the suit land is pending before the High Court in Nyeri.
 - ii) The criminal proceedings in the Nanyuki Chief Magistrate's court against the 10 community members be stayed pending the hearing and determination of our application and pending the hearing and determination of the entire suit.
- We got interim orders staying the criminal proceedings in the Nanyuki Chief Magistrate's court. The DPP has now also been enjoined in the suit but only limited to the application, in order that he may explain why he charged and continued to prosecute the 10 community members for trespass on the suit land after he had been informed that an ownership dispute is pending in the High Court at Nyeri. The matter has been mentioned severally in the course of Aril, May and June.
- It now has a hearing date for the application on 23rd July 2014.
- Further mention in December 2014 to ascertain whether the hearing would start de novo before a new judge.
- The matter is ongoing ruling on notice.



Kituo Staff during a Strategic Planning session



Simon Kimondolo addresses some of the residents of Leikiji Community over their Case

c) The Muthurwa Right to housing case (Petition No. 65 of 2010; Satrose Ayuma & others versus the Registered Trustees of Kenya Railways Staff Retirement Benefits)

This case sought to affirm economic and social rights and particularly the right to housing under Article 43 of the Constitution of the residents of Muthurwa Estate in Nairobi. The community had been served with eviction notices by the Registered Trustees of Kenya Railways Staff Retirement Benefits on grounds that it wanted to develop the land that houses the residents who were formerly employees of the Kenya Railways Corporation. The case was heard and judgment was delivered on 30th August 2013.

The court found that,

- a. The Petitioners' rights to accessible housing was violated limited to the violation in the manner in which the evictions were done
- b. The court directed the Attorney General to amend the Water Services Act to be in line with article 43(1)(d) of the Constitution 2010, which provides for the right to clean and safe water in adequate quantities.
- c. The Attorney General was also ordered to within 90 days of the delivery of the Judgment file an Affidavit in court detailing the planned state policies and legal framework on forced evictions and demolitions in Kenya and also whether they are in line with acceptable international standards.
- d. The Attorney General was also directed to file in court within 90 days an Affidavit detailing what measures the government has put in place towards the realisation of the right to accessible and adequate housing as provided in the Constitution.
- e. Within 21 days of the Judgment, the Managing Trustee of the Kenya Railway was required to convene a meeting with the Petitioners where there would be a design of the programme of eviction.

The petitioners still remain in their houses as the matter is not concluded.

d) Leikiji Community Land Case-Nakuru HC Petition No.16/2011

Leikiji Community has been occupying and utilizing a land parcel known as L.R No. 2747 North West of Nanyuki town which was the subject matter of the suit at Nakuru. When they were still on the land, a Company known as Machamuka Farmers obtained title to the land and applied to the Principal Courts at Nyahururu for eviction against 17 people in PMCC No. 371 of 1994 – Machamuka Farmers Co. Ltd Vs. Kalole Lesumit& 17 others. Allegedly the Company did not serve the pleadings and they got an exparte judgment. When they obtained the eviction orders, they served the same upon the community which was comprised of more persons than was named in the order. This made the other persons to be aggrieved and they applied to be enjoined in the matter. The lower court dismissed the Community's application on the basis that the order did not affect them. They were aggrieved by the decision and hence appealed to the High Court at Nyeri in High court Civil Appeal No. 31 of 2005. Their appeal was dismissed

in 2008.

Meanwhile Machamuka Farmers Co. Ltd sold the land in December 2005 to the current registered holders. The current title holders did not file any suit for eviction and never evicted the community. In 2010, the Community went to High Court and filed an application against the current registered owners seeking to be granted rights over the land by way of adverse possession. This is the application which was dismissed on the basis that the community members had been litigating over the suit land previously by virtue of Nyahururu PMCC No. 371 of 1994 and Nyeri H. C Appeal No. 31 of 2005.

The Matter was last in Court on 5/7/011 which date was given in Court by Wendoh J but apparently she was doing criminal matters during this week. The matter was however inadvertently or by intent listed before Emukule J who had previously disqualified himself from the matter.

Emukule J indicated that the matter should be heard in Court 3 before Ouko J and gave us a date of 12th October 2011 for directions before Ouko J. This was because the High Court is going on recess starting today the 29th July 2011 until September 15th 2011.

Apparently this matter is taking a slow pace towards hearing and determination of the petitioners application for interim orders. Anything which can be done in the meantime?

I spoke to the representatives of the community and they indicated that the Rift Valley PC visited the farm accompanied by the former House speaker Ole Kaparo, the area DCs and DOs and he indicated to the area DC (Doldol District) that the community should not be evicted from that land since they have occupied the land for a long time. May be we need to get a strong commitment from the PC on his words that the community should not be evicted.

Kinya went to Nakuru High Court 12/10/11 for the hearing of the LEKIJJI community case. The matter was listed before Justice Ouko. The Attorney General and the Police Commissioner were represented.

Counsel for the two owners of the disputed land requested that we proceed by way of written submissions for the Application dated 20th June 2011. We agreed and the matter will be Mentioned again on 7th November 2011 to confirm compliance.

Meanwhile, the lawyer says his clients are willing to buy our clients an alternative parcel of land to settle on. We agreed to discuss the matter again on 22nd October 2011 and find a way forward. The Advocate has written an email to others to find their views on the proposal for re-settlement.

- The main petition is pending hearing.
- The matter came up for directions on 4th July 2014 whereof the court granted the Attorney General 21 days leave to file their Replying Affidavit to the Petition. We were granted corresponding leave to file a further affidavit.
- Necessary documentation have been filed in court and the matter is still ongoing.

Political engagement

- The Parliamentary Select committee on land had recommended that the Government purchases the land and resettle the community. The area MP indicates that funds have been allocated in the 2014/15 budget for implementation of the said recommendation.
- We are keenly making a follow-up on this undertaking.

e) Nyeri HC Petition No. 14 of 2013 Johanah Githinji & 717 Others Vs. The Registered Trustees of Archdioceses of Nyeri & Others

- This is a matter filed by Residents of Maganjo Location in Nyeri district against the historical dispossession of their land by the Catholic Church Archdioceses of Nyeri. The petition was filed in 2013.
- Initially a civil suit being Nyeri HCCC No. 2012 of 2011 – Samuel Githiga & Others Vs. The Registered Trustees of Archdioceses of Nyeri & Others had been filed by our clients numbering 317.

- The two matters raised similar issues hence we applied for consolidation and the court allowed our application on 19th March 2014.

The matter was scheduled for 5 days hearing starting on 3rd November to 7th November 2014. The court visited the disputed land on 7th November 2014 and a report was prepared.

The matter is still pending in court waiting determination.

- f) **The Bulla Fot case; Musa Mohamed Dagane & 25 others vs. The Attorney General & The District Commissioner Garissa District, Embu Constitutional Petition No.697 Of 2006**

The High Court in Embu affirmed the rights to own property of the Bula Fot Clan in Garissa; a community that had on several occasions been evicted by the government since 1963 from their ancestral land, a result of which they lost property and suffered grave violations of human rights. In the judgment delivered on 19th February 2013, the court found that the petitioners' rights had been violated and that the state has a Constitutional obligation to provide services to the applicants in a sustainable manner and promote social and economic development. The court also awarded compensation of Ksh.8 million and to each petitioner Ksh.250,000.00.

In 2014 Kituo visited the petitioner at Garissa for fact finding on their situation since the pronouncement of the judgement. It was found that the petitioners have gone back to the land and are enjoying a part of the judgement.

We are in the process of executing the decree as the Respondents have failed to pay the damages.

- g) **Nairobi ELC 981 of 2013 (formerly Carissa High Court Petition No. 9) – Gedi Jelle Gure & Anor vs. County Government of Garissa and the AG**

- The matter was filed at Garissa High Court as a Constitutional Petition touching on the principle of participation in devolved governments. It also involved other issues on the violation of fundamental rights in particular the right to property, information, right to work among others.
- The High Court at Garissa declined to grant interim orders citing lack of jurisdiction as the matter raised issues touching on land. The court granted an application for transfer and the matter was transferred to Nairobi and given new number being ELC 981 of 2013.
- The matter is ongoing.

- h) **Shauri Moyo Case- Nairobi HC Petition 584/2014 Shauri Moyo/Starehe Housing Case High Court Petition No. 584 Of 2014**

This is a group case. The Residents low grade employee of various ministries and are about 327 occupying Governments houses more specifically belonging to ministry of land & housing. Sometimes in October 2014 issued a notice to the Residents to vacate from the premises. They came to Kituo seeking legal advice and representation. Kituo filed a petition for their right to adequate and access to housing. An application for injunction was filed under certificate of urgency, heard and an order of injunction granted.

Interim orders are in force restraining the said eviction.

The matter is ongoing.

- i) **PIL CASE HC JR 472/014**

In this case we are challenging the decision of Communications Authority to grant Equity Bank the go ahead to use a thin SIM-technology for offering mobile telephony services- This issue has generated a lot of politics and debates and coverage in the media- Kituo instructed a counsel to file the matter in court.

We were challenging the decision because that technology is likely to violate the citizen's right to privacy. Upon hearing the same was disallowed.

- j) Kituo also enjoined as an interest party in NAIROBI HCC PETITION NO 628 & 630 OF 2014. Kituo successfully challenged the provisions of the Security Laws Amendments Act which curtailed the fundamental rights and freedoms of Kenya citizens and refugees.

The matter was heard and the Court declared some of the sections of the Security laws unconstitutional.

However the Attorney General has filed an appeal in the Court of Appeal Vide Nai 2/15.

- k) The incorporation of views of the County residential houses tenants who are also Kituo clients in a public interest case against the Mombasa County Government, in the Mombasa County Finance Bill 2014.

PUBLIC INTEREST LITIGATION CAUCUSES

The Legal Aid and Education Department (LAED) held caucuses to discuss the ongoing cases and cases to be filed. The caucuses brought together Kituo lawyers, Volunteer Advocates and partner organisations to share ideas and strategies on the PIL cases.

- We had Caucus and a VA Recruitment and in Kakamega from 11th to 14th March 2014.
- We had the 2nd PIL Caucus held at the Sarova Panafric on 27th February 2014.
- 19th June 2014 at Panafric Hotel: PIL Caucus under comic relief to agree on a way forward in court on 23rd June 2014 regarding the Muthurwa petition. It was agreed we ask the petitioners to avail copies of their rent payment receipts and do a replying affidavit to the 1st respondent's application.

FACT FINDING ACTIVITIES ON THE PIL CASES

There were a number of fact finding activities that were carried out in the year. Some of these were in Kitui- Mutomo on land cases and the others in visits to Turkana and Garissa on-going Public Interest litigation cases.

In the year end of 2014, Kituo Cha Sheria-Mombasa also conducted a conflict mapping exercise through land legal clinics in both un-adjudicated and adjudicated land areas in the Coast. The exercise reached 465 community members. The conflict mapping was essential for purposes of documenting the conflict drivers within the target counties which KITUO would then seek to mitigate in the future activities under the Coast Conflict Intervention and Action. The conflict mapping revealed that the key drivers of conflict of the region involved: irregular application of adjudication laws resulting in double allocation of land and disparate allocation of land whereby migrant communities benefit more than indigenous communities; failure by the Government to issue titles to land following letters of offer; interference by local administration in the adjudication procedures; abuse of police to intimidate communities agitating for their land rights; lack of awareness amongst communities of adjudication laws and procedures; insecurity of tenure of communities residing within unadjudicated lands; lack of political will on the part of most county governments to address the problem of landlessness within their counties and disempowerment and disorganization of communities to advocate for their land rights. This state of affairs resulted in a sense of resentment and marginalization within affected communities which if not addressed may compound into outright violence.

On public interest litigation, the Legal Aid and Education Programme in Kituo's Mombasa regional office conducted a number of fact finding missions including update meetings with communities involved in public interest litigation. The fact finding missions conducted include:

- Lamu County public interest fact finding mission on the impact of the potential closing of Mkanda channel on fisherfolk and generally the impact of LAPPSET on fisherfolk. The participants were a total of 40 representatives of the beach management units. 32 were male and 8 were female. The meeting allowed for KITUO to share their experience on PIL matters and the process that it entails. The members of the BMU's were able to share their concerns, fears and aspirations as regards LAPPSET.
- Fact finding visit in Taita Taveta County on the Kilio cha Haki land case involving community and the Catholic Church to respond to attempts by the said Church to construct a fence
- Fact finding visit in Marereni and Kadzuhoni Kilifi County on the land violations arising from salt mining companies
- Fact finding mission to Matsangoni, Kilifi County on improper land adjudication claims

A public interest caucus involving volunteer advocates was conducted in the month of October 2014 to discuss two cases. The first case addresses the inadequate compensation and loss of livelihood experienced by fisherfolk in Mombasa County following the dredging project by Kenya Ports Authority. A draft petition was presented to members of the public interest caucus for their input. In addition, the caucus discussed a case for further appeal in the Supreme Court involving eviction of over 68 families from an informal settlement in Kongowea, Mombasa County.

In this case, the Court of Appeal held that the Respondents could not claim interest in the land vide adverse possession as they had entered into a house without land arrangement. On this ground, the Court of Appeal proceeded to order that

the community be evicted from the land without requiring the Appellant to pay compensation or provide them with an alternative settlement.

TRIAL ADVOCACY TRAINING

There was a Trial Advocacy Training conducted in August 2014. This was in partnership with the Kenya School of Law and the National Institute of Trial Advocacy whom we have in the past partnered with on the capacity building of Advocates to equip them with Trial skills. The training was done in Kisumu with one staff as one of the trainers. Some of our Volunteer Advocates from the region participated in the training. In the reporting period KITUO staff attended as a Trainer the Trial Advocacy training in Botswana where over 40 lawyers were trained.

EXPERT ROUNDTABLE

From 10th to 11th December 2014 at Heron Portico Hotel Nairobi, Kenya –Legal Aid & Education Department organized an Expert Roundtable Meeting on ECOSOC Rights

The theme of the Expert Roundtable was. “Emerging Trends in Litigating the Right to Accessible Housing: Toward Structured Implementation of Judgments”

The Expert Roundtable brought judges, legal practitioners and partner organisations together to discuss the Emerging Trends in Litigating the Right to Accessible Housing.

Some of the speakers included; Prof. Jill Ghai, Waikwa Wanyoike, John Chigiti, Steve Kahanovitz, Faathima Mohamed and Faith Rotich.

Professor Jill highlighted that there are differences between the legal framework for the right to housing in the Kenyan and the South African Constitutions even though Kenya borrowed heavily from South Africa. Her presentation focused primarily on the right to housing as enshrined in Article 43(1) and on children’s rights under Article 53(1).

Phraseology of the Constitution

The Kenyan Constitution provides a right to “accessible” housing while the South African one provides a right of “access to” housing. This difference was discussed in the famous Grootboom case. In Kenya, there was a deliberate decision not to adopt the South African constitutional language. Thus, “accessible and adequate” was used instead. Drawing from the South African constitution, the Kenyan Constitution also makes mention of a child’s right to shelter in a separate provision at Article 53(1)(c). Other language about sanitation and state obligation was also introduced during the drafting stages but was altered or completely removed from subsequent drafts. Interestingly, sanitation issues had been introduced during an early stage of the draft Constitution through the inclusion of the provision about the right to bury one’s relatives with dignity. However, following questions about the provision’s placement, it was included within the sanitation section at one point and then subsequently removed all together by the Constitution of Kenya Review Commission (CKRC). The CKRC had also included language prohibiting evictions without a court order and legislation authorizing arbitrary eviction. Ultimately, this language did not survive beyond Bomas.

Although Article 43 is subject to “progressive realisation,” the drafters deliberately decided to omit phraseology regarding state obligation, such as a clause that the state must fulfill the obligation “to the maximum of its available resources,” because of the concern that this would provide an excuse.

Nevertheless, the same idea is encapsulated in Article 21 regarding “progressive realisation,” even though the state has to prove a lack of resources.

On Adequacy He said the provision on housing in the Kenyan Constitution echoes international instruments and, particularly, General Comment 4 of the Committee on Economic, Social and Cultural Rights (CESCR) which suggests that a determination of adequacy should take into account the following factors:

- Legal security of tenure;
- Availability of services, materials, facilities and infrastructure;
- Affordability;
- Habitability;
- Accessibility; •Location ; and
- Cultural adequacy.

In fact, the former United Nations (UN) Special Rapporteur on Adequate Housing, Miloon Kothari, who had conducted a mission to Kenya, ended up becoming an Interested Party in the case.

Kituo and the KI had thanked the LRC visitors for sharing their insights. The LRC is regarded as a great model of a public interest law firm and both organizations are looking forward to working with them and will be sending various requests. All the participants hope that the various organizations involved would continue to have meaningful discussions in the future.

The LRC participants indicated that they had both enjoyed and been challenged by the visit. Many of the questions that were asked had to do with things that they are grappling with as well. However, they do not have the challenge of dealing with 500,000 people in housing cases. The work that is being done in Kenya will provide good lessons on public interest law. The LRC is also looking forward to working together beyond the local courts.

Kituo ended the meeting by thanking all the participants for the insightful discussions. Maurice expressed appreciation for the useful input that was provided and indicated that he looked forward to more healthy interaction in the future. Full report is available and any wishing to read can contact the Legal Aid & Education Department.

Volunteer Advocates Recruitment

- The Department had Volunteer Advocates Recruitment in Kakamega from 11th to 14th March 2014.
- The Department during the LSK Legal Awareness Week held at the Milimani Law Courts from the – 28thOctober to 31st October 2014 recruited 8 Volunteer Advocates.

Partnerships and/ or Network Activities

- Law Society of Kenya - The Department took part in the LSK Legal Awareness Week held at the Milimani Law Courts from the 28thOctober to 31stOctober 2014 where 57 clients were attended to.
- The programme also participated in the Legal Awareness Week organised by the Mombasa Law Society in the month of October 2014. The awareness week gave more visibility for Kituo cha Sheria including an opportunity to advocates who wished to register in the volunteer advocates' scheme.
- University of Nairobi – The Department has had a partnership with the Faculty of Law, University of Nairobi hosting students undertaking the 60 hours public interest litigation work with the organisation. Students from the university have also participated in the Legal aid clinics carried out by the department.



Caption



Refugees Paralegal display their Certificates after graduating after training