



KITUO CHA SHERIA
LEGAL ADVICE CENTRE
we care for justice

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We care for Justice

Produced by

Kituo Cha Sheria

(Legal Advice Centre)

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TABLE OF CONTENTS

Table of Contents	3
List of Abbreviations/ Acronyms	7
Executive Summary	8
Message from the Chair of the Board of Directors	9
Message from the Executive Director	10
Legal Aid and Education Programme	13
Introduction	13
Client Management	13
Legal Aid Clinics	13
Out of Court Settlements – Alternative Dispute Resolution (ADR)	14
Litigation	15
Public Interest Litigation Caucuses	17
<i>Fact Finding Activities on the PIL Cases</i>	17
<i>Trial Advocacy Training</i>	18
Public Interest Litigation Colloquium	18
Trainings And Other Activities	19
<i>Capacity building of staff</i>	19
Volunteer Advocates Recruitment	20
Partnerships and/ or Network Activities	20
Legal Aid and Education – Coastal Region	21
Introduction	21
In house Client Attendance	21
Alternative Dispute Resolution Mechanisms	21
Litigation	22
Court Attendances	23
Public Interest Litigation	23
<i>Ng’ombeni community environmental matter:</i>	23
<i>Kidomaya Community adverse possession matter:</i>	23
<i>Packaging Manufacturers Employment Case:</i>	24
<i>Joseph Ashioka & 185 others vs. KUSCO (2006):</i>	24
<i>Registered Trustees of the Mombasa Catholic Archdiocese vs. Prudence Wakio and</i>	24
<i>Pongwe Case:</i>	24
<i>Basil Criticos Case in Murabani</i>	24
<i>Takaungu Case:</i>	24
EMPOWERMENT OF POOR AND MARGINALISED COMMUNITIES	25
PARALEGAL TRAINING: AMKENI-UNDP HAMASA MAGEREZANI PROJECT	25
THE URBAN REFUGEE INTERVENTION SUPPORTED BY UNHCR	26

Baseline Survey on Refugees in Coast.....	26
World Refugee Day	26
ENGAGEMENT WITH VOLUNTEER ADVOCATES AND OTHER PARTNERS.....	26
KENYA TRANSITION INITIATIVE/CHEMONICS LAND RESEARCH.....	26
NETWORKING	27
CHALLENGES	27
RECOMMENDATIONS.....	27
THE FORCED MIGRATION PROGRAM.....	29
Introduction	29
Contextual Background to the Project Implementation	29
Partnerships	30
Program Activities.....	31
<i>Mobile Legal Aid Clinics</i>	31
<i>Legal Counselling</i>	31
NUMBER OF CLIENTS ATTENDED TO AT THE CENTRE	32
Police Station Interventions.....	32
Training of Paralegals	33
Community fora for Sensitisation of Persons of concerns on refugee rights and obligations	33
World Refugee Day celebrations	34
F. TRAININGS.....	35
IMPLEMENTATION OF PROGRAM IN MOMBASA.....	35
Mobile Legal Aid Clinics	35
Legal Counselling	36
NUMBER OF CLIENTS ATTENDED TO AT THE CENTRE	36
Police Station Interventions.....	37
Training of Paralegals	38
Community fora for Sensitisation of Persons of concerns on refugee rights and obligations	38
World Refugee Day celebrations	38
F. TRAININGS.....	39
COAST URBAN REFUGEE PROTECTION NETWORK.....	39
Advocacy, Governance and Community Partnerships Programme (AGCP).....	41
Introduction	41
Access to justice for 2007/2008 post election violence victims	41
Tangible benefits for victims	42
The ICD Debate.....	42
Outreach to 2007/2008 PEV victims	43
<i>PEV Victims Outreach at Vihiga</i>	43
Launch of Kenya Tuna Uwezo program.....	43
Citizen empowerment and engagement on peaceful elections	44
International day of peace and the girl child day	44
Monitoring and observing of party primaries	44

KITUO COMMUNITY LEGAL EMPOWERMENT PROJECT.....	45
<i>Prisoners have a right to vote.....</i>	46
LEARNING FORUMS ON ACCESS TO JUSTICE	47
<i>Public thematic forums.....</i>	47
ADVOCACY INITIATIVES TO INCREASE ACCESS TO JUSTICE	47
Community engagement in the legislative process.....	48
Legal Aid Bill Campaign and Justice 2015 Campaign.....	48
Community Justice Centres.....	49
Contribution to Policy and Legislative Reforms.....	50
AGCP COASTAL REGION	52
KITUO LINKS COMMUNITIES WITH ON-GOING REFORM PROCESSES.....	52
<i>The Truth Justice and Reconciliation Commission (TJRC) Public Hearings</i>	52
<i>Independent Electoral and Boundaries Commission Consultative Forums</i>	52
<i>The Commission of Implementation of Constitution.....</i>	53
<i>Judges and Magistrates vetting Board.....</i>	53
URIP COMES TO COAST!.....	53
<i>Baseline survey on Urban Refugees in Coast.....</i>	53
<i>Engagement with Refugee rights Stakeholders.....</i>	53
<i>Public Forums on Refugee Rights</i>	53
INNOVATING JUSTICE: THE COMMUNITY AND PRISON JUSTICE CENTRES.	54
<i>Kisauni Constituency and Development Initiative-KICODI.....</i>	54
<i>Shimo La Tewa Prison Justice Centre</i>	55
<i>3.3 Shimo La Tewa Women Paralegals: The new Kids in the Block!.....</i>	56
<i>Lamukani Community Justice Centre (NEW!).....</i>	56
<i>Malindi and Nyeri Prisons.....</i>	57
ADVOCACY AROUND LAND RIGHTS AND SECURE TENURE.....	57
<i>On Going Community Land Cases</i>	57
<i>Fact Finding Missions</i>	58
The SAFE Project.....	58
DEMYSTIFYING DEVOLUTION THROUGH TARGETED PUBLIC AWARENESS	58
<i>Devolution Sessions with Youth Groups.....</i>	58
<i>Devolution sessions with communities with pressing land concerns</i>	59
<i>Radio Talk Shows on Devolution.....</i>	60
<i>Devolution Manual.....</i>	60
LABOUR RIGHTS	60
<i>The Kenyan Law and the Work Booklet</i>	60
<i>Stakeholder Validation/Labour Day Dinner.....</i>	60
<i>Data Base developed for Workers Unions in Coast.....</i>	61
OTHERS UNDERTAKINGS BY THE PROGRAMME	61
Research, Communication and Documentation (RCD) /Information Technology (IT)	63
Introduction	63
a) Research.....	63

b) Production and Dissemination of Kituo's Publication and Documentaries	63
<i>Documentaries</i>	63
<i>Publications</i>	64
<i>Publication</i>	66
c) Communication/ Profiling Kituo's work	66
d) Information Technology Backup and Security	67
Finance and Administration	69
Introduction	69
Human Resources	69
Internships	69
Kituo Celebrates its 40 th Years of Access to Justice.	70
Team Building Event - Cray Fish Camp - Naivasha.	70
AGM	71
Development Partners	71
Staff end of the year Party	71
Staff Benefits	72

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 2013 was a successful year for Kituo Cha Sheria (KITUO). The year saw KITUO come into full implementation of its five (5) year's Strategic Plan. Indeed, the year gave a chance for KITUO to reflect on some of the landmark achievements as well as challenges and focus on the available strengths as the five year strategic period came to a closure.

KITUO, through its three offices and various programs, continued to walk the talk of access to justice through legal aid, civic education and representation on matters of land, labour, housing and refugees. There were various trainings on devolution spearheaded by AGCP that were carried out in Nairobi, Mombasa, Kisumu, among other counties in Kenya which targeted informal settlements. Among these were Kibera, Mathare, Korogocho, Kiambiu and Kamukunji.

KITUO's work in Prison also received a major recognition by both national and international media especially on its outstanding role. BBC World Service run a documentary, "Law Behind Bars" that highlighted the successes that Kituo had achieved in its bid to empower prisoners to access justice including KITUO's landmark case of the **Prisoner's Right to vote in 2010**.

The Legal Aid programme was also instrumental in Public Interest Litigation cases with a landmark case; **Muthurwa Rights to housing**. KITUO won the case which served as a reprieve to Muthurwa residents who were not to be evicted until proper eviction guidelines had been followed. This case also led to and facilitated the formation of eviction guidelines that were to be followed in matters of eviction. The number of clients seeking legal aid services also increased with the walk-in clients in 2013 totaling to 1120 while return clients were 4605. 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 Urban Asylum seekers and refugees mainly from Somali, Rwanda, Sudan, Burundi, Rwanda, Democratic Republic of Congo and Uganda. The programme served a total of 1883 clients in 2013. The year was also a landmark in the work of those championing for refugee rights due to the Refugee Case that Kituo won in the High Court on July 2013. The case saw the presiding Judge David Majanja rule in favour of Kituo that no Asylum seekers and urban refugees should be bundled and taken to refugee camps in Kakuma and Daadab. KITUO filed this case after the Government had issued a retrospective directive that no refugees should be allowed to live in urban cities. In the wave of increased terrorism that is mainly associated with refugees, the programme has more work to do. They had to deal with stringent policies by the government, police harassment and arrests among other challenges but in the end stood tall in fighting for the rights of refugees and asylum seekers.

KITUO's Mombasa office received 449 clients. The Mombasa office also worked to offer legal aid and training paralegals not only in prison but also communities. 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/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 such as the public and media. Various activities were highlighted on 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. There was also a test run of the MSHERIA project, which when fully implemented will revolutionise the way people access legal services in the country.

Generally, 2013 had a lot of positivity for KITUO in its bid to continually roll the wheels of justice 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 2013 marked the fifth and final year in the implementation of the Kituo Cha Sheria's (KITUO) strategic plan 2009- 2013. The strategic direction was largely the same as the previous year where KITUO steered towards legal empowerment of the marginalized in our society through legal education, strategic interest litigation, establishing more Justice Centers (JC) and strengthening of the already existing JCs. A new strategic plan for the next five years will be carried out in the year 2014. The process had already begun with a review of the current strategy done last year. KITUO maintained its traditional core areas of land, housing, labour and refugee rights. However, this year the Urban Refugee Intervention Project (URIP) in the Forced Migration programme expanded to the coastal region through assistance from UNHCR.

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, OSI, EUROPEAN UNION, PACT, GIZ, UNODC, USAID-CHF, OSIEA, CHEMONICS, REDRESS, TILBURG UNIVERSITY, UNDPAMKENI, AJWS, MacArthur, Amnesty International and FORD FOUNDATION 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 2014.

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

Ken Nyaundi

Chair, Board of Directors

MESSAGE FROM THE EXECUTIVE DIRECTOR



The year 2013 marked the fifth and final year of implementation of Kituo's Strategic Plan 2009 -2013. We will be formulating a new 5 year strategy in 2014. As is normally the case in KITUO, the year began with drawing up of Work plans and budgeting for the annual activities in all the programmes. This activity 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. Ken Nyaundi, for continuing to offer the necessary support and guidance to the organization.

During the year, the Forced Migration Program extended its activities to the coastal region with support from UNHCR. This happened after a baseline survey on urban refugees within the coastal

areas was done by Kituo and International Rescue Committee (IRC). The year also saw Kituo open up one more community justice centre. This Justice Centers initiative is an innovative way of making access to justice available to the poor by using paralegals to deliver basic legal services. This is a concept that is supported by UNDP Amkeni and involves empowering the organization of community and prison paralegals, setting up justice centers, training inmates, prison warders and community representatives on legal, human rights and criminal justice procedures so as to provide legal aid to the poor who cannot afford legal fees. The new centre is based in Mutomo, Kitui county.

Kituo, in partnership with University of Tilburg in Netherlands, started the Micro Justice Project. This project 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. We shall be working towards its launch in the year 2014.

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 sensitization campaigns 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.

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. With UNDP Amkeni/Wakenya supporting our access to justice and marginal justice work, we continue to grow our capacity especially in the Community and Prison Justice centers. We have especially increased our capacity in understanding and conducting Monitoring and Evaluation of our projects and activities. We thank all other partners who supported us throughout the year as elaborated by the Chair of the Board of Directors.

In conclusion, 2013 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



Participants during a PIL caucus organised by LEAD at the Pan Afric Hotel



Korogocho Community Justice Center paralegals with Kituo staff after a training session at the Center



Kituo lawyers and their guest take a group photo after their 3rd colloquium at Sarova Pan African Hotel

LEGAL AID AND EDUCATION PROGRAMME

Introduction

The Legal Aid 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 2013, the Programme attended to a total of 5,918 walk in clients. 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

Nature of case	Male	Female	Group	Total
Labour	153	85	18	256
Land	243	312	29	584
Housing	28	25	6	59
Succession	39	38	9	86
Others	88	43	4	135
Total	551	503	66	1,120

Return clients

Male	Female	Group	Total
2859	1280	464	4,605

Legal Aid Clinics

i) Labour day clinic – 30th April 2013

In marking Labour Day, the department conducted a legal aid clinic open to the public at the Kituo cha Sheria grounds. The activity was carried out on 30th April, 2013 and the department screened and advised a total of **84** 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 Nairobi University and Kituo cha Sheria Volunteer Advocates.

ii) KITUO Birthday activities – 9th July 2013

In celebrating Kituo's Birthday, the department had a number of activities. We had a legal aid clinic at the Kituo grounds, Kibera and a Housing forum at Korogocho. The theme of the day was *"To empower the citizens in informal settlements to say no to forceful evictions"*.

Head office Legal Aid clinic

At the head office, a Legal aid clinic was held and a total of 92 clients were attended to who had land, labour, housing, succession, criminal, accident, civil and tort claims.

Kibera Legal Aid Clinic

At the Kibera Justice Center a documentary was showcased on human rights while lawyers attended to clients with legal issues relating to housing as well as other areas. There were KITUO lawyers, Law students and the Justice Centre paralegals who attended to the clients. There were a total of 17 clients who had cases ranging from land, labour, family, criminal and civil cases.

Korogocho – 9th July 2013

In partnership with the AGCP department, we held a housing forum at Korogocho. In attendance were approximately 150 community members living around Korogocho. Kituo staff who were at the forum took participants through Housing rights under the Constitution, International Law and specifically UN Eviction guidelines. In attendance were also University of Nairobi Law students.

iii) End of year Legal Aid clinic 19th November 2013

Due to the large number of clients turning up for our services, the LAED decided to conduct a legal aid clinic on 19th November 2013. 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. Some of those settled include;

- On behalf of a client Anne Kareithi, following negotiations with a client's former employer on the payment of terminal dues, the employer agreed to pay the client Ksh. 47,700.00 demanded.
- On behalf of a client, Angela Mbithe a former employee of AliBhaiShariff T/A Dextron Tools, we entered a settlement where the employer agreed to pay the demanded sum of Ksh. 83,333.30.
- On behalf of 3 former employees of Clarkson Notcutt Brokers Ltd – Fauzia Mohammed, Agnes Nzisa and Florence Wanjiru we entered a settlement and the employer agreed to pay the clients their dues of Ksh.321,924.00, Ksh.325,386 and Ksh.234,924 respectively to be paid in 6 instalments.
- On behalf of a client Shem LawiMbaya, the former employer agreed to pay Ksh.32,000.00 of the dues owed.
- Another client, Michael Odhiambo had his son Nicholas Asao detained at the Kenyatta National Hospital for non-payment of medical expense as he could not afford the fees. Immediately after our demand letter was issued to the hospital stating his Constitutional rights, the patient was released immediately by the KNH.
- On ELC No.468 of 2013, on behalf of our client Hannah Kiarie, we were able to get a settlement by consent where our client will get an eighth (1/8) of an acre from the disputed land.



Jairo Ouza, Kituo staff registers clients during the a free legal aid clinic at the head office

Litigation

In 2013, there were several court attendances by the court going Advocates on individual clients and the Public Interest litigation cases.

Some of the Public Interest Litigation cases include;

- **The prisoners' right to vote in the General Elections - Kituo cha Sheria v Independent Electoral and Boundaries Commission and the Attorney General, Petition No.574 of 2012**

Following the failure by the Independent Electoral and Boundaries Commission (IEBC) to register prisoners to vote for purposes of the elections, KITUO filed a Petition to have the IEBC ordered to register the prisoners as voters. In the judgment delivered on 21st January 2013, the court ordered the IEBC to register inmates and gazette the prisons as polling stations.

- **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 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.

- **Kituo cha Sheria v John Ndirangu Kariuki and the Independent Electoral and Boundaries Commission (Election Petition No.8 of 2013. High Court at Nairobi)**

Kituo cha Sheria filed a petition challenging the nomination and subsequent election to the National Assembly of John Ndirangu Kariuki on the basis that he did not qualify to vie for a state office under Chapter 6 of the Constitution that sets out the criteria to those who want to stand for office. The 1st Respondent in this case was an elected member of the National Assembly for Embakasi Central Constituency following the 4th March 2013 general elections. While he was still the mayor for the City Nairobi of Nairobi, he was convicted of abuse of office in the Chief Magistrates – Anti-Corruption Court case No.25 of 2002. He was found guilty on the two counts of obtaining by false pretences and uttering a false document and he was convicted and fined for the offence.

The Respondent then filed a preliminary objection that the petition be struck out on the grounds that the court had no jurisdiction on the suit, and that Kituo cha Sheria was a non-entity and lacked the requisite *locus standi* to file and prosecute

the Petition.

The court found that Kituo cha Sheria is not a competent legal person to bring an action as it brought the case as Kituo cha Sheria and not Legal Advice Centre. The Petition was then struck out and dismissed. The judgment was delivered on 24th May 2013.

- **Kituo cha Sheria and Luka AngaiyaLubwayo v Hon. Gerald Otieno Kajwang and the Independent Electoral and Boundaries Commission (Petition 120 of 2013 High Court at Nairobi)**

In a similar case as to the John Ndirangu case above, Kituo cha Sheria filed a petition challenging the nomination of Hon. Otieno Kajwang to vie for the position of Senator, Homabay County. The grounds for this were that as a practising Advocate, Otieno Kajwang had on several occasions misappropriated clients' money and subsequently, he had been subjected to disciplinary proceedings by the Disciplinary Committee established by the Advocates Act and was found guilty of professional misconduct by the Law Society of Kenya on 9 different occasions in causes No. 84 of 1997, 144 of 1998, 17 of 2003, 169 of 2002, 65 of 2001, 8 of 2004, 69 of 2002, 10 of 2001 and 134 of 2001. He was struck of the Roll of Advocates between 1999 and 2006.

It was Kituo cha Sheria's contention that he lacked integrity, honesty and trustworthiness and therefore not fit to hold state office as set out under Chapter 6 of the Constitution. The Independent Electoral and Boundaries Commission also failed to look at the integrity and suitability of the 1st Respondent under Section 22 of the Elections Act and section 24(2) of the same Act. Before the nominations of candidates to vie for the elections, there was the IEBC Dispute Resolution Committee to determine issues raised on candidates' qualifications. The Committee in this instance held that it had no jurisdiction hence KITUO filed the Petition.

Unfortunately, the petition was dismissed. The reasoning of the court was that the 1st Respondent had been reinstated to the Roll of Advocates (even though this was not finalised as it was with conditions) and that a conviction is not a disqualification for anyone to run for a state office under article 99(2) of the Constitution. The judge also pointed out that it was an elected office and not an appointive office as provided in article 73(2)(a) whose criteria is different. The judgment was delivered on 15th March 2013.

- **Labour Rights - Steven George & Others v Kaisugu Limited and The Attorney General, Industrial Dispute No.1 of 2013.**

This is a Labour matter that was filed in the Industrial Court at Nakuru. Kituo cha Sheria made an Application to be enjoined as Amicus curiae but this was declined. KITUO on the other hand was granted leave to be enjoined as an Interested party to the suit.

Judgment was delivered on 4th October 2013. The 1st Respondent was found to have violated several rights of the petitioners and to have terminated the services of the petitioners unfairly. More specifically, each of the Petitioners was awarded:

- i) One month's salary in lieu of notice
- ii) Accrued leave
- iii) Service pay – 15 days salary for every year worked
- iv) 12 months' salary for unfair termination
- v) The 1st Respondent was ordered to pay costs of the Petition.

The petitioners were ordered to file a computation on the foregoing within 14 days from the date of judgment and the matter to be mentioned on 29th October to confirm filing of such computation. The computed amounts should be paid by 1st of December 2013. The 1st Respondent was ordered to supply any information in its possession which would assist in the enforcement of the petitioner's rights as upheld in the judgment.

- **Mwea Irrigation Scheme Case- Petition 521 of 2012**

The case concerned the governance of the Mwea Irrigation Scheme located in Kirinyaga County, a scheme established in 1956 under management of National Irrigation Board. The farmers remain licencees producing rice under the management and direction of the Board. It is these regulations that were subject of the Petition and which Kituo Cha Sheria sought to impugn as unconstitutional.

Judgment was delivered on 1st November 2013 where the court found that specific regulations of the Irrigation (National Irrigation schemes) Regulations were unconstitutional and in violation of the Constitution. While finding that the purpose of the regulations was constitutionally valid, the Court found certain regulations unconstitutional such as

- Regulation 4, on the ground that it violated Article 39 of the Constitution, which guarantees every person the

right to freedom of movement as it restricts the occupation in the area to only those with licenses or their authorised dependants. The same was found to be discriminatory contrary to Article 27 in as far as they exclude persons from occupation on the basis of age and marital status restricting it to persons aged less than 18 years and who are unmarried.

- Regulation 8 was impugned on the grounds that it created a master–servant relationship in contravention of Article 30(1) and (2) of the Constitution which bans any form of slavery and forced labour. Further, that the licences issued to the farmers violate Article 40 of the Constitution, read together with Article 60 which states that land administration must follow the principle of security of all land rights, in that the licenses do not guarantee tenure since the management reserved the right to cancel them at will. The court however took notice of the effect of part of these conditions violate the right to fair labour trade practices contrary to Article 41. They were declared unconstitutional in as far as their effect is to unreasonably limit on the right to fair labour practices. The violation was aggravated by the fact that it was underpinned by criminal sanctions.

The court conceded to the fact that the position taken may not improve the problems faced by the farmers in Mwea-Tebere Irrigation Scheme however pointing out that the underlying problem of land tenure system ought to be reviewed to align it with Chapter Five of the Constitution.

There are other PIL cases going on in court. These include cases on evictions, right to health, information, natural resources and the rights of intersex persons. There are also other several individual client's matters are going on and being handled by the various advocates.

Public Interest Litigation Caucuses

The Legal Aid and Education Department held monthly caucuses to discuss the ongoing 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.

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 Kajiado and Naivasha on land cases and the others in Mwea Tebere to collect facts as we prepare pleadings to be filed. There were also other visits to Turkana, Garissa and Mutomo on on-going Public Interest litigation cases.



Nairobi University law students and Kituo lawyers attend to clients during the free legal aid clinic to mark Kituo Birthday 2013



Kituo staff during a PIL caucus at Panafric Hotel

Trial Advocacy Training

There was a Trial Advocacy Training conducted in August 2013. 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 42 lawyers were trained.

Public Interest Litigation Colloquium

From the 4th to 6th December 2013 - We had the 4th Annual Public Interest Litigation Colloquium at the Panafric hotel. The colloquium was preceded by a judges dinner on the 4th of December 2013 then the Colloquium on the 5th and 6th of December 2013.

The theme of the Colloquium was, “*Judicial Balancing of Competing Rights*”. This theme was selected following discussions at a PIL Caucus where issues were raised on a nurses’ strike at the Pumwani maternity hospital resulting in deaths of new born babies. There was an issue of the labour rights of the nurses and the right to health of the expectant mothers and their children and the need to balance their competing rights.

The colloquium brought judges, legal practitioners and partner organisations together to discuss the balancing of rights and specifically article 24 of the Constitution. Some of the speakers included; Prof. Jill Ghai, Waikwa Wanyoike, Charles Kanjama, Prof. Ben Sihanya and John Chigiti. We looked at how courts have dealt with the tension and balancing of competing goals, values and human rights. We focused on judicial decisions precisely because the constitution gives the Judiciary the primary responsibility for its interpretation and enforcement. As a way forward, we agreed to have a one day seminar sometime in May 2014 to consolidate our thoughts on the applicability of Article 24 of the Constitution, as it is a critical article in PIL cases dealing with rights.

Trainings And Other Activities

- **M-Sheria M-Sheria Training** - On 6th and 7th June 2013 the department had the M-Sheria training at Ole Odume apartments. On 6th, the training targeted the Kituo staff on the progress done on M-Sheria as well address some of the concerns on how M-Sheria will work. On the second day, the training targeted the community paralegals from the various justice centres such as Kibera, Korogocho and Eastleigh. There were 46 paralegals who attended the training.
- The Department in partnership with AGCP conducted trainings/civic education to paralegals and community leaders on the Devolved system of Government in the informal settlements of Kiambiu, Kibera, Mathare and Korogocho in June 2013.
- Staff from the department trained participants on Labour law in a Workshop organized by International Justice Mission at All Saints Cathedral.
- Staff from the department trained paralegals in Kitui and thereafter the Kitui Justice Centre was launched in April 2013.
- On 15th and 16th August 2013, we conducted a training targeting dhobi women on Labour laws and their constitutional rights. The training was held at Kituo grounds.
 - In partnership with the Elimu Impact Centre, we conducted a training to paralegals in Kianyaga in March and October 2013.
 - Staff from the department conducted a human rights training targeting women and girls in Korogocho and Kibera on 14th and 15th November 2013.

Capacity building of staff

- Staff from the department attended a training on International Criminal Law and the ICC between 22nd and 25th April, 2013 in Turin, Italy at the invitation of the Turin Bar Association and UNICRI.
 - A staff member from the department attended a training on Legislative Drafting held at the Kenya School of Law.
 - A staff member from the department attended a Mediation training organized by NALEAP.
 - Staff attended a training on Judicial Enforcement of Socio-Economic Rights held in Pretoria, South Africa in May 2013.



Dhobi women pose for a photo after their training at Kituo head office grounds

- A member of staff attended the Litigation surgery on the right to health in Accra, Ghana organized by INTERIGHTS in April 2013.
- In June 2013, a staff member attended a course on Constitution Building in Africa at the Central European University.
- On 11th October 2013 – The Department had a training on the New Land Laws at Ole Odume apartments.
- One staff attended a Paralegal training at the Kenya school of law from 2nd to 6th December 2013.
- A member of staff attended the Litigation surgery on the rights of Intersex persons in South Africa in November 2013 organised by INTERIGHTS.
- Staff attended a workshop at the HiiL offices in the Hague Netherlands to discuss M-Sheria together with the other partner organisations, that is HiiL and Space Kenya.

Volunteer Advocates Recruitment

- The Department had Volunteer Advocates Recruitment in Kiambu and Naivasha. A total of 11 Advocates were recruited.
- The Department during the LSK Legal Awareness Week held at the Milimani Law Courts from the 23rd – 27th September, 2013 recruited 11 Volunteer Advocates.

Partnerships and/ or Network Activities

- **Transparency International** partnered with KITUO on the litigation of Petition No. 8 of 2013. This was on the governance/integrity case against Hon. John Ndirangu's election as Member of Parliament.
- **Law Society of Kenya**- The Department took part in the LSK Legal Awareness Week held at the Milimani Law Courts from the 23rd – 27th September 2013.
- The **Ministry of Justice – now Department of Justice**. The department participated in the report writing workshop on the Periodic Country Report on the African Charter on Human and People's Rights.
- **Amnesty International and HakiJamii** Kituo cha Sheria has partnered with these organisations under the COMIC relief project on various activities.
- **Kenya National Commission on Human Rights** - The organisation being a member of the Complaints Referral and Monitoring Committee has participated in the monthly meetings held at the KNCHR.



Community Paralegal training at the Kitui Justice Center

- **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.
- **Legal Resources Foundation** The department partnered with LRF in the litigation of the Prisoner's Right to vote.

Legal Aid and Education – Coastal Region

Introduction

The Legal Aid and Education Program made a significant progress during the year 2012 regarding the provision of legal aid and education, the empowerment of the poor and marginalized and court presentations especially in Public Interest cases. A lot was done in one or more of the following ways: providing civic education, legal advice, solving problems through Alternative Dispute Resolution and representing clients in the courts of law.

In house Client Attendance

The Legal Department attended to new and return clients on a weekly basis. As from Monday to Wednesday new clients were attended to whereas on Thursday and Friday the Department attended to return clients. In total 550 new and 634 return clients were attended to during the year 2012 totaling to 1,184. The matters included land, employment, landlord and tenant, contract, children and professional negligence cases.

The clients were provided with legal aid and advice and those who needed to be prepared pleadings or represented in court were accorded that support. In terms of gender 69% of clients attended to were women while 31% were men.

Alternative Dispute Resolution Mechanisms

The Legal Aid Department has undertaken alternative dispute resolution as a means of addressing cases concerning labour, land, housing and succession. With land and succession matters being very sensitive and emotive, ADR has been particularly helpful in resolving labour disputes. The Department has negotiated settlements for clients in a number of cases. The Department successfully settled 20 cases out of court. A total of KShs 392, 845 has been awarded to our



Participants after an ADR training for KICODI and LAMUKANI community Paralegals



Training of Prison Paralegals at Malindi prison

clients in out of court settlements.

Some of the cases dealt with under ADR mechanisms are outlined below:

Elizabeth Kimeu -vs- Simon Muia (Succession)

In the case the widow had been disinherited of her late husband properties and a total of Kshs 85,000/= by the brother in law and after mediation at the office, the said sum and house hold items were returned to her.

Stephen Baya Kamuna -vs- Patricia Kalunda Mwambu (Land)

Our client Stephen had bought land and a house thereon with the agreement that he pays Kshs 600,000/= and a balance of Kshs 400,000/= at a later date. This was not possible because after sometime he lost his job and was unable to pay up the balance. He communicated this fact to the seller who promised to refund his down payment minus the default fee. The seller defaulted and the client reported the issue to HakiYetu, a human rights organisation. The matter was further referred to Kituo. We carried out a successful mediation that resulted in an amicable solution on how the money will be refunded to our client.

Dimian Moraa Keng'ara-vs- Ibrahim (Land lord and Tenant)

In the matter, our client had been issued with a notice to vacate but on the other hand the landlord was not willing to refund a total of Kshs 14,700/= that our client had incurred towards acquiring the electricity meter. The money was later on refunded after a demand later had been written to the Landlord and a successful mediation thereafter.

Queen Mueni Mulaa -vs- Boniface Juma (Maintenance)

In the matter, the father had refused to maintain his child and counter claimed the same by disputing paternity. The matter was to proceed for DNA test but after negotiations at the office the DNA test was dispensed with and the father agreed to contribute Kshs 2,000/= monthly towards maintenance of the child.

David Mulanya Ouma-vs- Fey Reinhard Karl (Employment)

Our client had been terminated without being paid his final dues. After some attempts to settle the matter out of court failed, the matter had to be filed in court. Before the matter was listed for hearing, the employer decided to engage us in negotiations and finally a consent was recorded occasioning our client being paid Kshs 100,000/= as his final dues.

Litigation

The legal department in the quest of realizing justice for its clients where diplomacy had failed invoked the courts. In this connection, a number of cases were filed and came up for hearing, ruling, judgment and or/ mention.

Court Attendances

The Department filed 64 cases out of which 28 were employment matters. Herebelow are a summary of some of the matters;

Hussein Mwazecha -vs- Jeffari Mwazecha Kadhis Succession. No. 206/11

It's a succession matter which involves two brothers who their deceased father left 2 Swahili houses and several plots. The petitioner was seeking orders to stop the respondent from any dealings regarding the deceased estate, and they appoint any independent estate agent to manage and collect all rental proceeds and to bring all title documents.

Tsola Mzungu Kalama and others vs Samuel Nduati Mwangi and Kwale International Sugar Co. Ltd Civil Case No. 220 of 2011 "KIDOMAYA CASE"

This is a public interest litigation matter involving some community members who have lived in a piece of land for over 12 years. Their claim is for adverse possession.

Joseph Ashioya & 164 others; Industrial Cause No. 703/11

This is an employment matter whereby the company was put under receivership by KCB which appointed Price Waterhouse Coopers as receiver Managers. Our clients were never lawfully declared redundant by their former employers. The matter was filed in the Industrial Court in Nairobi. With the setting up of a court in Mombasa, the matter has been transferred for hearing.

Floncesca Asimit SRMCC at Kilifi; Children Case No. 40/11

This is a suit for maintenance, our client the plaintiff had a relationship with the defendant who is a British citizen during which period the defendant acknowledged and acquired parental responsibility of the child. They separated due to wrangles concerning their joint business and since then the defendant has refused to make any contributions towards the maintenance of the child.

Safari Nzala & 3 others CR 120/11 at Kilifi.

It's a criminal matter which involves some community members at Takaungu in Kilifi. This is a matter whereby residents were against Mombasa Cement Factory taking up their land, the company had ganged up with the provincial administration and made fake claims against our clients.

Public Interest Litigation

In litigation, the office focused on public interest litigation. Thus far, 7 cases of public interest were filed.

In brief public interest cases were as follows:

Ng'ombeni community environmental matter:

The community in Ng'ombeni filed a suit to challenge the quarrying project being undertaken by the Defendants. The community contends that the quarrying project is against their right to a clean and healthy environment. Although the Court declined to grant a temporary injunction, one of the Defendants withdrew some machinery due to the suit and pressure from the Community to end the project. The matter had to await pre-trial hearing and establishment of the Land and Environment Court. An environmental audit was conducted confirming that the allocation of land for the quarrying project was illegal. The environmental experts await payment of balance of Kshs 40,000 of their fees.

Kidomaya Community adverse possession matter:

Over 1000 families have been in occupation of parcel of land for over 20 years which is registered in the names of one Samuel Nduati Mwangi and Kwale International Sugar Company Ltd. Through Kituo Cha Sheria the community filed a suit for adverse possession against the registered proprietors. Service of summons was problematic but it was done and

the matter has proceeded for hearing. The community has a chance to finally legally own the land on which they occupy and potential land related conflict has been averted. The case has come for hearing of the Plaintiffs' case. The matter comes for further hearing in December during which the last witnesses for the Plaintiffs' side shall testify.

Packaging Manufacturers Employment Case

This matter seeks to challenge the constitutionality of the Income Tax Act with respect to casual workers. It also seeks the upgrade of our clients' terms of service with the Respondent Company. The matter is ongoing. It awaits hearing once judges of the Industrial Court are deployed in Mombasa by end of the year.

Joseph Ashioya & 185 others vs. KUSCO (2006)

This matter seeks to recover terminal benefits of our clients who were absorbed following acquisition of their company by a Ugandan Company. The Company has now conceded to compute terminal benefits for all those who worked for the acquisition. They however have declined to pay those who worked for the old company. As such the matter has proceeded with respect to the latter. The matter raises issues on time limitation in labour cases. We had an opportunity to amend pleadings based on the salary arrears and terminal benefits of each of the claimants. The matter now awaits hearing once the Industrial Court judges are deployed to Mombasa.

Registered Trustees of the Mombasa Catholic Archdiocese vs. Prudence Wakio and 101 Others

The Catholic Church seeks to evict a poor community that has been residing on the parcel of land from 1954 before the Church acquired the same through a donatives transfer from a politician. Mediation meetings held in our office failed. Informers amongst the community tipped the Church of our intention to file suit following a fact finding mission. The Church hence instituted the suit before we could. We have filed a defence and intend to file a suit for adverse possession. The matter is fixed for hearing on 18th December 2012.

Pongwe Case:

The Pongwe community has filed a suit for adverse possession against the Kwale International Sugar Company that has consistently been issuing threats of eviction and maliciously destroying their property. The Court issued interim orders to restrain the Defendant from evicting the community pending hearing and determination of the application. The ruling was delivered on 4th December 2012 in favour of our clients. The Court has issued an injunction restraining the Kwale International Sugar Company from evicting the community pending hearing and determination of the case.

Basil Criticos Case in Murabani

The community in Taveta wishes to file a suit for adverse possession against the Former MP of Taveta Basil Criticos who owns huge tracts of land in Taveta. The court pleadings are ready and the matter will be filed soon.

Takaungu Case:

This case has been in court since 1991. Recently, the High Court of Mombasa decided in favour of the Mazrui family. In their case, the Mazrui family disputed their removal from the ten miles coastal strip. The Court held in their favour as the State upon evicting the family, had not compensated the family for their removal. As Kituo we wish to intervene in favour of the indigenous communities in Takaungu, Kilifi area who now risk eviction in their ancestral land. Due to the complexities of the case, we wish to involve senior advocates who are part of our panel of experts on public interest litigation.

EMPOWERMENT OF POOR AND MARGINALISED COMMUNITIES

In 2012 we carried out legal aid clinics to create awareness and empower the community on their rights. More specifically, the legal aid clinics were carried out in the following areas on the specific themes:

1. Labour Day 2012 in Mombasa on Employment- six (6) clients attended
2. Kituo Cha Sheria Birthday, Shimo la Tewa Men's Prison- 53remandees advised on Criminal Law and Trial Process
3. Kibarani, Matsangoni and Mwezang'ombe in Kilifi-Land and Land adjudication procedures in partnership with Catholic Justice and Peace Commission (CJPC)
4. Mwakirungeand Kongowea on Land and Women's Land Rights
5. Taveta-Land laws
6. Mtwapa (Land laws) in commemoration of the International Day for Peace in conjunction with Kenya Community Support Network (KECOSCE), Transparency International and community paralegals from Kituo's community justice centre's in Lamukhani, Kisauni and ex-Shimo inmates.
7. Mombasa Law Courts during Mombasa Law Society Legal Awareness Week-

PARALEGAL TRAINING: AMKENI-UNDP HAMASA MAGEREZANI PROJECT

Legal aid in the year 2012 embarked on implementing a project dubbed Hamasa Magerezani with the aim of empowering the prison fraternity which included the Prison Administrators and the inmates. Several activities were carried out in Nyeri, Mombasa and Malindi counties where participants were empowered in the areas of Rights of an arrested person and the criminal trial process, leadership and integrity, Bill of rights as it relates to voting, People's representation at the County and National Levels and electoral laws as enshrined under the Elections Act, the Political Parties Act and the Constitution of Kenya.

Under the project, Nyeri (Men and Women), Malindi (Men and Women) and Shimo la Tewa (Men and Women) prisons' administrators and inmates were given civic education on the electoral process and on leadership and integrity.

We also undertook essay competition to the inmates in the men's prisons in Nyeri, Malindi and Shimo la Tewa. The essay competition was not conducted in the women's prisons due to the challenge of literacy levels amongst majority of the female inmates. This challenge had not been anticipated at the time of developing the project proposal. The best three essays entitled "The Kind of Leader We Want" won awards in ceremonies conducted in prisons.

In November 2012, the AGCP in conjunction with Legal Aid Programme conducted an interactive civic and voter education training session held in Nyeri Men and Women's Prisons. The training lasted three days i.e. 19th November to 21st November 2012. The aim was to raise awareness around the prisoner's right to vote, good governance, people's representation, electoral laws and offences, leadership and integrity, Bill of Rights and criminal trial process. On the graduation day, a press conference was held wherein we directed that the IEBC establishes voter registrations within all prisons in Kenya just as in the 2010 constitutional referendum. We highlighted that in the event of failure by IEBC to do within seven days, we would proceed to court for redress. The petition was drafted and is ready for filing.

On the 24th of October the programme held a training at Shimo La Tewa Men's Prison under the Hamaza Magerezani project. The training was conducted in conjunction with the AGCP with the assistance of two Volunteer Advocates. The training focused on the Electoral laws and process. Twenty (20) paralegals were trained on the Bill of Rights, Leadership and Integrity, Electoral Laws and Representation of the People at the National and the County level. The inmates were also educated on the bill of rights and the right to vote as enshrined in the article 83 of the Constitution. The activity achieved its objectives of having informed and empowered inmates on the contents of the Constitution particularly Chapters on Bill of Rights, Leadership and integrity and representation. Additionally there was increased awareness among the inmates on the new electoral laws and new elective positions and increased participation of inmates in general election.

THE URBAN REFUGEE INTERVENTION SUPPORTED BY UNHCR

Baseline Survey on Refugees in Coast

The Legal Aid Department in conjunction with AGCP designed a mapping toolkit to be applied in the baseline survey of refugees in Mombasa. The baseline survey was finalised this year. The process targeted refugee areas of presence including Changamwe (Jomvu)-Mainly Somalis, Likoni, Shanzu- Mainly Congolese and Kisauni (Old town and Barsheba).

- Some refugees were trained as enumerators to assist in data collection.
- The survey provided significant gaps in refugee interventions in the region for capitalization by Kituo as it engages in refugee affairs.

World Refugee Day

In 2012, in conjunction with UNHCR and Kenya Red Cross, Kituo's Mombasa regional office celebrated the World Refugee Day in Mombasa for the first time. The Refugee Day began with a procession from the Municipal Council of Mombasa to the Red Cross hall. The meeting was conducted in the hall. The importance of this meeting was to inform the refugee community of institutions that work in their interest. The event also brought together the refugee population in the coastal town and created awareness to the public on their existence and rights.

Lastly, court representation is ongoing. A total of 25 cases involving refugees have been handled by the Department. The legal representation has in most cases required that a refugee status determination be conducted. As such, Kituo cha Sheria has partnered with UNHCR and the Department of Refugee Affairs in arranging for their refugee status determination. The court cases sometimes are reported through the magistrate.

Under the UNHCR refugee project in Mombasa, court users in Coast region were trained throughout the year on refugee law and protection. The court users committees that benefited from the training included Wundanyi, Mariakani, Voi and Taveta. The training also served as an awareness raising on issues concerning refugee protection. Each training took one (1) day and involved around 20 members of court users. There are several positive outcomes arising from the trainings. Firstly, the courts have been reluctant to issue deportation orders without calling upon the Department of Refugee Affairs. Also, institutions for referral of refugee cases such as Kituo have been mapped rendering it easier for the courts to know where to send cases for legal representation. From the trainings of court users, it has emerged that the courts encounter difficulty in finding Ethiopian and Eritrean interpreters.

ENGAGEMENT WITH VOLUNTEER ADVOCATES AND OTHER PARTNERS

Our engagement with volunteer advocates has grown. Having participated in the Mombasa Law Society Legal Awareness Week, we were able to recruit a number of advocates into our volunteer advocates' scheme. This platform also provided us with an opportunity to increase the visibility of the organisation within the legal fraternity.

Forty (40) volunteer advocates were trained on the Legal Aid Bill and the Industrial Court Act in Mombasa. The need to have a permanent Industrial Court in Mombasa was highlighted as a concern. With the Industrial Court Act requiring the presence of a judge in all counties, it will be important for the Chief Justice to appoint one such action. This activity was conducted under the ACT! Judicial Reforms Project.

On 12th October 2012, the Department hosted a meeting for the public interest litigation caucus under the SAFE project. Although the meeting was not well attended, the participants were able to discuss pros and cons in litigating the case on Takaungu and Basil Criticos case. The senior counsels thought that adverse possession would work well for the community in both cases. It was agreed that the Legal Aid Department would draft the pleadings and share them in the next meeting for the panel of experts.

KENYA TRANSITION INITIATIVE/CHEMONICS LAND RESEARCH

The Legal Aid Department implemented a short term in-kind grant from USAID Kenya through Kenya Transitional Initiative/Chemonics. The grant official kicked off in the month of August and the aim was to identify and outline successful land cases filed and concluded within the new constitutional dispensation. The draft report was finalised and sent to the KTI for perusal. In November 2012, the report was disseminated and launched in a colourful ceremony that

was graced by the Chief Magistrate of Mombasa Law Courts namely Hon. Stephen Riechi, two Honourable Magistrates namely Mr. R. Odenyo and Ms. Ruguru, the Coast Representative of the Law Society of Kenya, Ms Grace Okumu and Benjamin Njoroge, Council Member of Mombasa Law Society.

NETWORKING

Within the year, there were a number of activities to ensure that networking objective is realized. This was in terms of media engagement, case follow ups and round table deliberations.

CHALLENGES

1. Inadequate funding leading to some activities not being undertaken as they solely depend on availability of funds.
2. Inability of clients to raise filing fees.
3. Clients coming from far and wide pose a challenge in aspects of representation as well as their ability to follow up their cases.
4. Rising demand for legal services vis-a-vis the number of staff to attend to them.
5. Office space and equipment.

RECOMMENDATIONS

1. Fund raising to boost the funding of the activities
2. Set up a fund for clients who cannot afford the minimum court fees.
3. Strengthen the VA scheme and the PIL caucuses through awards and motivational trainings who in turn take up some matters from Kituo.
4. Make arrangements for a new office with adequate space to all the staff.



Paralegals and Kituo staff after a training on paralogism in TaitaTaveta County



Graduate paralegals pose for a photo during the FMP paralegal graduation at Sarova Stanley Hotel

THE FORCED MIGRATION PROGRAM

The Forced Migration Program is specifically devoted to the welfare of refugees, asylum seekers and stateless persons residing in urban areas in Kenya.

The program extended and was launched at the Mombasa Regional Office in January 2012.

In January 2013, the Nairobi –based program relocated its offices from Eastleigh to Jogoo Road on the east of Nairobi City. This relocation was informed, among other factors, by the new offices proximity to the following important points:-

- a) Makadara Law Courts where a majority of court interventions are done
- b) The Department of refugee Affairs registration centre in Shauri Moyo.
- c) The Industrial Area Remand Prison.
- d) Shauri Moyo, Jogoo road, Kamukunji, Buruburu, Makongeni and Industrial Police Stations.

Introduction

The centre offers a range of services in legal protection and guidance to its clients. This include legal advice in all legal issues, Legal representation, Bi monthly legal aid clinics in communities far from the office, Assisting Refugees in obtaining work permits, birth and death certificates, identity cards and other documentation, Referral service to our other partners , Investigations of systematic Human Rights violations against refugees, Identifying and litigating on public interest issues touching on refugees, Detention monitoring, Monitoring cases of insecurity and Gender Based Violence and Research and training on Human rights and refugee law.

Contextual Background to the Project Implementation

In October 2011, the Kenya Defence Forces rolled into Somalia with a view to pacifying the country by ridding off terrorist elements believed to have established themselves there. Consequently, the year 2012 witnessed what was interpreted by many as incidences of increased retaliatory terrorist activities such as bomb explosions and kidnappings in the Dadaab refugee camps and in towns such as Mandera, Wajir, Garissa, Nairobi and Mombasa. This situation created a hostile asylum environment laden with xenophobia leading to highhandedness on the part of security agencies when dealing with refugees and asylum seekers. Insecurity in the camps led to the threats by some agencies to withdraw services. The government appeared to take a pro-security approach within the protection environment by suspending registration in Dadaab (except for existing arrivals), the non-recognition of Kambios refugee camp and the suspension of issuance of movement passes since February 24.

Consequently, the review of the Refugees Act 2006 almost ground to a halt towards the end of 2012. The media carried reports to the effect that the Government intends to relocate refugees from Dadaab to Somalia. The period also witnessed the full replacement of the Immigration as well as the Aliens Restriction Acts with the Citizenship and Immigration Act without accompanying amendment to the Refugees Act , particularly regarding those sections in the Refugees Act (section 13) forming a defence to prosecution for unlawful presence by making reference to the rescinded Acts aforesaid. This lacunae posed a challenge in Court interventions, at the initial stages, particularly before judicial officers who had not undergone sensitisation in this field.

Further, new influxes arising from renewed conflict in South Sudan and the Eastern part of the Democratic Republic of Congo were experienced. But of more significance during this period was the publication of a directive by the government of Kenya on the 18.12.2013 that all refugees of Somali origin do relocate to Dadaab Refugee camp and those of other nationalities do relocate to Kakuma camp with immediate effect. This was further compounded by the advice by the government of agencies serving refugees in urban settings to transfer such services to camps.

This directive was to be followed by immediate and later sporadic arrests of persons of concern especially within the Eastleigh area of Nairobi. When the government's intention to forcefully move persons of concern to from cities to campus was made clear on January 16, Kituo cha Sheria with the support of UNHCR and other URPN members moved to court vide Constitutional Petition Number 19 of 2013 and obtained an interim injunction against the government. The arrests and harassment spilled over to and spanned the entire January 2013 only ending at the beginning of February upon the publicisation of the Court Order.

The injunction was a great source of reprieve as the hitherto tension within the protection environment was eased. However, the refusal by the government to re-open urban registration centres for registration purposes posed great protection challenges especially to new arrivals who, to date, remain unregistered hence unrecognised and prone to police harassment and prosecution for unlawful presence.

Consequently, the numbers of Persons of Concern accessing services at the centre during the months of January and February were notably very low for fear of venturing out under potentially lurking arrest by the police.

The general elections that took place in March 2013 saw FMP participate in the contingency planning meetings particularly on the welfare of persons of concern during the electioneering period and immediately thereafter. This was done in conjunction with the UNHCR regional hub. Subsequently, FMP officers were involved in the situational monitoring and reporting during this period and thankfully no incident detrimental to a Person of Concern was reported.

The key emerging challenges for FMP as the project implementation period progressed was the issue of the repatriation of Somali refugees which, for the better part of the year, continued looming in the air without a clear framework. However, certainty around this issues was achieved with the signing of the Tripartite agreement on the October 20, 2013 detailing the modalities, processes and timeframes. The invocation of the cessation clause for Rwandese refugees affected the status of refugees from that part of the world.

Partnerships

In the implementation of this Project, the program co-operated with the government and various stakeholders, among others; the UNHCR, the Department of Refugee Affairs, Refuge Consortium of Kenya, International Rescue Committee, The Kenya Magistrates and Judges Association, Heshima-Kenya, Windle Trust, CISP, GIZ, JRS, HIAS and the Kenya Police for the benefit of Persons of Concern.



Participants during FMP workshop at nomad hotel, Eastleigh

PROGRAM ACTIVITIES

Mobile Legal Aid Clinics

In Nairobi, bi-monthly Legal Aid Clinics to cover areas far off from Eastleigh were conducted. **13** Legal Aid Clinics were held at Kasarani, Eastleigh, Kiamaiiko, Kariokor, Buruburu, Ruiru, Githurai, Kawangware, Mlolongo, Kajiado, Dandora, Karatina and Rongai during the reporting period. These clinics reached a total of **641** persons.

The objective of these clinics entailed, among others, bringing services close to clients, awareness creation, fighting for the rights of the poor and the marginalized, legal empowerment and legal education.

The nationalities reached in these clinics include Somalis in Eastleigh, Kajiado and Kariokor; Ethiopians and Eritreans in Kiamaiiko, Ruiru, Githurai and Kariokor; Congolese, Rwandese and Burundians in Kasarani, Mlolongo, Kawangware, Buruburu, Rongai and Dandora and South Sudanese in Karatina.

Solutions ranging from clarifications, provision of information, immediate interventions and as well as referrals to partners were offered to Persons of Concern by our officers. The Somali refugees' main concern was with the looming repatriation back to Somalia and whether they would be allowed to do so voluntarily, we assured them that under the signed agreement this was the case.

The objectives of Legal Aid Clinics were, among others, to ensure prompt legal advice to persons of concern in attendance, possible representation of Persons of concern in Court, to achieve increased linking up of representatives of refugee communities in the said areas to the provincial administration and the police for a more cordial relationship and timely intervention at police stations and other administrative centres.

Legal Counselling

FMP represented **198** cases of arrest in various courts of law. **37** of these cases were charged with unlawful presence. We secured the discharge and release of **36** Persons of concerns. We witnessed a trend where the police were charging the persons of concern with being members of an organised criminal gang and we had **77** persons charged with this offence, with no convictions as the police had no evidence to present to court on this charge in all the cases.

Increasingly, the judiciary became aware of asylum seekers' right to access territory and did not order repatriation for asylum seekers charged with unlawful presence on a high scale. Judicial officers occasionally called upon our office to take up ongoing cases in their courts. This trend is attributable to the previous training of judicial officers on refugee rights.

This positive move could also account for the police opting to charge the arrested refugees with the offence of being a member of an organised criminal gang instead of the more common unlawful presence.



A police officer addressing participants during the police consultative workshop at Nomad hotel, Eastleigh.

NUMBER OF CLIENTS ATTENDED TO AT THE CENTRE

In the reporting period, the program offered legal advice to **1,883** walk-in clients seeking legal advice and interventions on various aspects. Others reached during outreach clinics and community fora bring the total number to **3,820**

	WALK IN CLIENTS			
Month-2013	Legal Advise		Others (Gazette Notice, General Inquires)	TOTAL
	New Clients	Returned Clients		
January	24	17	3	44
February	51	49	0	100
March	38	44	0	82
April	96	67	0	163
May	150	78	0	228
June	134	93	0	227
July	205	161	0	366
August	113	70	0	183
September	60	84	0	144
October	80	75	0	155
November	84	66	0	150
December	18	23	0	41
Total	1053	827		1883

Court Attendance

Staff made **122** Court attendances to **10** different Law Courts as shown hereunder:

COURT	Number of visits
Makadara	63
Kibera	6
Kajiado	8
Milimani High Court	6
Milimani Children's Court	18
Milimani Criminal Court	8
Nakuru	5
Kiambu	6
Garissa	1
Kithimani	1
Total Visits	122

Police Station Interventions

The program conducted a total of **30** visits to **14** Police Stations namely, Pangani, Buruburu, Huruma, Kayole, Shauri Moyo, Soweto, Central, Industrial Area, Jogoo Road, Ruiru Police Station, Kasarani Police Station, Gigiri Police, Dandora Police and Eastleigh Section 3 Patrol Base for detention monitoring and intervention, sensitisation as well as generally creating a rapport with the officers.

These visits are largely monitoring visits to talk to the OCS and DCIO on refugee rights and documents and also on the work Kituo does and the role of the police in refugee protection. Our officer visited each station twice for monitoring purposes. The other visits were a response to reports of arrest by relatives of affected persons.

POLICE STATION	Pangani	Shauri Moyo	Kamkunji	Central Nairobi	CID HQ	Industrial Area police	Jogoo Road	Chief's Camp	Makongeni police	Others*
Number of Visits	7	4	2	2	3	6	1	4	1	5

* Ruiru Police Station, Kasarani Police Station, Gigiri Police, Dandora Police and Eastleigh Section 3 Patrol Base

The program also visited prisons to interview clients who are being held in remand in order to intervene on the cases and also took the time to sensitise the prison officers on refugee protection and to create rapport with them. A total of 8 visits were carried out to 5 to Industrial Area remand and 3 to Kamiti prisons.

Advocacy Meetings

ORGANISATION	UNHCR	Head Office	IRC	DRC	HIAS	Heshima	NALEAP Mombasa	Others*
Number	21	15	3	2	1	8	4	5

*Refuge Point, JRS, Concern Africa, RSC and the Kenya School of Law

Visits to other Organizations

Organization	DRA	Immigration	JKIA	Others
Number	4	2	1	

Training of Paralegals

Forty Seven (47) paralegals were offered a refresher course culminating in a graduation at the Stanley Hotel – Nairobi. They were issued with marked T-shirts and Identification badges. They have now been deployed to the community for interventions at police stations, administrative centres and other fora on behalf of persons of concern. They have also been tasked with general information dissemination within the community on matters of protection and welfare.

Impact:

So far these paralegals are already an effective link between us and the refugee community and there is greater interaction between us and the refugee community. They update us on the happenings at the community level whenever our intervention is required. Case in point being the recent police swoops that occurred over the weekend where over one hundred refugees were arbitrary arrested, detained and some charged in courts of law. The paralegals not only kept us in the know but also intervened and were able to secure the release of some of the refugees at the police station level.

Community fora for Sensitisation of Persons of concerns on refugee rights and obligations

The Program held **six (6)** fora at Kasarani, Githurai, Kayole, Karatina, Eastleigh and Kajiado for the sensitization of the community. A total number of **1,296** persons were reached in these fora. During the engagement, it was discovered that there is no participation of Congolese women in the affairs of the refugees. There was no single woman in the composition of leaders of the Congolese community. We advised them to include women in the leadership roles.

The objectives of the activity entailed achieving increased awareness among urban Asylum seekers and Refugees on their Rights and Obligations, achieving increased involvement and cooperation among the host community and Asylum seekers/ Refugees, sensitization of Persons of concerns on Refugee laws, achievement of increased linking up of representatives of refugee communities in the said areas to the provincial administration and the police for a more cordial relationship, informing refugees in the target areas on the services offered to refugees by partner organizations, prompt legal advice to persons of concern in attendance, dissemination of Kituo cha Sheria and other partners' information brochures, fliers and other relevant information to persons of concern attending the said forums, advocating on emerging issues and possible identification of cases for representation in court.

The most important aspect of these events was to make sure that every refugee and asylum seeker understood the legal rights and freedoms that accrues to them, seek clarifications on issues that affect them, as well as to have their personal legal issues addressed. To achieve this, the sessions started with a questions-answer session followed by a short training on refugees' rights. Thereafter, clients with personal legal questions got personalized attention from Kituo's officers

The refugee law training in Githurai attracted an even balance of Somalis, Rwandese, Burundians, Congolese, Ethiopians and Sudanese refugees whereas the one in Waithaka attracted refugees from Congo, Burundi and Rwanda.

As such, the concerns from the participants were just as diverse. However, recurrent issues included security and lack of identification documents especially the Rwandese, Burundians, and Sudanese Persons of concern.

We held 2 forums on the voluntary repatriation of Somalis and the Tripartite Agreement in Eastleigh and Kajiado. In Eastleigh the forum was attended by the OCPD and other police heads of Kamkunji division, the Nairobi women's representative and the area MP.

World Refugee Day celebrations

The 20th June was World Refugee day. This day provided an opportunity to highlight the plight of refugees residing in Kenya and further give the host community an opportunity to understand the challenges that refugees face when residing in countries of asylum. It also marked the training of community monitors on refugee law in efforts to enhance refugee protection in the communities.



A graduate paralegal displays his certificate during the FMP paralegal graduation at Sarova Stanley Hotel

Besides Kituo officers made **three (3)** media appearances at separate TV and radio stations to talk about protection of refugees, the government directive, the Court order and other related issues ranging to the Cessation Clause for Rwandese refugees as well as the repatriation of Somali refugees.

F. TRAININGS

Facilitation at KMJA/UNHCR Trainings

Four (4) staff facilitated at Five KMJA Workshop during the reporting period.

One (1) staff facilitated at a KMJA training of Trainers for magistrates held at the Silver Springs Hotel on 10th and 11th May.

Three (3) staff facilitated at the Court User Committee trainings in Isiolo, Malindi and Nakuru in June.

Two (2) staff presented at the Eastleigh Court User Committee sessions at Silversprings Hotel in October 2013.

Other Trainings

Two (2) staff attended the training of community volunteers on 28th January conducted by UNHCR at Pride Inn Hotel. The training focussed on refugee rights and protection issues facing refugees. It was aimed at building the capacity of the community volunteers in assisting refugees and asylum seekers.

Two (2) staff attended a training on diversity- LGBTI and sexual minorities' issues organised by HIAS and held at the Silver Spring Hotel on 25th and 26th March 2013.

One (1) staff attended a child protection training held at the Jacaranda Hotel from 19th to 21st March 2013. The training was organised by the Child Protection Theme Group of the URPN.

Two (2) staff attended a TOT training hosted by UNHCR from 15th to 17th May together with community representatives.

The project conducted a **training for lawyers** on refugee rights in Nakuru at Waterbuck hotel on 27th and 28th February. The training covered refugee rights, international and national laws on refugee protection and the practice of refugee law in Kenyan courts. We had participation from IRC and the DRA. The training was attended by about **70 lawyers** from Nakuru and nearby towns.

The project held a **training for the URPN members on the Rights Based Approach to Programing**. The training was held at Nomad Hotel Eastleigh on 25th and 26th April. **21 participants from various URPN member organisations and we present**. Discussions of the adoption of the rights based approach to the URPN programs and the challenges likely to be faced in implementing the same as well as possible mitigation of the same were held.

IMPLEMENTATION OF PROGRAM IN MOMBASA

The Mombasa office this marked an increase in the clients visiting the office due to increased sensitization of the presence of the office and the services offered by the same. The programme recruited welcomed two new officers i.e. Legal officer and a Paralegal.

Mobile Legal Aid Clinics

Mombasa did not have legal clinics in their 2013 implementation workplan. However this did not stop them from conducting a legal clinic at Shimo la Tewa Prison in May. The clinic was conducted in collaboration with MUHURI. It was an opportunity to identify whether there were asylum seekers or refugees at the remand at the time. Our officers were able to establish a rapport with some prison staff who informed them that they would be able to identify potential clients for the next visit. **54** prisoners were reached in this clinic.

Legal Counselling

FMP Mombasa represented **87** cases of arrest in various courts of law. **20** of these cases were charged with unlawful presence. This led to the discharge and release of **103** persons of Concern from custody during the reporting period. **7** persons were deported as they were not asylum seekers. Other charges included unlawful assembly, rioting and possession of firearms. These arrests followed the public demonstrations in Mombasa following Sheikh Rogo's assassination.

NUMBER OF CLIENTS ATTENDED TO AT THE CENTRE

In the reporting period, the program offered legal advice to **449** walk-in clients seeking legal advice and interventions on various aspects. Others reached during outreach clinics and community fora bring the total number to **599**

	WALK IN CLIENTS			
Month-2013	Legal Advise		Others (Gazette Notice, General Inquires)	TOTAL
	New Clients	Returned Clients		
January	0	0	0	0
February	0	0	0	0
March	0	0	0	0
April	0	0	0	0
May	105	5	0	110
June	65	9	0	74
July	55	11	0	66
August	35	13	0	48
September	35	7	0	42
October	46	6	0	52
November	41	7	0	48
December	9	0	0	9
Total	391	58	0	449

Court Attendance

Staff made **13** Court attendances to **3** different Law Courts as shown hereunder:

COURT	Number of visits
Mombasa	9
Shanzu	2
Kilifi	2
Total	13

Police Station Interventions

27 detention monitoring visits were conducted in Mombasa on various dates during the reporting period. These visits led to the release of 97 PoCs from custody.

On 7th May 2013, our officers visited Central Police Station, Makupa Police Station, JelaBaridi Prison as well as Shimo la Tewa prison.

The objectives of the visit was to establish a rapport with the detention centres; liaise with the officers in charge in order to have them inform the organisation of any potential asylum seekers; determine the number of asylum seekers that pass through the detention centres; familiarise the officers of the relevant refugee laws and the rights of the asylum seekers once arrested and to inform officers in the centre of the nature and scope of work of Kituo Forced Migration Programme.

They were able to meet the OCS Central Police Station and as a result were able to let him know of the mandate of Kituo concerning the forced migration program. They also provided him with the refugee handbook to enable him share it with his fellow officers concerning refugee matters. He stated that at that moment there were no refugees who had been arrested but that he would inform Kituo whenever they needed help concerning the same.

At **Makupa Police Station** and they were able to have an audience with the OCS as well. He stated that the majority of the refugees he normally got were of Ethiopian origin in transit to South Africa. They normally pled guilty to unlawful presence and the headache was always how to deport them back to their country of origin. He further stated that he knew very little of organisations within the area that worked with refugees and welcomed the idea of working with Kituo as well as DRA. He stated that he hardly interacted with refugees much in individual cases but the main focus of interaction were in cases of trafficking.

At **JelaBaridi Prison (King'orani)** they met the officer in charge. He stated that the detention centre was where most refugees were serving their sentences for unlawful presence. At the moment there were no refugees present as the last one had just been released after serving a six month sentence. He was handed over to immigration for deportation. It was noted that majority received at the detention centre were actually from Ethiopian migrants who were heading to South Africa. The largest number they had received was 200 and that it was a problem housing them even after the sentence as the Immigration department was always slow in how they proceeded to organise deportation. He however stated that he would let Kituo know of any incarcerated foreigners who were serving a sentence for unlawful presence.

At **Shimo La Tewa Prison**, the team established the following:

That there was a need to train our paralegals on refugee law as it would go a long way in assisting them identify detention cases at the prison. They would also be able to offer them legal advice and further through identification of Somali and Ethiopian inmates we can train them to identify the clients and further be able to interpret their issues to the head paralegals we shall thereby be able to establish a strong protection mechanism for prisoners in detention.

Our staff came across a case of 7 Somalis who had been arrested and convicted of unlawful presence; they served their sentence but soon after were charged with possession of weapons.

POLICE STATION	Central Mombasa	Makupa Police	Makongeni police	Shimo la Tewa prison	JelaBaridi	Manyani Prison	Malindi Prison
Number of Visits	1	1	1	10	1	1	1

Training of Paralegals

3 paralegal trainings in prison were conducted. in Shimo La Tewa Men from 30th September to 3rd October, Manyani Prison from 7th to 10th October and and Shimo la Tewa Womens prison from 22nd to 25th October. In this training KITUO was given the opportunity to train paralegals on refugee law. They were taught about the basics of refugee law but because of the short time allocated for the training it was not in-depth and touched briefly on what the Refugee Act 2006 provided. Though commendable that we were given this opportunity it brings to light the need to have this paralegals fully trained on refugee law this will also enable us be able to sensitise them on the major differences between asylum seekers and refugees and further train translators who may be serving life sentences in prison to assist in communicating to the detained refugees thus allowing them a better opportunity to capture the reasons behind detention. A total of 150 paralegals were from the 3 prisons.

There is a need to have this training not only for paralegals within the prison but our refugee community workers who have no idea about the basic provisions of law with regard to refugees. They also need to be taken through this to further assist the refugee community.

Community fora for Sensitisation of Persons of concerns on refugee rights and obligations

Two (2) fora were held during the reporting period; one in Marikiti and the other in Bamburi.

On 15th May 2013 FMP Mombasa had a forum with **43 community leaders** at Marikiti to sensitise them about the presence of Kituo cha Sheria in Mombasa and the work they were doing in Mombasa. From the forum it emerged that many refugees especially from the Somali community did not know of the FMP Mombasa and that there was a large number of refugees with expired Alien Cards who were now having trouble renewing the same in light of DRA closure of operations.

On 4th September 2013 FMP Mombasa held another forum at the White Sand Hotel with Refugee Community leaders with the objective was to establish a working relationship with these leaders, to brief them on the mandate of UNHCR, create a linkage between UNHCR, KITUO and the community leaders and to identify refugee issues pertinent to the Coast.

World Refugee Day celebrations

These were held at the Koblenz Hall Red Cross Mombasa on 20th June. This came in the wake of the Commissioner of refugees Directive that all refugees must return to the camp because of the rising insecurity in the country. Kituo Cha Sheria has been in the forefront in standing up against forced encampment and thus an event like world refugee day provides an opportunity to shed some light on why encampment does not reduce insecurity but further undermine refugees' human rights and enhance insecurity among the refugee community.

The event was graced by over **100 participants** including various presentations from community based organisations and refugees themselves. There was a walk from the treasury square grounds to the Red Cross hall in solidarity and Kituo staff as well as the refugee community together with the Department of Refugee Affairs ensured that the day was a great success. Many thanks were also due to the UNHCR staff Zahara Mwataku who took the time to help plan the event and ensure that it was a complete success. We realise that there is need for a larger budget for next year's activity as many organisations would like to be part of it.

F. TRAININGS

Community Monitors Training - 10-12th June 2013 at Sai Rock Pride Inn – Bamburi

98 community monitors were trained in the three days in partnership with UNHCR. It is estimated that the number of refugees residing in the coastal region totals to around 10,000. Out of this number many of the refugees and asylum seekers state that the one issue that they consider a challenge to their residing in urban areas is the issue of security. To further elaborate they state that it is the issue on security mainly centres on police harassment and a genuine fear of the police as well as other protection agencies. They thus feel that they have no one from the host community that they can trust in pursuing their security issues.

One of the avenues used by FMP in enhancing refugee protection is the training of community monitors who will enable us capture refugee issues especially around security. They will be the eyes and ears on the ground pertaining to refugee issues especially because most refugees may not be able to travel far to receive help thus having an intermediary within the community arena is the best chance they have to articulate their issues to both Kituo and UNHCR.

The monitors were divided into three groups and they were taken through refugee rights in both domestic and international law, protection mechanisms, child protection as well as sexual gender based violence. It was a great opportunity to enhance protection of refugees in the host communities.

COAST URBAN REFUGEE PROTECTION NETWORK

In the month of June FMP Mombasa was able to establish a network of partners to form the Coast Urban Refugee Protection Network. The partners include:

1. CISP
2. HakiYetu
3. FIDA Kenya
4. Coast Hospice
5. NALEAP
6. DRA
7. Children's Department
8. Coast General Hospital

The first meeting was held in July and others in September and November. The aim of the CURPN is to better coordinate refugee protection in the Coast with Kituo taking the lead.



Participants during Refugee workshop at Nomad Hotel, Eastleigh



Creators group presenting their song during the Kenya Tuna Uwezo Devolution grand finale

ADVOCACY, GOVERNANCE AND COMMUNITY PARTNERSHIPS PROGRAMME (AGCP)

Introduction

AGCP coordinates Kituo's community outreach and advocacy initiatives. It works to connect the people with the law and institutions, including instruments of justice. It does this by linking community mobilization and organization with Kituo's legal services and national level policy and legislative reform discourses.

AGCP ensures the participation of the poor and marginalized in the promotion of good governance, formulation/enactment of pro-poor policies and laws that are in tandem with international standards, and therefore enhances the realization of access to justice for all.

Kituo through the AGCP has established Community Justice Centres in Kitui, Nyando, Kibera, Korogocho, Kamukunji and in Kamiti Maximum Prison. These centres are run in partnership with community networks and in the case of Kamiti Prison, in partnership with the prison authorities. Community Justicecentres are run and managed by trained community paralegals who offer free legal services to the surrounding communities.

The community justice centre model holds that by empowering communities on various aspects of the law, they can in turn use that legal know-how to tackle inherent and emerging human rights in their community. It recognizes community members as stakeholders capable of providing solutions to problems facing them, and further gives empowered community members some space to utilize their legal know-how to serve their community. Through this model, Kituo is not only able to devolve its services to the heart of the community, but is also able to nurture actors in the community to take up their role in the society.

Access to justice for 2007/2008 post election violence victims

Under AGCP, Kituo runs the Peace, Justice and Reconciliation Project (PJRP). This project focuses on victims of the 2007/2008 post -election violence and Internally Displaced Persons (IDP's) in general. It facilitates victims' participation in the ongoing international justice process led by the International Criminal Court (ICC).

PJRP works closely with different organs of the ICC such as the Victims Participation and Reparations Sector and the Public Information and Documentation Section as a go-between victims communities and the Court's officials. Through this project Kituo is advocating for the establishment of national mechanisms to deal with cases of the 2007/2008 post-election violence

During this period, Kituo was represented in the **Regional Consultation on Transitional Justice in Africa, 6 to 8 November 2013 in Kampala, Uganda** convened by the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence. The Regional Consultation in Africa offered a fertile space for the participants to share among themselves and with the Special Rapporteur experiences relating to truth-seeking, justice, reparation and guarantees of non-recurrence, identify needs and challenges of past and current transitional justice processes in Africa and to promote good practices. The meeting also presented an opportunity for the mandate of the Special Rapporteur to be presented to the participants and to establish a dialogue with actors active in the field of transitional justice in the region.

Kituo was also represented in the **Regional Workshop on Transitional Justice, Bujumbura, 10th and 11th September** organized by Avocats Sans Frontiere. The objective of this workshop was to enable the comparative analysis of the transitional justice processes through the exchange of experiences, lessons learned and best practices on the ongoing or former processes in Africa (Burundi, DRC, Chad, CAR, Uganda, Côte d'Ivoire, Tunisia), especially in the various fields related to judicial treatment of international crimes. I made a short presentation about the issues faced in Kenya in the implementation of complementarity in the field especially regarding capacity building. This panel was co-animated with George Kegoro of (ICJ Kenya).

PJRP took part in the **Kisumu Peace Festival** this year. As part of the activities, PJRP raised awareness on the ICC process, victims' rights and national mechanisms for accessing justice for PEV victims.

Tangible benefits for victims

In our various interaction with victims, we have encountered numerous victims in need of physical rehabilitation, psychological rehabilitation as well material support. While understanding the importance of accessing justice in the ICC process, their immediate and pressing needs have been to rebuild their lives and regain their dignity and status in the communities within which they live.

Against this backdrop, PJRP wrote to the **Trust Fund for Victims** (established by the Rome Statute to *implement Court-ordered reparations and to provide physical and psychosocial rehabilitation or material support to victims of crimes within the jurisdiction of the ICC*) to conduct a mapping exercise and address the victims' needs by offering them general assistance as stipulated in the second mandate of the TFV (physical rehabilitation, psychological rehabilitation as well material support). It was felt that this would also address the gap at national level where the government has done little to restore the lives of victims who continue to suffer from what happened in 2007/2008. PJRP argued that this mapping exercise will be the beginning steps in trying to change the misconceived perception that the ICC has 'abandoned' victims and this can be a new way to re-engage victims and the wider community in the ICC process as quite a number are losing hope.

The TFV acknowledged receipt of the letter and indicated that they intended to conduct an assessment in the first half of 2014 and that they would be in contact with Kituo to discuss TFV further engagement in Kenya.

The ICD Debate

PJRP organized a 2 day training workshop for victims on the rights and the possible avenues of accessing justice through national mechanisms. It was agreed that in the debates in setting up the ICD, the victims' voices had not been included. PJRP in partnership with victims groups developed and shared recommendations with relevant stakeholders, including the Judiciary on securing victims' rights in Kenya with regards to the establishment of the ICD. These recommendations hold that it is essential victims' rights are central and upheld in the design and functioning of the ICD to ensure their effective and meaningful access to justice. In that regard, necessary legislative amendments required to ensure a victim centred approach in the design of the ICD, as well as the provision of specific measures for victims' participation in the



Participants take a group photo after their training at Kitui Community Justice Centre

functioning of this mechanism should be carefully considered. Special consideration should be awarded to victims of sexual violence.

Outreach to 2007/2008 PEV victims

From the 1st to the 7th of December, 2013, PJRP undertook an outreach activity for Post-Election Violence (PEV) victims and the Internally Displaced Persons (IDPs). The outreach was carried out as Public forums for these groups in four (4) areas; Kitale, Vihiga Kisumu and Kisii.

PEV Victims Outreach at Vihiga

The principle objective was to create awareness on the current status of the cases at the International Criminal Court (ICC) and proposed national avenues for seeking justice. It also provided an avenue for KITUO officers to; provide victims of the 2007/2008 post-election violence with an understanding of the ICC's mandate in relation to victims in general and particularly in the context of Kenya; clarify the mandate and limits of the ICC; inform victims of their rights to participate in the ICC proceedings and the possibilities of seeking reparations; and inform victims about the proposed mechanisms in the Truth Justice and Reconciliation Commission's (TJRC) report for seeking justice at national level. KITUO officers also addressed some of the questions raised by the participants.

A total of **327 victims** and IDPs were reached: 45 from Kitale; 26 from Vihiga; 117 from Kisumu; and 139 from Kisii. A majority of these victims are yet to get any form of compensation or assistance from government.

Launch of Kenya Tuna Uwezo program

This is a project that was implemented by AGCP in the period under review. The main goal was to create awareness that 'People' have the power to shape their own destinies using opportunities created by the constitution in demanding rights and playing their civic duty and responsibilities as guided by the constitution.

This project was implemented in Mathare, Korogocho, Kiambiu and Kibera- informal settlements that were hit by post-election violence in the year 2007/2008. The settlements have had a history of ethnic conflicts every election year. Poverty, ignorance, low education levels, unequal distribution of resources and political manipulation have acted as conflict triggers over time. Opportunities created by the constitution seek to address core issues that have spurred conflict and created ethnic divisions in the four settlements.

Based on this background and the fact that people living in the settlements had created politically aligned groups that were facing high risk of violence in the upcoming election, AGCP saw it necessary to organize a launch in each settlement based on 'people's power'

Citizen empowerment and engagement on peaceful elections

During the period in review, Kituo managed to build strong network of relationships with community based organizations such as, 'Wamamawa Amani, Kiambiu Youth for Peace and Development, Cohesion Champions for Peace and several local artist groups in Mathare, Korogocho, Kiambiu and Kibera with the main aim of empowering the groups on constitutional rights to enable them be responsible citizens who are able to hold the duty bearers accountable and also claim their rights. It is through the efforts of strategic partnership that AGCP assisted Kiambiu youths to register a youth group known as , ' Kiambiu Youth for Peace and Development' that has taken the fore front in helping Kiambiu youth dialogue on conflicting interests instead resulting to violence.

International day of peace and the girl child day

AGCP and implementing partners took the opportunity to reflect and map the strides that the country and the community has made towards healing and reconciliation after the post-election violence in 2008, the Tana Delta clashes and the West gate attack including Eastleigh grenade attacks that has led to loss of lives, property and high insecurity alert to the country. Such platforms have provided the opportunity for partners to get information on violence triggers and forward

such reports to security agents for action.

The day of the girl child provided an opportunity where AGCP managed to profile girls living in the informal settlements as key role models who are working hard to influence and bring change within their locality and shape their destiny despite the living harsh conditions

Monitoring and observing of party primaries

AGCP actively took part in monitoring political party primaries nomination exercise between 17th and 18th January 2013 in preparation for the March 4th general elections. The monitoring and observation exercise was carried out with the assistance of trained cohesion champions from Mathare, Korogocho, Kiambiu and Kibera on the 17th and 18th January 2013 respectively. This exercise was set out by various political parties to nominate credible candidates who will be eligible to run for various leadership positions during the March 4th elections. The exercise was marred by several technicalities including poor planning and coordination by various parties concerned. In most of the polling centers where the exercise was expected to kick off as early as 8am, reports received later in the day indicated late arrival of nominations materials with no communication at all of when the materials would arrive. Voters who turned out in large numbers to exercise their democratic rights queued for long hours and later on went home disappointed.

Of importance was the role played by the cohesion champions together with AGCP, implementing partners and the local security in sensitizing people to maintain order and peace despite the numerous irregularities that marred the entire exercise.

Accreditation of 55 cohesion champions as observers during the 4th March 2013 general elections.

Kituo Cha Sheria having been accorded accreditation status by the Independent, Electoral and Boundaries commission (IEBC), took this advantage to register and accredit 55 observers through IEBC as short term observers for the March 4th general elections. The 55 accredited observers were drawn from the four informal settlements of Nairobi. Out of this number, 35 were recognized as trained cohesion champions by the Ministry of Justice, National Cohesion and Constitutional Affairs. The observers worked closely with the IEBC officials, representatives from the International community, Non-governmental organizations and security officers in each polling center to maintain peace, order and assist voters where necessary.

The exercise of accrediting 55 observers for the March 4th general election gave them the opportunity to participate meaningfully in National affairs of our country and interact for the first time with various bodies like the IEBC that was charged with the responsibility of conducting free and fair elections. The accredited observers reported that the opportunity given to them to observe national affairs and have a voice in terms of reporting any anomalies created a greater impact as they felt that the constitution has opened up new windows for them to be recognized as important human beings in the society who can contribute positively to the national agenda. This was evident through reports that the IEBC officials' regularly contacted the observers at various stations for advice and clarity on issues such as determining the criteria for considering a cast vote or a spoilt vote.

Peace Baraza's

AGCP and implementing partners held 4 youth peace baraza's in Mathare, Korogocho, Kiambiu and Kibera that brought youths from different ethnic groups to dialogue on pertinent issues ahead of the March 4th election and devise ways of maintaining peace before, during and after the general election. A total of 100 youths were reached in these platforms that created an opportunity for youths to interact freely and understand that Kenya is one nation with 42 tribes that derive its' strength in the diversity that we have as one nation.

Peace Caravans

The peace caravans reached a total of 4,240 community residents in the four informal settlements Mathare, Korogocho, Kiambiu and Kibera. The most remarkable exercise during the caravan shows were the mock elections that greatly interested the community people who took the opportunity to participate in the exercise that was done in conjunction with IEBC constituency officials as part of voter education exercise. The residents got a chance to see how the ballot papers would look like and participated in casting a total of six votes for the elective positions. The entire voting procedure was done with the tallying exercise conducted with observers on ground just to give a clear picture on the happening of March 4th general elections.

Addressing fear/ mistrust after the March 4th elections

Three cohesion champions also had a chance to voice peace messages that run on air from 28th February to 9th of March with messages of maintaining peace, law and order and conducting ourselves as patriotic Kenyans. In addition, community forums were held to urge community people to maintain peace and accept the ruling of the court on the presidential election Petition. The community forums created a platform where different ethnic groups had a chance to voice out fears emanating from their localities and identified ways of addressing the fears that saw most of the community members decide not to relocate to other areas as they had earlier planned to for fear of attacks and intimidation.

Civic education on devolution

AGCP conducted trainings to community networks from Kibera, Mathare, Korogocho and Kiambiu on the devolution concept to create understanding on the devolution structure and the responsibilities of the various leaders such as senators, ward reps and governors who play a key role in implementing the devolution concept. This understanding and knowledge empowered the community in terms of knowing the different roles played by the leadership and how they can participate in different platforms to shape their future and destiny.

Devolution festival

Mini festivals on devolution took place on the 22nd, 23rd, 24th and 25th July 2013 in Korogocho, Mathare, Kibera and Kiambiu respectively. In each of the project target areas, AGCP identified top three groups to participate in the grand finale. A total of 1,042 participants registered to participate in the mini festivals. The grand finale held on the 29th August 2013 was a success and graced by HE. The Deputy Governor, Nairobi County Mr. Jonathan Mueke, former Nairobi Mayor, Joe Aketch, USAID representative, Assistants County Commissioner among other dignitaries. The event although held in Kibera, also had representation of communities from other informal settlements.



Participants during the Kenya Tuna Uwezo training on devolution at Kibera

KITUO COMMUNITY LEGAL EMPOWERMENT PROJECT

Prisoners have a right to vote

The right to vote for prisoner's case was successfully concluded and covered by national media. In this judgment it was recognized that prisoners have a right to vote and should vote in all upcoming referenda and elections. IEBC was ordered to pay costs for the suit. The case was profiled in the following media:

- <http://allafrica.com/stories/201301211362.html>
- <http://www.the-star.co.ke/news/article-105912/excluding-prisoners-voting-violates-their-rights>
- <http://www.kenyalaw.org/newsletter1/Issue042013.php>

In this case KITUO argued that IEBC had infringed on the rights of prisoners by failing to register them to vote. *The Court directed the IEBC to facilitate, in conjunction with the prison and other government institutions, the exercise of the right of prisoner who were registered before incarceration to vote in the general elections.* The IEBC was also directed to put in place measures to ensure that inmates are registered to vote in future elections and referendums.

In the build up to the above case, a letter was written to Min. of State for Immigration and Registration of Persons to issue national ID's to prisoners so that they can participate in the 2013 elections. Following lack of response after 4 weeks, demand letters were written and issued indicating possibility of going to court over this matter to ensure that prisoners are not excluded from the voting process. The Ministry of State for Immigration and Registration of Persons responded through a letter, saying it has taken up the issue with the Commissioner of Prisons and had advised the Commissioner to instruct officers in charge of Prisons to liaise with all District Registrars of Persons for the purpose of processing application forms for prisoners who do not possess IDs. Kamiti Maximum Prison informed Kituo through a letter that the processing application forms for prisoners who do not possess IDs had commenced in Kamiti and that 700 prisoners had so far been registered.

▪ **Mwea Foundation Case:**

- Kituo filed a case in 2012 on behalf of Mwea Foundation and Mwea Farmers. Farmer's rights were being violated by the National Irrigation Board (NIB) who employ the Irrigation Act and the Trust Land (Irrigation Areas) Rules, 1962 in governing the relationship between the farmers and the NIB. Kituo sought that certain sections of the Irrigation Regulations which are contained in the Irrigation Act be declared unconstitutional and that the Regulations cease to be in use with immediate effect until new rules that are compliant with the Constitution are drawn. The case was heard on the **23rd of September, 2013** and judgment delivered on **1st November 2013**. The Judge stated that: The Mwea farmers face the underlying problem of land tenure system which ought to be reviewed to align it with **Chapter Five** of the Constitution. He added that the petitioners' grievances and problems are beyond specific regulations governing the Scheme. They fall under a wider framework of social and economic rights protected under **Article 43** and would have been better resolved by articulating their issues from that perspective. The judge nevertheless made the following declarations:
 - That **regulation 4** of the Irrigation (National Irrigation Schemes) Regulations unconstitutional to the extent that it excludes persons from occupation of the Scheme who are dependents of the licensee on the basis of age and marital status contrary to **Article 27**.
 - That **regulation 8 (a), (g) and (h)** of the Irrigation (National Irrigation Schemes) Regulations is unconstitutional as it violated **Article 41** of the Constitution

Due to the security risks faced by the petitioners in the Mwea Case, a **Protection and Risk Assessment Training** for Mwea Foundation Human Rights Defenders was conducted. Participants understanding of security and protection was enhanced, defenders were capacitated to undertake their own risk assessments and define security precautions they need to take in their particular situations. Participants were also made to understand the Mwea Case so that they could in turn share information with farmers.

Community caucus' and forums on the Mwea Case with the concerned farmers to explain the case to the clients, violations and reprieve sought. The awareness forums also served to inform Farmers about the final hearing of the case and given the security risks, they were advised not to come to court due the sensitive nature of the case that had already seen some HRD's put in protective custody. Farmers were advised to support the Mwea Foundation as the case come to its conclusion.

LEARNING FORUMS ON ACCESS TO JUSTICE

Public thematic forums

On **Access to Justice in Pursuit of the Right to Housing**. Participants were taken through content of the proposed legislations i.e. Draft Housing Bill 2012 and the Eviction and Resettlement Guidelines and Bill 2012. Participants made aware of the various ongoing processes in the housing sector and how they can effectively get involved

Moot Court: At Kamiti a moot court was held on exploring the Criminal Trial Process in Kenya. Inmates were empowered on self-representation skills and techniques. Questions arising by the inmates on court processes were answered by the able panelists comprised of judges from the High Court of Kenya. (pictures Prison Paralegals during the Moot Court at Kamiti Maximum Prison

Kituo Access to Justice Day: A debate on the motion *'The Judiciary Transformation Framework is too Ambitious'* was held. This increased Awareness of participants on the Judiciary Transformation Framework vis a vis Access to Justice. 20 Essays were entered for the Access To Justice Day Essay Competition and 7 art pieces entered for the Access to Justice Day Art Competition. This event was attended by the Judiciary -Chief Registrar, Ms. Shollei, Head of the Judiciary Transformation Framework – Prof. Joel Ngugi, Office of the DPP- Patrick Kiage, Hon. AG- Prof.GithuMuigai and Hon. Eugene Wamlawwa- Minister of Justice

ADVOCACY INITIATIVES TO INCREASE ACCESS TO JUSTICE

- Presented a written memorandum to the TJRC on Access to Justice presented in the form of oral and written memorandum
- Petition on Article 22 rules for the enforcement of the Bill of Rights area of concern developed and presented to Hon. Justice David Majanja, Chair, Art. 22 rules Committee and Hon. Justice Prof. Joel Ngugi, Head of Judiciary Transformation Unit.
- Presentation on the Judiciary Budget Process- written presentation made to the Chief Registrar of the Judiciary



Kamiti prison paralegals during the paralegal training at Kamiti Maximum prison

in the preparation process of its budget estimates. The Office of the Chief Registrar acknowledged receipt of Kituo's presentation and stated that the Judiciary will study our comments and try to incorporate our recommendations in the budget process as appropriate

- Wrote a letter to the CJ requesting for the inclusion of community paralegals in Court User's Committees. The CJ responded to Kituo's request in the petition stating that a circular/guiding note be issued directing inclusion of paralegals in all court user committees across the country by saying that the practice already exists but the Judiciary insists on applications being made and he considers them on that basis. 10 paralegals from Kibera, Kamukunji, Korogocho, Kitui and Mutomo are members of Court Users Committees in Makadara, Kibera Law Courts, Kitui and Mutomo Law Courts.
- Letter written to the CJ, to intervene in the matters of 42 appellants who are yet to receive their judgments
- On the issue of Art. 50 (7), in which Kituo had requested for an interpretation of the role of intermediaries in trials to include paralegals, The CJ responded by saying that he cannot interpret Article 50 (7) in a vacuum. He believes that role belongs to the High Court if that is the interpretation Kituo wants or before the court in the application is made during a trial. He added that he cannot perform a judicial function administratively. Kituo is currently exploring avenues through which to get an interpretation of Art 50 (7) to include paralegals
- A letter addressed to the Chairman, Kenya Law Reform Commission (KLRC) to champion the adoption of the Housing Bill, and the review of the Housing Policy. The Chairman, Law Reform Commission, observed the Housing Bill to be a priority and promised support for the Bill.
- A courtesy call to Minister of Housing to discuss access to justice vis a vis right to housing.
- Petition to Hon. CJ on the preliminary measures to implement the Judiciary Transformation Framework and Enhance Access to Justice for the poor and marginalized during the occasion of the Judicial Marches

Community engagement in the legislative process

Kituo in partnership with the Community Justice Centres and the Taskforce on Evictions and Resettlement Bill and the Community Land Bill facilitated communities to give their views on the mentioned bills. The communities were drawn from Mukuru Kwa Njenga, Kibera, Kamukunji and Korogocho.

Community awareness sessions

Community awareness sessions on the Land and Environment Court Act and the Industrial Court Act were held in Kibera, Korogocho and Kamukunji in partnership with the Community Justice Centres.

Legal Aid Bill Campaign and Justice 2015 Campaign

AGCP campaigned for the explicit recognition of community paralegals in the draft Legal Aid Bill as well as its adoption. To this end community awareness sessions were held in Mukuru Kwa Njenga, Kamukunji, Kibera, and Korogocho. The online signature campaign was launched on <http://www.ipetitions.com/petition/justice-for-all-2-2>

Following a consensus building meeting with Paralegal Support Network (PASUNE,) it was agreed that the definition of an accredited paralegal in the Legal Aid bill will be as follows:

"accredited paralegal" means a person employed by the Service, a government department or an accredited body; or a person working as a community paralegal, who has completed a training course approved by the Council of Legal Education and the Service, conducted by an accredited body and who provides free legal advice, assistance and legal awareness under the general supervision of an advocate but is not licensed to practice as an advocate;" This definition takes into account the definition of a community paralegal. Secondly it was agreed that:

Section 7 (1) The functions and powers of the Service shall be to:

- (i) develop, in consultation with the Council for Legal Education, programmes for clinical legal education and the

training, certification and **conduct of** paralegals and promote, guide and supervise the establishment and working of legal aid services in universities, colleges and other institutions; These views have been forwarded to the Legal Aid Committee for consideration.

Following the global campaign to have Legal empowerment in the post 2015 agenda, at the national level, Kituo Cha Sheria, ICJ and LRF have complemented the global advocacy by developing an advocacy letter with 18 organizations that have signed on for the inclusion of access to justice and legal services in the post 2015 agenda and linking this with the foreseen adoption of the Legal Aid bill in Kenya. The letter was sent to the Ministry of Foreign Affairs, the Ministry of Devolution and Planning and States Law Office

The advocacy letter can be found on the following NAMATI link: <http://www.namati.org/newsposts/kenyan-ngos-press-their-government-to-support-justice-targets-in-the-new-mdgs/>

Community Justice Centres

- **New Justice Centres established**
 - 5 justice centers were established in Kamiti Maximum Prison, Kitui County, Nairobi (Korogocho), Shimo La Tewa Women's Prison and Mombasa County. Kamiti and Korogocho justice centres were publicly launched. In Korogocho, 150 community residents attended, the event was covered by the Star Newspaper, Deutsche Welle Radio, Ghetto Radio and on http://www.youtube.com/watch?v=y8gRbzQ_fcc&feature=g-upl and <http://ckarimi.wordpress.com/tag/korogocho-slum-justice-willy-mutunga-korogocho-community-justice-centre/> Hon. CJ Dr. Willy Mutunga and German Ambassador to Kenya, Mrs. Margit Hellwig- Boett attended the launch of the Korogocho Justice Centre. In Kamiti, Hon Judge Ibrahim (Supreme Court) and Nairobi PPO Ms. Wanini and Prison officials were in attendance, 38 paralegals graduated (25 inmates, 5 warders) and were issued with certificates of participation, family members of grandaunts were in attendance (1 per grandaunt). The graduation was aired on NTV 7 O'clock and 9 PM news, Ghetto Radio, Radio Pamoja and covered by the Standard Newspaper.
- **Support to justice centres to provide free legal aid service**



Simon Nzioka, Kituo lawyer training participants at Kitui County

- Provided monthly administrative support to 10 justice centres to give free legal aid services. Cases brought to the attention of the Justice Centres were handled by the justice centres through ADR, referrals to Kituo, advocates and issuance of demand letters.
- Conducted monthly visits to justice centres to identify and address legal hurdles facing paralegals and to attend to clients with complex cases. Paralegals advised on various legal matters

■ Trainings

- Comprehensive ADR training for community based paralegals to enhance understanding on ADR and ADR mechanisms, increase knowledge on the place of ADR vis a vis the Constitution, increase awareness of the various ADR methodologies and procedures and enhance skills of paralegals in conducting mediation and negotiation.
- Training for Community Paralegals on the Industrial Court, Industrial Court Rules and Environment and Land Court.
- Refresher course training for previously trained paralegals New paralegal training for community paralegals based at the newly established Justice Centres.

Contribution to Policy and Legislative Reforms

Title of bill/policies/ legislations	AGCP Contribution	Status of adoption: Adopted/implemented
Legal Aid Bill	Inclusion and recognition of community paralegals	Currently at the AG's
Land Bills (the Land Commission Bill 2012, Land Registration Bill, 2012 and the Land Bill, 2012)	Community's perspective on Land	Adopted and being implemented
Community Land Bill	Community's perspective on Land	About to be debated in parliament
Evictions and Resettlement Bill	Community's perspective on evictions and resettlement	About to be debated in parliament



Participants during the AGCP Peace Caravan at Kibera, Nairobi

Number of Cases handled or brought to the attention of Community Justice Centres

No. of paralegals trained	Counties they operate in	No. of cases referred	No. of cases Resolved	No. of cases Pending
20	Mombasa County (Kisauni)	834	196	638 - some of which were referred to other organizations to Kituo, police and filed in court
20	Kwale (Lamukhani)	151	83	68 – of which some were filed in court and other referred to relevant institutions.
20	Kitui County	157	-	-
60	Nairobi County (Kibera, Korogocho, Kamukunji)	488	86	402- some of which were referred other organizations to Kituo, police and filed in court
30	Kiambu County (Kamiti Maximum Prison)	319	58	261- some are waiting for their matter to be heard, to be given a hearing date, for their judgments
22	Mombasa County (Shimo la Tewa Mens Prison)	2401	2005	396 some are waiting for their matter to be heard, to be given a hearing date, for their judgments
20	Mombasa County Shimo la Tewa women prison	408	395	13 - some are waiting for their matter to be heard, to be given a hearing date, for their judgments
20	Kisumu (Nyando)	57	39	18 -some of which were referred other organizations to Kituo, police and filed in court



Participants registering to attend a paralegal training in Kamukunji, Nairobi

AGCP COASTAL REGION

KITUO LINKS COMMUNITIES WITH ON-GOING REFORM PROCESSES

The Truth Justice and Reconciliation Commission (TJRC) Public Hearings

The Truth Justice and Reconciliation Commission held it's last lap of public hearings in Coast Region between January and March and KITUO was very instrumental in the process through the following;

- Mobilizing communities through community representatives in Lamu, Tana River, Kilifi, Mombasa, Kwale and Taita/Taveta counties to participate in the TJRC public and the women thematic cluster hearing forums.
- Use of talk shows in Radio Rahma, Pwani fm and Baraka fm to mobilize communities to participate on TJRC hearings and creating awareness on the mandate of the TJRC.
- Playing a monitoring role over how the process was conducted in Mombasa, Kilifi, Kwale and Taita/Taveta counties and sharing the report.
- Assisting some of the communities KITUO assisted in packaging their grievances such as Lamu-Kiwayuu case ,Tana Delta-TARDA Case and Mombasa-Kisauni Land case and Taveta Mwachabo adjudication scheme.

Independent Electoral and Boundaries Commission Consultative Forums

During the same period, Communities from the targeted areas of Mombasa, Taita/Taveta and Kwale Counties were also mobilized to participate and give their views on the county consultative forums organized by Independent Electoral and Boundaries Commission.



Marcelino Waithaka during the Community forum on Land and Environment in Taita/Taveta County

The Commission of Implementation of Constitution

Communities from Taveta and Mombasa were mobilized to participate in **CIC** county consultative forum aimed at getting community views on the Land Bill.

Judges and Magistrates vetting Board

Despite the late communication, Kituo through the programme mobilized paralegal networks, particularly from Kwale through Lamukhani and Shimo La Tewa paralegals, to participate in consultative forums organized by Judges and Magistrates vetting board to get inputs from the community on making the vetting process effective and successful.

URIP COMES TO COAST! It is all about protecting the Rights of Refugees in Coast.

The Urban Refugee Intervention Programme that KITUO partners with UNHCHR in Nairobi indicated its intention to devolve to the Coast. To lay a foundation for this KITUO undertook the following;

Baseline survey on Urban Refugees in Coast

KITUO partnered with International Rescue Committee to carry out a survey on urban refugees in Mombasa. The process targeted refugee areas of presence including Chagamwe (Jomvu)-Mainly Somalis, Likoni, Shanzu- Mainly Congolese and Kisauni (Old town and Barsheba). Kituo identified enumerators from the refugee community to assist in data collection. Again the exercise was used to boost the awareness among refugee communities and strategic stakeholders on Kituo's engagement on refugee affairs. In addition, the survey provided significant gaps in refugee interventions in the region for capitalization by Kituo as it engages in refugee affairs.

Engagement with Refugee rights Stakeholders

- **Magistrates:** KITUO held a meeting with Mombasa Chief Magistrate on access to justice particularly among the refugees. Through the meeting, Kituo shared its work around refugees and the Magistrate promised to have refugee cases brought before the judiciary represented by Kituo to enhance effective representation of the refugees. Again the Magistrate shared the need to have the Magistrates trained afresh on the Refugee Act an exercise that Kituo subsequently undertook and SRM Kwale
- **Department of Refugee Affairs:** For the period, a curtsey call was made to DRA office in Malindi. Through the visits Kituo shared the concern of existence of variety of identification documents given to aliens. A recommendation for a possible review was given at the same time, the office informed Kituo of the intended plan of opening DRA office in Mombasa.
- **Prisons:** Similarly a visit was also made to Kwale targeting Kwale prison.
- **Partners:** There were UNHCR briefing sessions held in Mombasa office and this served to raise lacunas in refugee intervention work both locally and nationally that AGCP could step in to address, particularly around advocacy on policy areas on issues affecting refugees.

Public Forums on Refugee Rights

- **National symposium on Local Integration of refugees:** The programme took part in a National symposium on Local Integration of refugees at the Nyali beach Hotel Mombasa that was organized in programme partnership of NURRIA with the European Commission and IRC.
- **International Day of Refugees 2012:** For the first time Kituo in conjunction with Red Cross and Department of Refugee affairs held the first refugee day commemoration themed "A Refugee forced to flee is one too many" which encompassed marching from Traesury Square to the Red Cross hall where there was a lecture and entertainment from various groups which was captured by media.

INNOVATING JUSTICE: THE COMMUNITY AND PRISON JUSTICE CENTRES.

The Initiative of Justice Centers is an innovative way of making access to justice available to the poor by using paralegals to deliver legal services. This is a concept that is supported by UNDP Amkeni and involves empowering the organization of community and prison paralegals, setting up justice centers, training inmates, prison warders and community representatives on legal, human rights and criminal justice procedures so as to provide legal aid to the poor who cannot afford legal fees.

Kisauni Constituency and Development Initiative-KICODI

In 2012, KICODI continued to give legal advice to community members with the prominent cases handled being on land, landlord-tenant and children cases. For the period between *January to August of 2012*, in terms of offering legal advice to the community the centre attended to a total of **69 Matters**, as classified hereunder:

High Court.....	1
Children's court.....	7
Land restriction tribunal.....	16
Police.....	6
Provincial administration.....	2
Municipal council.....	4
ADR.....	33
Total.....	69



Moot Court at Shimo la Tewa men prison

Other Undertakings by the Centre:

- The centre hosted the UNDP-Amkeni team that had come to document this centre as a success on access to justice.
- A meeting was held with USAID representatives to deliberate on gender issues and trends in Coast region.
- In partnership with KECOSCE (The Kenya Community Support Center) they did a civic education on the new systems of governance in the Junda ward of Kisauni constituency.
- The Center received a total of Ksh. 70,000 from Action Aid International after presenting a concept to conduct civic education on land reforms, the new system of governance and other legal matters.
- Three interactive sessions were held in the centre to discuss the salient features of the Industrial court Act and come up with the critiques and some of the key recommendations forwarded by the centre to the taskforce were the need to devolve the Industrial courts (which has since devolved) to reduce the copies of documents from 6 copies each to 3 copies and to have a clear definition of subordinate industrial courts.

Shimo La Tewa Prison Justice Centre.

Cases handled by Prison Paralegals: In the period *between January to August of 2012* the justice centre appeals followed by the paralegals in various courts are as classified hereunder:

Remand Cases	Acquittals	Convictions
59	27	30
Appeals-High Court	Dismissed	Allowed/Reduced Sentences
19	6	10
Appeals-Court of Appeal	Dismissed	Allowed/Reduced Sentences
38	18	20
TOTAL CASES 116		

- **Magistrates vetting board:** The board collaborated with kituo in a session that provided a chance for the inmates to be taken through the work of the board and given the forms from the judges and magistrates voting board and taken through what was required to fill and submit the form.
- **PIL case on prisoners right to vote in general elections:** During this year a ground was set for the PIL case on inmates' right to vote in general elections. Although the orders came in late most of the paralegals Identity Cards were detained at various stations and Kituo liaised National Bureau of Statistics under the Ministry of Immigration to issue new IDs.
- **Power of Mercy Committee:** During this time a monthly visit to advice the paralegals was held twice with the first one focusing preparing the paralegals for their appeals and getting recommendations on the procedures around the power of mercy committee. As a result a total of 70 applications were made to the committee.
- **Chief Justice visits Shimo La Tewa Prison:** The paralegals had a chance to present a memorandum to the chief justice regarding various issues like sexual offences cases involving minors, the death penalty and the inactive power of mercy committee.
- **National Registration Bureau:** The programme held a meeting on the 24/07/2012 with Mr. Aggrey Masai who is the Coast regional director at the National Registration Bureau as pertains the prison reforms agenda under the *Hamasa Gerezani* project and how to liaise with his office in the process of registration of the inmates as voters.
- **Ministry of Immigration:** Kituo intervened by writing to the ministry about prisoners required to pay 300 KES processing fee which the ministry gave a waiver as a result.
- **Civic Education** During the period the programme was able to do an interactive training workshop at the Shimo la Tewa main prison inmates on the bill of rights and the right to vote as enshrined in the Article v article

83 of the constitution.

- **The centre gets featured by BBC:** The centre got to be featured in November by the BBC World news who have expressed in doing a documentary on the justice center and what it has achieved as far as the project started being implemented.
- **Visit by Micro Justice Team:** Micro-justice team and shared success stories of Shimo La Tewa access to justice project. The team also paid a courtesy call to shimo project. The visitation was instrumental in sharing opportunities available for paralegal in associating with the Micro Justice and cementing partnership with the team.
- **The Centre is Nominated for the Innovating Justice Award 2012:** The IJ Awards are aimed at stimulating innovations in the justice sector by providing new breakthrough solutions to Rule of Law challenges and the prison paralegal project in Shimo La Tewa received a recognition by the Hague Institute for the Internationalisation of Law and was invited to the city of Justice-The Hague



The Innovative has been featured in the new publication *Innovating Justice: Developing new ways to bring fairness between people* by HiIL.

3.3 Shimo La Tewa Women Paralegals: The new Kids in the Block!

- **Setting the foundation for a new centre:** In an effort to make justice accessible and also engender the prison paralegal project, consultations were held with officer in charge, Shimo la Tewa women Prison regarding the inception of a new justice centre and training of inmates as paralegals.
- **First Paralegal Training for Shimo La Tewa Women Prison:** As a starting point a paralegal training was conducted whereby a total of 12 comprising of 6 inmates and 6 wardresses were trained. The apex of the training culminated to graduation that brought on board key stakeholders including power of mercy committee secretary Mr. Gachiri, Gender and Equality Commission Chairperson Winnie Lichuma, Resident Judge Lady Justice Nzioka, and other prison Officials. The platform was used to raise pertinent issues touching on the welfare of the inmates and enhanced working relationship with various stakeholders represented.

Lamukani Community Justice Centre (NEW!)

Lamukani CBO is the latest entry to the community justice center initiative and their main objective is to enhance access of justice to the poor and marginalized in Kwale County.

- **Paralegal Training:** The year under preview saw the training of a total of 20 paralegals comprising of 12 men and 8 women from the centre. There were about 5 youths among the group. The comparative advantage of inclusion of the youths being their techno savvy qualities. Among the participants included Islamic teachers (Ustadhi), retired teacher, village elders, women leaders and youth leaders.
- **Laying strategies for the justice centre operations:** Apart from the important topics for community based paralegals, quality time was spent laying a strategy for strengthening the Center and it included drawing of work-plans, resource mobilization strategy and staff attendance rota to guide the activities of the Centre after the training.
- **Sharing of Ideas between Centres:** A KICODI representative was invited to share with Lamukani on the

experiences and challenges of community justice centres. The platforms were also ideal for networking between the two centers and promote healthy competition between the centers.

- **Grand Graduation Ceremony and Launch of the centre:** The graduation of 20 paralegals and launch of the justice center was held at the Lamukani Office in Kinondo, Msambweni constituency. The guest speakers were key stakeholders such as the area chief, the land adjudication officer Kwale, the representative from the base titanium company, religious leaders and acting coordinator Kituo cha Sheria. The ceremony was graced by the presence of the community too and the awarding of the certificates was the climax.

Malindi and Nyeri Prisons

- **Inmates:** Although there are no centres here yet, during the period the programme in collaboration with the legal department was able to do an interactive training workshop at the Malindi and Nyeri main prisons. The interactive training session in Malindi GK Prison was the first of its kind by Kituo cha Sheria in the facility. It was aimed at civic education of the inmates on the bill of rights, voter Education on the new electoral laws and empowerment of the inmates on criminal law and procedure. A day was also dedicated to training of some inmates at the Nyeri main prison on the Bill of rights and introduction of paralegal training program in brief.
- **Prison Administrators:** During the period the programme in collaboration with the legal department was able to do an interactive training workshop of prison administrators in Nyeri County touching on Bill of rights, leadership and integrity and the electoral laws. Some few participants were drawn from Nyeri, Nyanza, Western and Nairobi prisons.

ADVOCACY AROUND LAND RIGHTS AND SECURE TENURE

On Going Community Land Cases

- **Kidomaya Community-Kwale:** The programme engaged the Kidomaya-Kwale community representatives and took them through basic organization of the community through such initiatives as reviewing their constitution and registration procedure to ensure an organized group for effective follow up of the PIL case.
- **Mwachabo settlement scheme:** A follow up on the Mwachabo settlement scheme was done with a view to initiate actions and interventions that will translate to community land rights tenure. This time around the approach taken was more engaging as a meeting was organized between the team and the opinion leaders, the local administration including the District Officer, judicial committee, religious leaders and area councilors to tackle emerging triggers of conflict in the settlement.
- **Taveta Community vs. Basil Criticos case:** Community in Taveta were mobilized for follow up of getting the relevant documents and statements in Taveta as regards the PIL case Kituo filed over disputed ownership of a parcel of land by Basil Criticos. The team in Taveta during the inventory also held a meeting with D.C and other community members having land related concerns and also met the communities in Mrabani area over the PIL case Kituo is preparing to file over disputed ownership of a parcel of land by Basil Criticos.
- **Shangaivishi Trust Land Case:** The programme mobilized community for a follow up in Mwakitau area of Taita County and constituted a committee of the local community members which was tasked with the responsibility of finding supportive information on the public litigation case which is on the “Shangaivishi Trust Land Case”. This activity is in line with the capacity building of the marginalized communities to effectively fight for their rights.
- **Malindi Boat Operators:** Kituo has been handling the case of Malindi Boat Operators association over a land dispute between the community and the KWS over the lease of Malindi Marine Park (the only public beach in Malindi) to a private developer who has since erected paramagnet walls in the area under dispute and blocking Boat users’ access and usage of the parcel. The programme in collaboration with the legal aid department in partnership with Action Aid conducted a field visit to Malindi over the Malindi Boat operators as planned PIL. The meeting was aimed at gathering the latest facts on the ground before decisions are made on filling the case. Meetings were held with KWS officials, Malindi Community representatives including the Boat operators.
- **Ziwa La Ng’ombe:** A meeting was also held with 9 representative members of Ziwa La Ng’ombe settlement

scheme on eviction and demolition threats by lands office, to pave entry way to a private developer's plot. A Petition has been drafted and is to be forwarded to the lands office for clarity on the threats issued through physical planner.

Fact Finding Missions

- **Takaungu Community in Kilifi:** The programme in partnership with legal aid department carried out a fact finding on land in Takaungu area of Kilifi as regards the Mazrui Vs Takaungu case that Kituo is taking up under Public Interest Litigation. The process was mainly through a meeting that was held with the local committee who were tasked with the responsibility of ascertaining ownership, which they did through supportive documents and photos. This is in line with lobbying and advocating for the cases of the poor people in the community as regards land.
- **Mariakani:** The program in partnership with legal aid department carried out a fact finding on land in Mariakani on a multi-purpose dam that is set to be constructed. The process was mainly through a meeting that was held with the local committee who were tasked with responsibilities to gather the relevant documents and evidence of any type that will help Kituo in filing a public litigation case on the said matter.
- **Pogwe:** Fact finding was conducted in pongwe, Kwale County in partnership with Legal aid. The aim of the activity was to touch base with the community concerns and verify the facts for possibility of representing the community on a land matter against KISCOL. Through the meeting the community members were empowered on the court process in taking up the matter, organizing themselves in a registered group strategically for follow-ups of such cases and also for advocacy on their own human rights issues. Supportive statements were also collected from selected individuals.

The SAFE Project

The programme has been partnering with PACT/USAID to implement the SAFE project in Coast Region that seeks to promote peaceful elections together with other actors like Ujamaa Centre, CJPC and KECOSCE. The following are highlights of the project;

- Development of strategies targeting Kwale County community on their contribution towards the realization of sustainable peace given the upheaval that have been attributed to Kwale county given that Mombasa Republican Council (MRC).
- The programme participated in monthly consultative meeting organized by USAID and PACT and brought together the SAFE partners, to deliberate on conflict issues affecting the Coast region and developing mitigation measures.
- Development of a media strategy on the framework, opportunities and challenges of the media campaign on land and devolution in the Coast.
- Inventory of land in settlement schemes: Through the team met with the Adjudication committee members and Communities and civil societies working on land issues in the areas and a number of key informants. This information has been used in initiating actions and interventions by Kituo towards secure community land tenure as a solution to land conflicts in Coast.
- The program in collaboration with legal aid department did a civic education in Migombani-Likoni, Matsangoni-Kilifi County and in Changamwe and Bomu-Mombasa County on issues of new framework of governance and land reforms under SAFE project. The community was empowered on the new systems of government and need for active community participation in it.

DEMYSTIFYING DEVOLUTION THROUGH TARGETED PUBLIC AWARENESS

Devolution Sessions with Youth Groups

The programme was invited to facilitate a session on devolution for youth in **Enjoying everyday's life college**, in Mombasa. A total of 23 youths comprising of 11 female and 12 males were empowered. Through the session the youths indicated the interest in volunteering work round Kituo areas of work to enhance their theoretical competence in aspects of governance and community engagements.

The programme in partnership with the LAED also held a forum with 16 including 5 females and 11 male members of

the **Ng'ombeni Youth Development Group (NDEV-G)** in Msambweni on devolution. From the session, the groups begun working on strategy to work with other youth groups to ensure the youths influence election of credible leaders and influence youth participation of the youths in the upcoming elections. The youth group was introduced to Radio Kaya representatives to enhance the group's advocacy.

Devolution sessions with communities with pressing land concerns

- The programme in partnership with legal aid sensitized the communities from 6 targeted areas in including, Kwale, Mombasa, Taveta, Kilifi, Malindi and Tana Delta, on constitution emphasizing on devolution as heralded by new constitution. A total of 505 community members comprising 256 men and 249 women were empowered on the opportunities, inherent challenges accruing from Kenya's devolution framework and myths around devolution were dispelled. As a result of the forums initiatives of formation of citizen forums that will be key participation approach were mooted in some areas.
- The programme in partnership with legal aid department conducted civic education on land and devolution in Mwanda, Mghange and Mwakitao area of Taita-Taveta County in partnership with CJPC. The community was empowered on the new systems of Government and need for community participation in it. The attendance in Mwakitao was 105 community members and in Mghange was 70 and Mwanda 50. The emerging issues from the outreach was that there is lack of information in the community hence need for more awareness creation that will even build the capacity of the communities for engagement with the upcoming Government structures and National land policy.
- The program in collaboration with legal aid department and CJPC did civic education come legal aid in the Sagalla area of Taita County. The outcome of the activity was legal counsel given to the emerging individual legal issues and the empowerment of the community on the new system of governance and matters of land. The key emerging issue is that there is lack of information in the community about the upcoming government structures and the hence need for more awareness creation that will even build the capacity of the communities for engagement and active participation. The programme intends to do a follow up by further civic education.

Radio Talk Shows on Devolution



Training of Prison paralegals at Manyani Prison

- The programme hosted radio talk shows in partnership with the legal aid team at **Baraka fm, Radio Salaam, Radio Kaya, Sifa Fm and Anguo Fm** to sensitize the community on devolution and land matters. The focus was on civic education of the concept and framework of the devolved governments as per the new statutes and the need for communities to participate in the implementation of the new structures of Government. On land they focused on creating awareness on the new land Acts that have been recently passed in the parliament. The programme will be using the sentiments from the callers to come up with a community manifesto. The manifestos will be used for community development blueprints to be used in engaging aspirants for realization of people centered devolution.

Devolution Manual

The programme compiled information for the development of a self training manual on devolution. The tool to be launched in 2013 will be used by TOTs and other organizations in empowering the community on devolution. The draft is now available and validation exercise with diverse stake holders has been done.

Land And Devolution Snapshot

- The programme participated on over 30 radio talkshows on land and devolution.
- The programme was instrumental in the development of the Coast land charter for aspiring leaders in conjunction with Kenya Land Alliance.
- The programme developed a critique on the land bill which was shared with the parliamentary select committee on land and natural resources .
- Hosting the Coast Land and Non State Actors (CLNSA). The agenda that was discussed in the meeting was the way forward for the Community Land bill, evictions and resettlement bill, the future of the network..
- Media Caucus: The agenda of the meeting was the creation of a synergy with the media on the issues of land matters that are peculiar to the region and how they can both strengthen their advocacy on it by working together to achieve civic education and land reforms.
- Land Inventory: One meeting was organized by the programme to plan for the upcoming land inventory in Taita/Taveta County in partnership with CJPC (Catholic Justice and Peace Commission). The meeting was used to map mobilization strategy and approach in the joint activity.
- The programme engaged with Mombasa Republican Council officials to get a feel of their issues and highlight strengths that can be utilized by the group to resolve some of their concerns in an amicable manner. Through the engagement, the group indicated cooperation by seeking Kituo's help in an extrajudicial killing matter in Kilifi. They were given the legal advice on how to tackle the issue. Towards the end of the year a public forum was held in Nairobi with land experts invited to steer a discussion on possible solution to the MRC issue.

LABOUR RIGHTS

The Kenyan Law and the Work Booklet

The programme in partnership with Legal aid reviewed and compiled Kituo's labour booklet. The draft was availed for validation with various stakeholders. The programme held one session with paralegals to test the suitability of the document for local readership.

Stakeholder Validation/Labour Day Dinner

The programme in partnership with legal aid department held validation session of the labour booklet with key relevant stakeholders comprising of Union officials, Employees NHIF officials, and VAs and Media houses representatives. A total of 96 delegates participated in the process. Through the exercise key inputs were made in enriching the handbook while participants were also empowered on their labour rights.

Data Base developed for Workers Unions in Coast

During the year the programme has engaged workers union representatives as entry points to the advocacy around labour rights in Coast. The robust data base consists of the representatives from Dock workers Union, Kenya Local Government Workers Union, Seafarers Workers Union, COTU, KUDHEIHA and Shipping Workers Union.

OTHERS UNDERTAKINGS BY THE PROGRAMME

- The programme trained youth in Kikambala on Economic, Social and Cultural Rights. The meeting was organized by Kwetu Training Centre.
- The programme also made a presentation for Clerics from CICC empowering the Clerics on the draft peace policy as part of their advocacy campaign in support of the policy.
- The programme also assisted UN Women in mapping of potential civic educators from all the 6 counties in the region to be trained as TOTs to carry out civic education in the region on issues of elections.
- 2 program officers underwent training on (Monitoring, Evaluation, Reporting and Learning) facilitated by PACT in MERL in Nairobi.
- The Programme participated in **Yes Youth** can strategic planning workshop. The group that consists of (Youth Bungalows) is among the local structures supported by USAID.
- The program participated in a public forum that was dubbed “*Enhancing benefits of Regional Integration in Kenya’s development agenda*”. The program presented its contribution to the discussion in terms of the advancement of the bill of rights that Kenya boasts of.
- The Programme engaged with the Kenya National Commission on Human Rights-KNHRC new office in Mombasa. The engagement was used by KNHRC to understand the human rights issues in the region and obtain inputs on how they can be of relevance and complement the efforts of the CSOs in the region.
- The Programme took part in a Symposium on Criminal Justice Practices in Nakuru from 3rd July-2nd August in Nakuru with the theme of “**Criminal Justice Reforms in the new Constitutional Dispensation: Challenges and opportunities in the Alternative Measures to Imprisonment.**” Participants were from the judiciary, prison authorities, civil society and international experts. The issues discussed were Prison Congestion, Bail information, the place of victims in criminal justice system and possible remedies to this.
- One Radio Talk show on the ICC was held in Baraka FM to enlighten the community on the ICC process following the confirmation hearings and the implications of the same.
- Through the programme staff Mr. Titus Ogalo attended a three day conference in Kampala, Uganda on community Based paralegals. The objective of the conference was to share experiences, deliberate on issues affecting community based paralegals and forge a regional network that will go a long way in pushing for recognition of community based paralegals to enhance access to justice. A process of preparation of a declaration aimed at achieving recognition of paralegals was the greatest output of the conference.
- The programme participated in meeting with the Chief Justice for civil society organizations in Coast hosted by Haki Yetu and on behalf of the partner Kituo presented a memorandum. Some of the key issues which emerged were: the need to devolve the Industrial Court, case backlogs (special mention given to the Takaungu case), high bonds given to the poor and selective implementation of court orders and especially those favoring the poor.



Paralegals being taken through training on the use of MSHERIA at ole Odume apartments

RESEARCH, COMMUNICATION AND DOCUMENTATION (RCD) /INFORMATION TECHNOLOGY (IT)

Introduction

The RCD/IT Programme has been working hand in hand with other programmes in areas of Research, Communication, Documentation and Information Technology. Through communication, Kituo was able to enhance its image to both internally and externally publics, networks and stakeholders. There was a remarkable improvement in communication strategies and structures. The programme also enhanced Kituo policy through advocacy and litigation intervention. This helped to shape the public debates in critical areas of Kituo's thematic concerns. Through the use of Information Technology (IT), KITUO made great strides, in engaging technology in various forms to increase efficiency and production in its business processes. There was increased use of computer applications within the programmes and administrative staff, aimed at improving on productivity. There was also a remarkable improvement in communication and research through use of the Internet and email. Data and resource sharing was emphasized through the use of computer networks and centralized computing, i.e. use of Servers. The programme also contributed in enhancing KITUO's profile by showcasing its continued role, relevance and work. This was through the various publications, reports, pamphlets, social media and website content.

Activities undertaken by RCD/IT during the period under review:

a) Research

Kituo has a resource centre with about 1,200 classified books and statutes. There are also several pamphlets, brochures and reports within Kituo and its stakeholders which are used as reference material and in research. Statutes are updated frequently and new ones purchased as soon as accented in law by the president in order to keep the centre up to date. The program also provided for online sources through subscription and reliable internet access. These research sources provide material that enables Kituo to contribute towards finding solutions to issues and problems faced by its clients in the core areas of intervention. Some of the issues and problems have complex causes and effects that require sound and critical analysis in order to identify viable, realistic and relevant solutions. Effective advocacy is informed by high quality research and Kituo relies on these sources among others to generate ideas, innovations and strategic directions around the core areas.

b) Production and Dissemination of Kituo's Publication and Documentaries

The programme was responsible for the production of Kituo's publication and documentaries, some of which are highlighted in the tables below.

Documentaries

	Name	Content	Date
1	Uwazi Cup Tournament	Annual Football tournament organized by the ICJ	5/5/2013
2	Legal Recognition of paralegals	Enhancing legal recognition of community Paralegals.	22/7/2013
3	Justice Cup	Football tournament organized by LSK	18/7/2013
4	Kenya Tuna Uwezo Grand Finale	Competition festivals on devolution	28/8/2013
5	Public interest Litigation colloquium	Public interest litigation colloquium at Sarova Panafric	5/12/2013
	1 & 2		

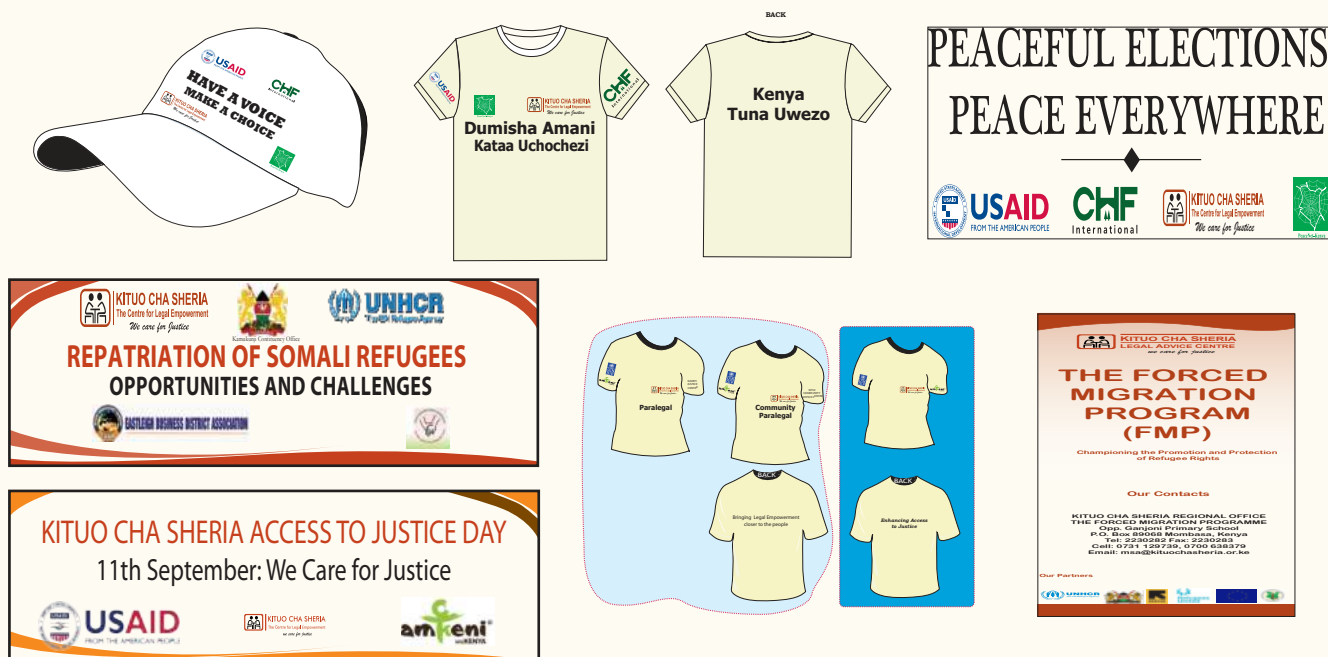
Publications

	Publication	Content
	Devolved Government in Kenya	A simplified guide on the devolved system of government on Kenya
	The International Criminal Court In Kenya – Victims right to participate and seek reparation before the ICC	A guide for victims of post-election violence in Kenya
	Facilitators Guide on Civic Engagement for Peace Builders – Kenya Tuna Uwezo Project	A training manual to help facilitators make Kenyans understand and appreciate their constitution of Kenya 2010. It is intended for use by trainers who will the participants through the Constitution 2010, peace building and conflict management skills and techniques
	The Kenya Devolved Structure of Government	An information booklet on the devolved system in Kenya
	Mfumowa Ugatuzi wa Serikali Kenya	Kijitabu Cha Kufahamisha kuhusu mfumo wa Ugatuzi Kenya
	KITUO Newsletter Issue No. 1 April 2013 – Launch of the Devolution Self Training Manual	First issue of the newsletter with a cover story of Launch of the Devolution Self Training Manual in Mombassa
	Annual Report 2012	Detailed report on for the year 2012

The publications and documentaries were distributed to our various publics including our grassroots communities, volunteer advocates, donor agencies, civil society organizations, community Justice Centres and individual clients. Some were distributed through the website and social media sites.

RCD programme has also been in charge of production and dissemination of Information, Education and Communication materials including banners, T-shirts, brochures and fliers. These are normally very useful during advocacy campaigns on various issues. They also serve the individuals and communities by providing them with information on their rights and act as invaluable tools that empower them to claim these rights as well as enable them engage with policy makers and ensure government accountability.

Some of the IEC Materials and Publications produced during the year 2013



THE KENYAN DEVOLVED STRUCTURE OF GOVERNMENT



AN INFORMATION BOOKLET ON THE DEVOLVED SYSTEM IN KENYA

THE KENYA WORKER AND THE LAW



AN INFORMATION BOOKLET ON LABOUR LAW

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ANNUAL REPORT 2012



VICTIMS' RIGHT TO PARTICIPATE AND SEEK REPARATION AT THE ICC



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MAHAKAMA YA ARDHI INAKOZA NA MAZINGIRA NA ARDHI (SHERIA YA ARDHI)

- 1. Mahakama ya Ardhi Inakozwa na Mazingira na Ardhi (SHERIA YA ARDHI)**
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MFANYAKAZI MKENYA NA SHERIA



KIJITABU CHA HABARI KUHUSU HAKI ZA WAFANYAKAZI

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MFUMO WA UGATUZI WA SERIKALI KENYA



KIJITABU CHA KUFHAMISHA KUHUSU MFUMO WA UGATUZI KENYA

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MFANYAKAZI MKENYANAMAHAHAKAMA YA VIWANDA

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REFUGEES' HANDBOOK 2013

1973 - 2013: 40 YEARS WALKING THE TALK ON ACCESS TO JUSTICE



JANUARY							FEBRUARY						
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Westgate attack in Nairobi
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FACILITATOR'S GUIDE ON CIVIC ENGAGEMENT FOR PEACE BUILDERS

KENYA TUNA UWEZO PROJECT

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THE KENYAN WORKER AND THE INDUSTRIAL COURT

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- 4. Procedures in the Industrial Court:**
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 - 10. Procedures in the Industrial Court



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THE ENVIRONMENT AND LAND COURT (THE LAND COURT)

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Adverse Possession The ease of land in Kenya

INTRODUCTION
Adverse possession has been defined to mean "possession inconsistent with the title of the owner". In simple language, it means the acquisition of title of land belonging to somebody else. In adverse possession, the owner must not have given permission to the adverse possessor to settle on the land. As such, adverse possession cannot succeed where there was a license from the owner or a lease on his behalf. There must be denial of the owner's title in one form or another for the possession to be adverse." This definition was given in the Kenyan case of MUTISO V MUTISO.

The logic behind adverse possession is hinged on the policy that those who sleep upon their claims should not be assisted by courts in recovering property. In Kenya, back in the 1980's, the primary use of adverse possession was by the equitable purchaser without legal title in land. However, this has now evolved and adverse possession does not necessarily have to be in favour of a purchaser. Anybody can claim adverse possession as long as the requirements/elements for the claim to succeed have been met.

ELEMENTS OF ADVERSE POSSESSION
A claim for adverse possession is generally perceived as being founded on the following elements:

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REFUGEE IDENTIFICATION DOCUMENTS (SAMPLES)

Compiled by: Forced Migration Programme

Inside
Asylum Seeker Certificate, Mandate Letter (MLO), Asylum Seekers Pass, Ration Card, Registration Referral Slip, Alien Card

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REPORT OF THE THIRD PUBLIC INTEREST COLLOQUIUM ON ACCESS TO CRIMINAL JUSTICE IN KENYA - THE LEGAL AID BILL AND BEYOND

Held on 29th, 30th and 31st August 2012

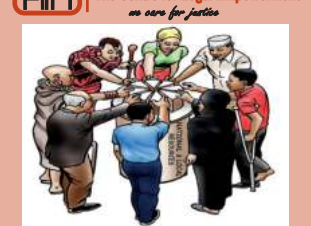
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A HAND BOOK ON DHOBI WOMEN AND THEIR RIGHTS

THE CONSTITUTION OF KENYA



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A SIMPLIFIED GUIDE ON THE DEVOLVED GOVERNMENT SYSTEM IN KENYA

USAID **pact** **act**

c) Communication/ Profiling Kituo's work

Communication forms a pivotal role in any organization. The success of any given organization is highly on the image that the organization had externally. It makes it possible to reach internal and external clients, stakeholders including the state and non-state actors, development partners as well as the general public. With this mind, Kituo explored the use of media and communication as an investment towards a successful operations in empowering the poor and marginalized communities effectively access justice and realize their human and people's rights.

During the year that ended in December 2013, Research, Communication and Documentation Programme put in a concerted effort to reach to its stakeholders. This involved the use of sound media and various communication strategies making it possible to link in profiling the organization successes stories with regard to programme interventions that yielded in among others; influencing public choices in topical issues of national importance under, maintenance of relevance in Kituo areas of niche, increased public confidence on human rights protection and empowering community participation in areas of access to justice.

Communication and media took a vital role in the achievement of Kituo's strategic interventions for the year ending in December 2013. This has created an enabling consistency in donor support and focus on organization goal and values. Particularly, the use of media in communication has helped the programme realize strategic objectives that seek to enhance positive visibility and reputation, image and profile of KITUO as a premier CSO in its core thematic areas. In the 1st quarter, the department put in place an effective communication strategies that involved networking with other organizations and media houses. This helped in branding, gathering media contacts, stakeholder's participation and feedback, interactive platform for topical issues among others.

Some of the methodologies deployed include the use of both print media, social and or electronic media. Under the programme, Kituo has now developed an interactive, tweeting, Facebook and Skype account to digitally link online clients. Some of the stories profiled in the year 2012 included but not limited to; Legal aid Clinics in head office, FMP and Mombasa offices, FMP repatriation workshop, justice day celebrations, public Interest Litigation colloquium at Panafric, training on devolution in various informal settlements, football tournament bot Uwazi and Justice cup, Paralegal Trainings, PEV victims assessment and fact finding missions in TitaTaveta, Naivasha, Turkana, Kituo among others. All these events and activities among others have been documented and stored digitally and in print. They are available on social media through its Facebook, Twitter and Youtube accounts. Kituo's facebook fan page is very active with very new content. We are also on Twitter, and to follow Kituo on twitter, check out @KituoSheria and follow us.



AGM members during the Annual General meeting at Intercontinental Hotel

d) Information Technology Backup and Security

The backup of digital information in all computers was done in quarterly basis. This was done in the effort to improve security and ensure quick recovery in case of unaccepted such as a computer crush. All PCs are protected from viruses, worms and unauthorized access by Karspersy Antivirus software which is licensed and updates regularly. KITUO also operates a local Domain that validates all users before gaining access to our local resources, like printers and servers information.



Screens shot of Msheria.com



Msheria platform loaded from a Telephone handset



Kituo Staff during a Team building exercise at Gray Fish in Naivasha

FINANCE AND ADMINISTRATION

Introduction

The Finance & Administration department plays an institutional support function at KITUO.

Finance & Admin. strives to ensure:

- Prudent accounting & financial systems that fulfill stakeholder requirements.
- Effective & efficient procurement systems to meet KITUO needs and timely service delivery.
- Efficient & effective human resource management and development systems that increase productivity and meets organizational demands.
- Motivated and highly productive personnel.
- KITUO's long term financial sustainability and growth.
- Organizational assets are well managed and functioning.

Human Resources

In the year 2013, KITUO had a total of 52 employees. This was an increase from previous year where the number was 50.



Gertrude Angote-ED (right), Laban Osoro-former deputy ED (centre) and Mike Karanja-former finance coordinator (left) with their guests at kituo board room.

Office	Nairobi	Mombasa	FMP
Legal Officers	4	4	3
Community Officers	5	2	1
Admin/Finance/ICT	9	2	6
Legal Assistants	2	2	5
Interns/Volunteers	5	1	1
TOTAL	25	11	16

Internships

KITUO continued to offer trainings to up-coming lawyers and other professionals in collaboration with other institutions. KITUO had a total of 7 local interns during the year, attached to FMP, LAED, AGCP and Finance & Administration Department.

Kituo Celebrates its 40th Years of Access to Justice.

KITUO marked its 40th anniversary on the 9th of July 2013. The theme for the annual celebration was “40 years of walking the talk on access to justice.” In pursuit of its mandate to empower the poor and marginalized to effectively access justice, KITUO carried out the following activities to mark this auspicious occasion;

1. A public forum on eviction guidelines at the Korogocho Community Justice Centre
2. A legal aid clinic and documentary on rights to adequate housing at the Kibera Community Justice Centre
3. A legal aid clinic at the KITUO head office grounds.



Kituo ED Gertrude Angote) leads celebrations during the Uwazi Cup 2013



Kituo staff in jovial mood during a Team building exercise in Naivasha

Team Building Event - Cray Fish Camp - Naivasha.

This was held on 18th October 2013 at the Cray Fish Camp, Naivasha.

Team building is an ongoing process that helps a work group evolve into a cohesive unit.

The staff members were split into teams. Each team member shared his/her expectations and was expected to accomplish group tasks, by trusting and supporting the other members while respecting each member's individual differences and challenges.

AGM

The Annual General Meeting (AGM) was held on the 18th of December 2013 at the Inter Continental Hotel and it was well attended. The Executive Director's report highlighted the work of Kituo in 2013. The chairman of the BOD thanked all the staff and AGM members for their work to ensure that Kituo lived up to its mission and vision of access to Justice for the poor and marginalized.

Development Partners

During the year 2013, KITUO received support from a number of partners among them Misereor, The Ford Foundation, Comic Relief PACT, CHF, GIZ, UNHCR, IRC (European Commission), UNDP Amkeni, Redress, OSIE, OSI among others.

Kituo takes this opportunity to extend gratitude to all our partners for the generous support for 2012.

Staff end of the year Party

The staff end of year party was held on 20th December 2013 at Kituo Gardens. The staff came together to celebrate their achievements in the year 2013.

Staff Benefits

KITUO continued to extend employee benefits to all employees who were eligible during the year. Medical cover for all employees and their dependants was covered with Resolution Health Insurance Company Ltd while Provident Fund for pension contribution continued to be managed by CFC Life.



Kituo staff enjoys one of the games during the team building at Naivasha



Tobias Mwadime of kituo presents his report during the programmes meeting at Kituo FMP offices in Jogoo road

FINANCIAL STATEMENTS JAN - DEC 2013

STATEMENT OF DIRECTORS' RESPONSIBILITIES

LEGAL ADVICE CENTRE

(KITUO CHA SHERIA)

Statement of directors' responsibilities

For the six month period ended 30th June 2013

The directors are required to prepare financial statements which give a true and fair view of the state of affairs of the organization as of the end of each financial period and of the operating results of the organization for each period. The directors are also required to ensure that the organization keeps proper accounting records which disclose with reasonable accuracy at any time the financial position of the organization. They are also responsible for safeguarding the assets of the organization.

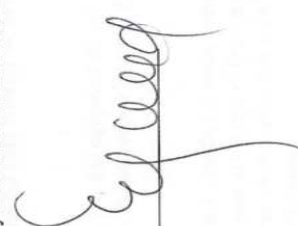
The directors accept responsibility for the preparation and fair presentation of financial statements that are free from material misstatement where due to fraud or error. They also accept responsibility for:

- designing, implementing and maintaining internal control relevant to the preparation and fair presentation of the financial statements;
- selecting and applying appropriate accounting policies; and
- making accounting estimates and judgments that are reasonable to the circumstances

The directors are of the opinion that the financial statements give a true and fair view of the state of the financial affairs of the organization as at 30th June 2013 and its operating results and cash flows for the period then ended in accordance with the International Financial Reporting Standard for Small and Medium-sized Entities

Nothing has come to the attention of the directors to indicate that the organization will not remain a going concern for at least the next twelve months from the date of this statement.

Approved by the board of the directors on 27 November 2014 and signed on its behalf by:-


Chairman


Secretary

LEGAL ADVICE CENTRE

(KITUO CHA SHERIA)

Statement of directors' responsibilities

For the six month period ended 31st December 2013

The directors are required to prepare financial statements which give a true and fair view of the state of affairs of the organization as of the end of each financial period and of the operating results of the organization for each period. The directors are also required to ensure that the organization keeps proper accounting records which disclose with reasonable accuracy at any time the financial position of the organization. They are also responsible for safeguarding the assets of the organization.

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Approved by the board of the directors on 27 November 2014 and signed on its behalf by:-


Chairman


Secretary

FINANCIAL STATEMENTS JAN - DEC 2013

REPORT OF THE INDEPENDENT AUDITOR

Carr Stanyer Gitau & Co.
Certified Public Accountants

Carr Stanyer Gitau & Co.
Certified Public Accountants

Report of the independent auditor to the members of Legal Advice Centre – (Kituo Cha Sheria)

Report of the independent auditor to the members of Legal Advice Centre – (Kituo Cha Sheria)

Report on the financial statements

We have audited the accompanying financial statements of Legal Advice Centre – (Kituo Cha Sheria), set out on pages 5 to 13 which comprise the statement of financial position as at 30th June 2013, the statement of comprehensive income, statement of changes in fund balances and the statement of cash flows for the period then ended, and a summary of significant accounting policies and other explanatory notes.

Directors' responsibility for the financial statements

The directors are responsible for the preparation and fair presentation of these financial statements in accordance with the International Financial Reporting Standard for Small and Medium – sized Entities. This responsibility includes: designing, implementing and maintaining internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; and making accounting estimates that are reasonable in the circumstances.

Auditor's responsibility

Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with International Standards on Auditing. Those standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the organization's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the organization's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the directors, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Qualification

Items of property and equipment are not depreciated, while intangible assets are not amortized which practice is not in accordance with International Financial Reporting Standards for Small and Medium – sized Entities.

Opinion

In our opinion, except for the matter referred to in the preceding paragraph, the accompanying financial statements give a true and fair view of the state of financial affairs of the organization as at 30th June 2013 and of its financial performance and cash flows for the period then ended in accordance with International Financial Reporting Standard for Small and Medium-sized Entities.

The engagement partner responsible for the audit resulting in this independent auditor's report is CPA Charles R. Gitau – P.No. 723

Nairobi, Kenya

CARR STANYER GITAU & CO.
Certified Public Accountants

2014

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Expertise
Service
Commitment

Representation of NEXIA International, a worldwide network of independent accounting firms.
C.R.Gitau B. Com CPA (K), CFS (K), Mobile: 0722 529977 Mrs. B.N. Mwangi B. Com CPA (K), Mobile: 0722 315926

Report on the financial statements

We have audited the accompanying financial statements of Legal Advice Centre – (Kituo Cha Sheria), set out on pages 5 to 13 which comprise the statement of financial position as at 31st December 2013, the statement of comprehensive income, statement of changes in fund balances and the statement of cash flows for the period then ended, and a summary of significant accounting policies and other explanatory notes.

Directors' responsibility for the financial statements

The directors are responsible for the preparation and fair presentation of these financial statements in accordance with the International Financial Reporting Standard for Small and Medium – sized Entities. This responsibility includes: designing, implementing and maintaining internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; and making accounting estimates that are reasonable in the circumstances.

Auditor's responsibility

Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with International Standards on Auditing. Those standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance whether the financial statements are free from material misstatement.

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We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Qualification

Items of property and equipment are not depreciated, while intangible assets are not amortized which practice is not in accordance with International Financial Reporting Standards for Small and Medium – sized Entities.

Opinion

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FINANCIAL STATEMENTS JAN - DEC 2013

STATEMENT OF COMPREHENSIVE INCOME

LEGAL ADVICE CENTRE

(KITUO CHA SHERIA)

Statement of comprehensive income
For the six month period ended 30th June 2013

	31.06.2013	31.12.2012
	Note	Kshs
INCOME		
Grants	3	57,017,611
Other income	4	126,950

		57,144,561

EXPENDITURE		
Staff costs	(App. I)	15,971,570
Non – recurrent expenditure	(App. I)	558,900
Other recurrent expenditure	(App. I)	5,610,855
Recurrent programme expenditure	(App. II)	17,839,338
Foreign exchange loss	(App. II)	-
Donor refund	(App. II)	494,003

		40,474,666

(Deficit)/surplus for the period		16,669,895
		=====

LEGAL ADVICE CENTRE

(KITUO CHA SHERIA)

Statement of comprehensive income
For the six month period ended 31st December 2013

	31.12.2013	30.06.2013
	Note	Kshs
INCOME		
Grants	3	37,981,911
Other income	4	436,417

		38,418,328

EXPENDITURE		
Staff costs	(App. I)	20,394,546
Non – recurrent expenditure	(App. I)	193,000
Other recurrent expenditure	(App. I)	6,954,035
Recurrent programme expenditure	(App. II)	16,503,439
Donor refund	(App. II)	366,656

		44,411,676

(Deficit)/surplus for the period		(5,993,348)
		=====

FINANCIAL STATEMENTS JAN - DEC 2013

STATEMENT OF FINANCIAL POSITION

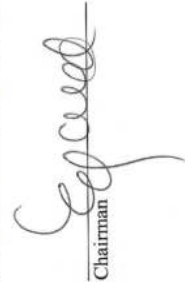
LEGAL ADVICE CENTRE (KITUO CHA SHERIA)

Statement of financial position as at 30th June 2013

	Note	30.06.2013 Kshs	31.12.2012 Kshs
NON – CURRENT ASSETS			
Property & equipment	5	22,665,415	22,231,515
Intangible asset	6	583,200	458,200
		23,248,615	22,689,715
CURRENT ASSETS			
Cash and cash equivalents	7	22,773,411	3,674,978
CURRENT LIABILITIES			
Bank overdraft	7	40,559	72,400
Payables	8	13,395,886	10,935,507
		13,436,851	11,007,907
NET CURRENT ASSETS		9,336,966	(7,332,929)
NET ASSETS		32,585,581	15,356,786
Financed by:			
PROPERTY & EQUIPMENT FUND	(page 7)	13,689,986	13,689,986
DONATED ASSETS FUND	(page 7)	9,558,629	8,999,729
ACCUMULATED FUND	(page 7)	(2,961,379)	442,653
DESIGNATED FUNDS	(Page 7)	12,298,345	(7,775,582)
		32,585,581	15,356,786

The financial statements on pages 5 to 13 were approved for issue by the board of director's

on 27 November 2014 and signed on its behalf by:


Chairman


Treasurer

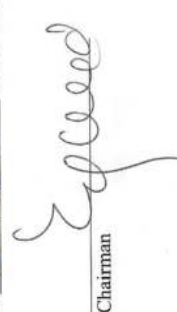
LEGAL ADVICE CENTRE (KITUO CHA SHERIA)

Statement of financial position as at 31st December 2013

	Note	31.12.2013 Kshs	30.06.2013 Kshs
NON – CURRENT ASSETS			
Property & equipment	5	22,733,415	22,665,415
Intangible asset	6	708,200	583,200
		23,441,615	23,248,615
CURRENT ASSETS			
Cash and cash equivalents	7	15,555,144	22,773,411
CURRENT LIABILITIES			
Bank overdraft	7	429,299	40,559
Payables	8	11,782,227	13,395,886
		12,211,526	13,436,851
NET CURRENT ASSETS		3,343,618	9,336,966
NET ASSETS		26,785,233	32,585,581
Financed by:			
PROPERTY & EQUIPMENT FUND	(page 7)	13,689,986	13,689,986
DONATED ASSETS FUND	(page 7)	9,751,629	9,558,629
ACCUMULATED FUND	(page 7)	(3,498,301)	(2,961,379)
DESIGNATED FUNDS	(Page 7)	6,841,919	12,298,345
		26,785,233	32,585,581

The financial statements on pages 5 to 13 were approved for issue by the board of director's

on 27 November 2014 and signed on its behalf by:


Chairman


Treasurer

FINANCIAL STATEMENTS JAN - DEC 3013

GRANTS

LEGAL ADVICE CENTRE (KITUO CHA SHERIA)

Notes to the financial statements
For the six month period ended 30th June 2013 (cont.)

REVENUE	30.06.2013	31.12.2012
	Kshs	Kshs
CHF	10,013,370	1,407,810
UNHCR	9,291,578	7,430,582
PACT	7,610,883	3,995,037
EC NURRIA	-	3,230,250
MISEREOR	-	2,354,000
OSI	1,234,612	1,249,578
OSIEA	-	3,127,910
GIZ	102,210	750,330
Pro-Mara	-	806,297
Ford Foundation	16,599,170	-
UNDP	6,800,000	2,497,500
Micro Justice	-	473,310
Redress	-	562,825
AJWS	1,252,632	-
Amnesty International	4,113,156	-
Other Donations	-	699,950
	<u>57,017,611</u>	<u>28,585,379</u>

LEGAL ADVICE CENTRE (KITUO CHA SHERIA)

Notes to the financial statements
For the six month period ended 31st December 2013 (cont.)

REVENUE	31.12.2013	30.06.2013
	Kshs	Kshs
CHF	2,798,750	10,013,370
UNHCR	9,291,578	9,291,578
PACT	463,601	7,610,883
MISEREOR	14,776,750	-
OSI	-	1,234,612
GIZ	1,238,276	102,210
Ford Foundation	-	16,599,170
UNDP	-	6,800,000
Redress	157,383	-
AJWS	-	1,252,632
Amnesty International	-	4,113,156
MacArthur	8,399,748	-
Chemomics - KTI	855,825	-
	<u>37,981,911</u>	<u>57,017,611</u>