



# 2012-2013 ANNUAL REPORT

*Three Years After Promulgation:  
**Tracking Devolution***



Mezzanine Floor, Parklands Plaza,  
Chiromo Lane/Muthithi Road Junction, Westlands, Nairobi  
P.O Box 48041 - 00100 Nairobi, Kenya  
Telephone Number(s): +254 708 326 404, +254 20 246 237 4  
Email: [manager@cickenya.org](mailto:manager@cickenya.org)  
Website: [www.cickenya.org](http://www.cickenya.org)

 Commission for the Implementation of the Constitution

 @cickenya

## TABLE OF CONTENTS

MESSAGE FROM THE CHAIRPERSON	4
STATEMENT FROM THE SECRETARY / CHIEF EXECUTIVE OFFICER	6
EXECUTIVE SUMMARY	8
ABBREVIATIONS	13
CHAPTER ONE : INTRODUCTION	15
CHAPTER TWO : MANDATE, STRATEGIES AND WORKING ARRANGEMENTS OF THE COMMISSION	19
2.1 The Mandate and Role of the Commission	19
2.2 The Commission's Strategic Direction	20
2.3 Working Arrangements	21
2.4 Implementation Activities	22
CHAPTER THREE : ACHIEVEMENTS IN THE IMPLEMENTATION OF THE CONSTITUTION	25
3.1 Increased Constitutional Compliance by the Government	26
3.2 Engagement with Citizens and other Non-State Actors	35
3.3 The 2013 General Elections	36
3.4 Implementation of the Devolved System of Government	37
3.5 Working with the Constitutional Commissions and Independent Offices	41
3.6 Realisation of CIC Reporting Obligations	43
CHAPTER FOUR : CHALLENGES, IMPEDIMENTS AND RECOMMENDATIONS	45
4.1 Challenges and Impediments to the Implementation of the Constitution	45
4.2 Recommendations	49
CHAPTER FIVE : FINANCIAL REPORTS AND STATEMENTS FOR YEAR ENDED JUNE 2013	51
ANNEXES	60
ANNEX ONE: CONSOLIDATED LIST OF ALL LAWS ENACTED SINCE THE PROMULGATION OF THE CONSTITUTION	61
ANNEX TWO: STATUS UPDATE ON LITIGATION	65
ANNEX THREE: MEMBERS OF THE COMMISSION	70
ANNEX FOUR: KEY SECRETARIAT PERSONNEL	72
ANNEX FIVE: DEVELOPMENT PARTNERS	75

## MESSAGE FROM THE CHAIRPERSON



I have the pleasure to once again present to the people of Kenya the Commission's Annual Report for the financial year 2012/2013. The report covers a watershed in the political history of our nation: the first general elections under the new Constitution of Kenya adopted in 2010, and the operationalization of the devolved system of government.

The Elections were historic as the people of Kenya had an opportunity to exercise their democratic right in the election of a President, Governors, Senators, Members of the National Assembly, Women elected to represent Counties in the National Assembly as well as members of County Assemblies. For the first time, the electoral process included the nomination of members of legislative assemblies to represent special interest groups such as the youth, persons with disabilities, as well as marginalised and minority groups. The promises of the Constitution have indeed started to be realised.

In successfully holding the first general elections under the new Constitution, notwithstanding the challenges encountered, as a nation, we have successfully run the gauntlet. In that regard, I take this opportunity to once again congratulate the people of Kenya for exercising their right to universal suffrage. I also congratulate all elected and nominated representatives. I call upon the people's representatives to embrace transformative and servant leadership which is only evident in their service to the people and acknowledging that the power vested on them is the power to serve rather than power to rule. In particular I draw the attention of leaders at both national and county levels to the provisions of Articles 1, 3, 10 and 73 of the Constitution. These articles provide for, among others, recognition of the sovereignty of the people of Kenya, defence of the Constitution, and observance of the national values and principles of governance and the responsibilities of leadership.

As a nation, the test for adherence to the Constitution is found in the words of **His Excellency the President, Uhuru Muigai Kenyatta**, in his inauguration speech when he stated that:

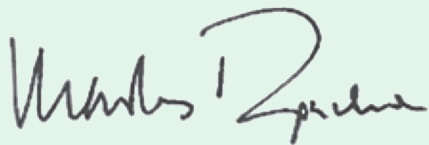
*It will be confirmed when the rights of all citizens are protected through legislation that upholds the spirit of our Constitution. When women and young people are both seen and heard at the decision making table at national as well as devolved levels of government. When all communities in Kenya are confident that they have a Government that listens to and addresses their needs.*

In this reporting period, CIC facilitated the finalisation of the relevant legislative and regulatory framework to oversee the electoral system and process and the devolved system of government.

The 4th of March, 2013 will go down in our history as the date on which devolved governments came into effect in the Republic of Kenya. The full implementation of the devolved system of government promises to, among other things, promote social and economic development and the provision of proximate, easily accessible services throughout Kenya. It is therefore the duty of the people of Kenya, County Governments and the National Executive to play their respective roles diligently in ensuring that the devolved system of government in Kenya is on track and that it becomes a bench mark for the region and the world. The Commission undertakes to diligently discharge its function to monitor the effective implementation of the devolved system of government.

This report gives highlights of the activities undertaken in the reporting period, the challenges experienced in the course of implementing the Constitution, and consequential recommendations. I can report with confidence that while implementation of the Constitution is firmly on course, there are challenges and potential impediments that must be addressed firmly and decisively to avoid pitfalls in the implementation process. It is our duty as the people of Kenya to individually and collectively uphold, promote and protect the Constitution.

We at the Commission could not have achieved our mandate without the support and cooperation from the people of Kenya, state organs, non-state actors, and development partners. As I acknowledge and appreciate the hardworking staff of the Commission, on their behalf, I take this opportunity to thank all individuals who, and institutions that, directly or indirectly play a role in ensuring that the Commission effectively discharges its mandate and that the Constitution implementation process remains on course.



Charles Nyachae

**CHAIRPERSON**

## STATEMENT FROM THE SECRETARY / CHIEF EXECUTIVE OFFICER

---



The Commission for the Implementation of the Constitution has benefited from the support of a strong Secretariat since its establishment in January 2011. The Secretariat has played a central role in the management and co-ordination of activities necessary for the Commission to fulfill its mandate. These include day-to-day administration and management, studies and research among other functions of the Commission.

In order to effectively discharge its mandate, the Commission has continued to strengthen its Secretariat, building the capacity by recruiting additional technical staff; establishment and strengthening of a Monitoring and Evaluation (M&E) Department; and targeted training and skills development and team building sessions. This has fostered synergy and teamwork amongst Commissioners and staff.

During the reporting period, the Commission continued to receive technical support from various government institutions including the then Ministry of Justice, National Cohesion & Constitutional Affairs (MoJNCCA), Kenya Law Reform Commission (KLRC), the Office of the Attorney General and Parliament.


The Commission also appreciates the support provided by various development partners towards actualization of its mandate. This support has come in the form of technical assistance in legislative drafting, review of policies and development of documents; budgetary support; and the finalization of the Commission's Strategic Plan 2013-2015. The development partners include the Government of Japan, The Royal Netherlands Government, Swedish International Development Cooperation Agency (SIDA), Gausche Gesellschaft für Internationale Zusammenarbeit (GIZ), Danish International Development Agency (DANIDA), United States Agency for International Development (USAID), United Nations High Commissioner for Refugees (UNHCR), United Nations Development Programme (UNDP), United Nations Office of the High Commissioner for Human Rights (OHCHR), International Development Law Organization (IDLO), World Wide Fund for Nature (WWF), Open Society Initiative for Eastern Africa (OSIEA) and State University of New York (SUNY-Kenya).

Through the Commission's stewardship, many strides have been achieved in the implementation of the Constitution. These achievements have been mainly in the development of legislation

required for the implementation of the Constitution. However, a lot still needs to be done, especially in the development of policies, administrative procedures and in inculcating a culture of constitutionalism amongst all Kenyans. To this end, the Commission has re-focused its Strategic Approach with emphasis on enhancing its internal effectiveness and accountability; increasing compliance with the Constitution among state actors and strengthening engagement of citizens and non-state actors in monitoring and facilitating the implementation of the Constitution. This approach is expected to entrench a culture of constitutionalism in public and non-state institutions.

The Commission is committed to continuously collaborate with various implementing agencies, public sector partners, Constitutional Commissions, Independent Offices and non-state stakeholders to ensure full and sustainable implementation of the Constitution.

It is expected that the Report for the period July 2012-June 13 will not only indicate the progress achieved in the implementation of the Constitution, but it will also highlight opportunities for collaboration towards realization of the letter and spirit of the Constitution.

A handwritten signature in black ink, appearing to read 'Esther D. Kodhek', with a long horizontal stroke extending to the right.

Mrs. Esther D. Kodhek

**AG. SECRETARY/ CHIEF EXECUTIVE OFFICER**

## EXECUTIVE SUMMARY

---

On the 27th of August 2013, Kenya celebrates the third anniversary of the promulgation of the Constitution. The Commission for the Implementation of the Constitution (CIC) was established as a constitutional commission mandated to monitor, facilitate and oversee the development of legislation and administrative procedures required to implement the Constitution, and to monitor the effective implementation of the devolved system of government. Along with other constitutional commissions and independent offices, CIC is expected to protect the sovereignty of the people, secure the observance by all State Organs of democratic values and principles and to promote constitutionalism.

When undertaking its work, the Commission was guided by its refined Strategic Plan in which the Commission's Vision is: *"A united, peaceful and prosperous Kenya in which all leaders respect the rule of law, uphold national values and live by the constitution"*. The Commission's mission is to: *"Ensure policies; laws administrative procedures and institutional frameworks are consistent with the letter and spirit of the Constitution."* The three Key Result Areas that guided discharge of CIC's functions are:

- Result 1**      A respected, well-functioning and independent Commission effectively delivering on its mandate.
- Result 2**      Increased constitutional compliance among state actors.
- Result 3**      Citizens and non-state actors engaged in monitoring and facilitating the implementation of the Constitution.

To achieve the defined results, the Commission has adopted a thematic approach as presented below:

- Citizenship and the Bill of Rights
- Land and Environment
- Public Service and Leadership
- Representation of the People and the Legislature
- Executive and Security
- The Judiciary and Constitutional Commissions
- Devolved Government
- Public Finance



The Chairperson's office coordinates the eight thematic areas and the Chairperson is the spokesperson of the Commission. The Secretariat to the Commission is headed by a Secretary/Chief Executive Officer and is structured into two departments. These are the Programmes Department that offers technical support to the Commission and the Management Services department that provides administrative support to the Commission.

During this reporting period, the constitutional milestones realised were:

- The first General Elections under the Constitution of Kenya 2010 held on March 4th 2013 in accordance with the Constitution and election laws.
- The hearing and determination by the Supreme Court of Kenya of presidential election petitions.
- The coming into being of the bicameral Parliament consisting of the Senate and the National Assembly as provided for in Chapter 8 of the Constitution;
- The composition of the first Cabinet and National Executive under the Constitution guided by constitutional principles including gender equity.
- Establishment of the two levels of government; the National and County governments.
- Commencement of the transition to the devolved system of government as provided for in Chapter 11 and Section 15 of the 6th Schedule to the Constitution of Kenya 2010.

In this context, the achievements realized by CIC during the reporting period were:

- i. Development and review of Policies:** CIC facilitated development and review of sectorial policies to align them to the objectives and values of the new constitutional dispensation. The Commission also participated in forums working on the development of policies and plans.
- ii. Development of Legislation:** The Commission facilitated development of all legislation whose constitutional deadline is August 27, 2013 and fast-tracked some Bills because of their importance in the implementation of the Constitution.
- iii. Commencement of an audit** of all legislation enacted between September 2011 and January 2013, for compliance with the Constitution. This process will continue into the next financial year.
- iv. Development and review of Administrative Procedures:** The Commission monitored, facilitated and oversaw the development of some regulations, rules and guidelines to give effect to legislation enacted.
- v. Public Advisories:** CIC issued several public advisories and press statements during the reporting period to bring to the attention of Kenyans issues affecting the realization of the letter and spirit of the Constitution.
- vi. Judicial Intervention:** CIC sought judicial intervention in seven cases for interpretation of constitutional provisions.
- vii. Engagement with Citizens and other Non-State Actors:** The Commission continued to work to promote public participation and consultations in all its work and across government.

**viii. The 4th March 2013 General Elections:** These were the first General Elections under the Constitution of Kenya. The elections involved six elective posts. It was the most complex election to be undertaken in Kenya. The Commission was involved at three stages:

- a. Monitoring nominations by political parties.
- b. Monitoring the preparation for Elections by the IEBC.
- c. Observing the General Election.

**ix. Implementation of the Devolved System of Government:** In line with its mandate, the Commission monitored implementation of the devolved system of government during the reporting period. Specifically, CIC:

- a. Reviewed devolution and public financial management related laws and regulations.
- b. Undertook County visits and thereafter engaged with the relevant actors to address emerging gaps observed.
- c. Engaged with Senators and Governors to address opportunities and concerns in the implementation of the devolved system of government.

**x. Working with the Constitutional Commissions and Independent Offices:** CIC continued to work with other constitutional commissions in accordance with Section 5(6)(d) of the Sixth Schedule to the Constitution to ensure that the letter and spirit of the Constitution is respected. Initiatives in this collaboration have involved not only leveraging existing collaboration modalities but also working with these institutions to agree upon a more structured engagement to support implementation of respective institutional mandates.

## Impediments and challenges experienced during the reporting period included:

- i. Enactment of legislation without following the due process as provided for in Article 261(4) of the Constitution.
- ii. Laws enacted with fundamental constitutional flaws.
- iii. The undermining of constitutional mandates of Commissions and Independent Offices.
- iv. Challenges related to the implementation of a devolved system of government as provided for in the Constitution, and in particular;
  - Lack of clear, sequenced and consensually agreed roadmap for the transition to devolved system of government.
  - Delays in undertaking functional analysis and costing of functions.
  - Rushed transfer of functions as opposed to asymmetrical transfer as envisaged in the Constitution.
  - Delayed establishment of County structures that would implement the Constitution.

- Tension between the National Assembly and the Senate over their respective mandates.
- Delayed release of funds to Counties by the National Government.

v. Resistance to change and a continuing culture of impunity.

vi. Limited public participation in the implementation of the Constitution.

Despite these challenges, CIC is committed to carrying out its mandate and will continue to work closely with all other stakeholders in the implementation of the Constitution in letter and spirit.



## ABBREVIATIONS

AG	Attorney General
CDF	Constituency Development Fund
CEO	Chief Executive Officer
CIC	Commission for the Implementation of the Constitution
CIOC	Constitution Implementation Oversight Committee
CRA	Commission on Revenue Allocation
DfID	Department for International Development
EACC	Ethics and Anti-Corruption Commission
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit
IDLO	International Development Law Organisation
IEBC	Independent Electoral and Boundaries Commission
IRC	International Rescue Committee
IREC	Independent Review Commission
KLRC	Kenya Law Reform Commission
KNCHR	Kenya National Commission for Human Rights
KRA	Key Result Areas
NLC	National Land Commission
PSC	Public Service Commission
RPP	Registrar of Political Parties
SIDA	Swedish International Development Cooperation Agency
SRC	Salaries and Remuneration Commission
TA	Transition Authority
UK	United Kingdom
UNDP	United Nations Development Programme
UNHCR	United Nations High Commission for Refugees
USAID	United States Agency for International Development
WWF	Worldwide Fund for Nature



# INTRODUCTION

---

The Constitution sets the foundation for improved governance, political stability and economic prosperity in the country. It encapsulates the required transformation in the way public services are rendered, with a focus on ensuring that an empowered populace is equitably receiving services that are delivered efficiently, effectively, economically and with high standards of professional ethics. Key tenets of the Constitution in this regard are:

- i. The recognition that all sovereign power belongs to the people of Kenya;
- ii. The establishment of a devolved system of government;
- iii. A framework for a rights-based and citizen-centred approach to service delivery underpinned by values and principles of good governance.

This portends a radical shift in the governance framework in Kenya with checks and balances between the Executive, Parliament and the Judiciary.

To give effect to the letter and spirit of the Constitution, the Commission for the Implementation of the Constitution (CIC), which is established under the Sixth Schedule to the Constitution to monitor and oversee implementation, works with state and non-state actors. The Commission has continued to:

- a. monitor, facilitate and oversee the enactment of legislation in line with the timelines stipulated in the 5th Schedule of the Constitution;
- b. monitor, facilitate and oversee the review and development of some of the requisite policy, administrative procedures and institutional frameworks; and
- c. monitor the transition to the devolved system of government, specifically the

implementation of Phase One activities as stipulated in the Transition to Devolved Government Act, 2012.

This is the second annual progress report by CIC covering the period July 2012 to June 2013. During this reporting period two Constitutional milestones realized were:

- a. The first general elections under the Constitution of Kenya, 2010 were held in the context of reviewed and realigned constitutional statutory framework.
- b. The coming into effect of a devolved system of government consisting of a National Government and 47 County Governments.

This report highlights key constitutional implementation issues, including:

- a. The advent of the 4th March 2013 General Election and processes arising therefrom;
- b. The operationalization of a devolved system of government;
- c. The challenges experienced by the Commission in the discharge of its mandate and, challenges facing the implementation of the Constitution;
- d. Recommendations on addressing emerging challenges and
- e. The financial statement of the Commission.

The Report is divided into five chapters. After this introductory chapter, Chapter 2 outlines the Commission's mandate, its strategies and working arrangements. Chapter 3 covers the main achievements in the implementation process during the reporting period. Chapter 4 highlights key challenges that the Commission experienced in implementing its mandate during the reporting period and proposes recommendations on how to overcome or avoid the challenges experienced in 2012/2013. Chapter 5 contains the financial statements of the Commission for the period July 2012 to June 2013. Finally, the report contains five annexes.







---

# MANDATE, STRATEGIES AND WORKING ARRANGEMENTS OF THE COMMISSION

---

## 2.1 The Mandate and Role of the Commission

The Commission for the Implementation of the Constitution (CIC) is established under Section 5(1) of the Sixth Schedule to the Constitution. The mandate of the Commission is stipulated in Section 4(a), 5(6), and 15(2)(d) of the Sixth Schedule, the Commission for the Implementation of the Constitution Act 2010 and the Transition to Devolved Government Act, 2012. Read together, these provisions specify the mandate, functions and objects of the Commission as to:

- a. Monitor, facilitate and oversee the development of legislation and administrative procedures required to implement the Constitution;
- b. Co-ordinate with the Attorney-General and the Kenya Law Reform Commission in preparing for tabling in Parliament, the legislation required to implement the Constitution;
- c. Report every three (3) months to the Constitutional Implementation Oversight Committee (CIOOC), to the President of the Republic and to the People of Kenya on:
  - i. Progress in the implementation of the Constitution;
  - ii. The preparation of the legislation required by the Constitution and any challenges in that regard;
  - iii. The process of establishing new commissions;
  - iv. Any impediments to the process of implementing the Constitution;

- e. Prepare and submit an annual report to the President and Parliament within three months after the end of the year to which it relates;
- f. Work with each Constitutional Commission to ensure that the letter and spirit of the Constitution is respected;
- g. Monitor and oversee the transition process to devolved government and ensure that the system of devolved government is implemented effectively; and
- h. Exercise such other functions as are provided for by the Constitution or any other written law.

The Commission is further obligated to meet the objects of Constitutional Commissions and Independent Offices as set out in Article 249 (1) of the Constitution, which are to:

- a. Protect the sovereignty of the people;
- b. Secure the observance by all State organs of democratic values and principles; and
- c. Promote constitutionalism.

In discharging its functions, CIC, as a state organ, is under an obligation to observe and adhere to the national values and principles of governance set out in Article 10(2) of the Constitution, which are:

- a. Patriotism, national unity, sharing and devolution of power, the rule of law, democracy and participation of the people;
- b. Human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalized;
- c. Good governance, integrity, transparency and accountability; and
- d. Sustainable development.

The Commission has integrated these national values and principles into its operational procedures and institutional structure.

## 2.2 The Commission's Strategic Direction

To carry out its work, the Commission developed an interim strategic plan whose review during this reporting period culminated in a 2013 – 2015 CIC Strategic Plan. This review was informed by:

- a. The Transition to the Devolved System of Government following the successful conclusion of Presidential and General Elections in March 2013, and
- b. The need to upscale the Commission's efforts to entrench a Constitutional focus that endures beyond the CIC term of office.

Presented below is the Commission's strategic direction as articulated in the plan.

## Vision

A united, peaceful and prosperous Kenya in which all citizens including leaders respect the rule of law, uphold national values and live by the Constitution.

## Mission

To ensure policies, laws, administrative procedures and institutional frameworks are consistent with the letter and the spirit of the Constitution.

## Key Result Areas

The Commission has adopted a results-based management approach for its strategic directions and defined three Key Result Areas (KRA) as shown below, to guide in planning, execution and monitoring of its programmes.

Table 1: CIC's Key Result Areas

Result 1	A respected, well-functioning and independent Commission effectively delivering on its mandate
Result 2	Increased constitutional compliance among state actors
Result 3	Citizens and non-state actors engaged in monitoring and facilitating the implementation of the Constitution

## 2.3 Working Arrangements

The Commission has adopted appropriate organization structures and processes, operating at two main levels: the Commission and the Secretariat respectively. The secretariat has two directorates, namely the Programmes and Management Services. The Programmes directorate has among other responsibilities, the coordination of the Commission's programmes as well as organisational development and institutional strengthening. The Directorate of Management Services has responsibility for human resources, procurement, finance, accounts, Hansard, Information Communication Technology (ICT), legal, planning and records management support. Annexes 3 and 4 provide lists of members of the Commission and its Secretariat, respectively.

The Commission conducts its programmes through eight thematic areas based on thematic chapters of the Constitution as follows:

- 1. Citizenship and the Bill of Rights Thematic Area:** This coordinates the implementation of Chapters 3 and 4 of the Constitution, on citizenship and the Bill of Rights, respectively.
- 2. Land and Environment Thematic Area:** This coordinates the implementation of Chapter 5 of the Constitution on land and environment.
- 3. Public Service and Leadership Thematic Area:** This coordinates the implementation of Chapter 6 on leadership and integrity and Chapter 13 of the Constitution on public service.
- 4. Representation of the People and the Legislature Thematic Area:** This coordinates the implementation of Chapters 7 and 8 of the Constitution on representation of the people and the legislature respectively.
- 5. Executive and Security Thematic Area:** This coordinates the implementation of Chapters 9 and 14 of the Constitution that deal with the executive and security respectively.
- 6. The Judiciary and Constitutional Commissions Thematic Area:** This coordinates the implementation of Chapter 10 on the judiciary and Chapter 15 on Constitutional Commissions and Independent Offices.
- 7. Devolved Government Thematic Area:** This coordinates the implementation of Chapter 11 of the Constitution and Section 15(2)(d) of the Sixth Schedule to the Constitution, which deal with devolution.
- 8. Public Finance Thematic Area:** This coordinates the implementation of Chapter 12 of the Constitution, which deals with public finance management.

The Chairperson's office plays an overarching role of linking the eight thematic areas: facilitating their legislative development support, monitoring and auditing, research, learning and knowledge management support. The Office also coordinates the Commission's engagement with the public and the media to ensure effective public participation in the implementation of the Constitution. The Chairperson in terms of the CIC Act is the spokesperson of the Commission.

## 2.4 Implementation Activities

In the context of its mandate as set out in the Constitution and other guiding Constitutional provisions, the Commission has interpreted its key tasks to include:

- a. Coordinating with the Attorney-General and the Kenya Law Reform Commission in preparing Bills for tabling in Parliament;
- b. Coordinating with the AG and KLRC, as well as CIOC and other parliamentary committees to ensure timely enactment of legislation;



- c. Facilitating, monitoring and overseeing the development of policies administrative procedures and institutional frameworks to anchor the legislation required to implement the Constitution;
- d. Facilitating, monitoring and overseeing the review of existing laws, policies, administrative procedures, and institutional frameworks to align them with the Constitution;
- e. Facilitating participation of the people of Kenya in the development and review of legislation, policy, administrative procedures and institutional frameworks for the implementation of the Constitution and
- f. Ensuring that the legislative process adheres to the provisions of Article 261 of the Constitution and the timelines envisioned in the Fifth Schedule.





---

# ACHIEVEMENTS IN THE IMPLEMENTATION OF THE CONSTITUTION

---

The core mandate of CIC entails working with all stakeholders to respect, defend and uphold the letter and spirit of the Constitution of Kenya, 2010. Engendering this culture of constitutionalism requires that necessary policies, legislation, and administrative procedures are in place. Additionally it requires that effective mechanisms are instituted for citizens and other non-state actors to hold the Government to account as well as to provide oversight on the implementation of the Constitution.

This Chapter highlights the achievements for the period July 2012–June 2013, focusing on achievements made with regard to:

- a. Increased constitutional compliance within Government
- b. Engaging citizens and other non-state actors in monitoring and facilitating the implementation of the Constitution
- c. General elections of 2013
- d. Transition to the Devolved System of Government
- e. Working with Constitutional Commissions and Independent Offices
- f. Fulfilling of CIC reporting obligations

## 3.1 Increased Constitutional Compliance by the Government

Enumerated here below are achievements in constitutional compliance within Government.

### 3.1.1 Facilitated Development and Review of Policies and Plans

Policies are necessary to guide both the formulation of statutes and their implementation. As such, during this reporting period, the Commission prioritized the development and review of policies predicated on the objects and values of the Constitution of Kenya. Primarily the bulk of the Commission's work in this context was ensuring that the policies took into account the devolved system of government, recognising the devolution of functions as provided for in the Fourth Schedule to the Constitution.

Highlighted below are the specific policies that CIC participated in development and review:

- i. **Health Policies** – The Commission audited the following three policy documents and forwarded its recommendations to the relevant Health Ministries: Draft Kenya Health Policy 2012 – 2030, Universal Health Coverage Policy and a Position Paper on the establishment and granting of operational autonomy to National Health Referral Facilities. The recommendations forwarded centred on the need to ensure the progressive realization of the right to health within the context of National and County Government functions as provided for in the Fourth Schedule to the Constitution.
- ii. **Kenya Human Rights Policy and Action Plan** – The Policy and Action Plan provide a framework for the integration and mainstreaming of human rights in development planning, implementation and evaluation in all sectors. The Commission reviewed this policy and forwarded its recommendations to the Ministry. The Policy was subsequently approved by Cabinet.
- iii. **Draft Policy Framework for Education and Training** – The purpose of the framework is to reform the education and training sectors in Kenya in line with the Constitution. The Commission is currently reviewing the Policy to ensure that it meets the requirements of the letter and spirit of the Constitution.
- iv. **The Medium Term Plan 2013-2017** – This is a policy document that sets out the road map towards realization of the Kenya Vision 2030 and the Constitution of Kenya, 2010. During this reporting period the Commission participated in the review of the Policy as well as the monitoring and evaluation framework. The Commission's recommendations focused on mainstreaming a citizen-centred and values-driven approach in all sectors across the political, social, economic and enabling pillars.
- v. **National Council on Administrative Justice (NCAJ) Strategic Plan** - The National Council on Administrative Justice, comprising of state and non-state actors, and of which CIC is a member, developed a strategic plan to guide the administration of justice. The plan identified priority policies, legislation and administrative procedures for increased coordination and quality service delivery in the justice sector.

The Commission also participated in forums working on policies such as language policy and the national anti-corruption policy.

### 3.1.2 Facilitated Development and Review of Legislation

The Commission facilitated the development of legislation in line with the Fifth Schedule to the Constitution. A cumulative list of laws developed since promulgation is provided in annex 1. Below is a schedule of laws developed during the reporting period organised into enacted laws, amended laws and Bills.

Table 2. Laws developed in the period July 2012–June 2013

#### (A) Laws

	Legislation	Constitutional Timeline	Development Status
<b>2012</b>			
1.	Public Service Commission Act, No. 13 of 2012	Five years	Enacted in July 2012
2.	County Governments Act, No. 17 of 2012	18 months	Enacted in July, 2012
3.	Public Service Finance Management Act, No. 18 of 2012	Two Years	Enacted in July, 2012
4.	Leadership and Integrity Act, No. 19 of 2012	Two years	Enacted in August 2012
5.	Teachers Service Commission Act, No. 20 of 2012	Five Years	Enacted in August 2012
6.	Assumption of Office of the President Act, No. 21 of 2012	Two Years	Enacted in August 2012
7.	Petitions to Parliament (Procedure) Act, No. 22 of 2012	Two years	Enacted in August 2012
8.	National Security Council Act, No. 23 of 2012	Two years	Enacted in August 2012
9.	Kenya Defence Forces Act, No. 25 of 2012	Two years	Enacted in August 2012
10.	National Service Intelligence Act, No. 28 of 2012	Two years	Enacted in August, 2012
11.	Treaty Making and Ratification Act, No. 45 of 2012	Five Years	Enacted in December, 2012
<b>2013</b>			
12.	National Government Coordination Act, No. 1 of 2013	Five years	Enacted in January 2013
13.	Transition County Allocation of Revenue Act , No 6 of 2013)Enacted in January 2013		
14.	Transition County Appropriation Act No. 7 of 2013		Enacted in January 2013
15.	The County Governments Public Finance Management Transition Act, No. 8 of 2013		Enacted in January, 2013
16.	Kenya Law Reform Commission Act, No. 19 of 2013	Five years	Enacted in January, 2013

## (B) Amendment Acts

Legislation		Enactment period
<b>2012</b>		
1.	Statute Law (Miscellaneous Amendments) No. 2 Act, 2012	Enacted in July 2012
2.	Elections (Amendment) Act No. 31 of 2012	Enacted in October 2012
3.	Elections (Amendment (No.2) Act No. 32 of 2012	Enacted in October 2012
4.	Vetting of Judges and Magistrates (Amendment) Act, No. 43 of 2012	Enacted in December 2012
5.	Statute Law (Miscellaneous Amendments) (No 2) Act No. 47 of 2012	Enacted in December 2012
6.	Elections (Amendment) (No.3) Act No. 48 of 2012	Enacted in December 2012
7.	Political Parties (Amendment) Act No. 50 of 2012	Enacted in December 2012

## (C) Published Bills

Bills		Constitutional Timeline	Status
1.	Marriage Bill 2013	Five years	Published on 5th July, 2013
2.	Matrimonial Property Bill, 2013	Five years	Published on 5th July, 2013
3.	Election Campaign Financing Bill, 2013	Five years	Published on 5th July, 2013
4.	National Police Service Commission (Amendment) Bill, 2013	None	Published on 16th July, 2013
5.	The Media Council Bill, 2013	Three years	Published on 22nd July, 2013
6.	The Kenya Communications and Information (Amendment), Bill, 2013	Three years	Published on 22nd July, 2013
<b>Bills Pending Publication</b>			
7.	Protection against Domestic Violence Bill	Five years	Submitted to the AG on 21st September, 2012 for publication and tabling in Parliament
8.	Access to Information Bill	Five years	Submitted to the AG on 5th December, 2012 for publication and tabling in Parliament
9.	Data Protection Bill	Five years	Submitted to the AG on 5th December, 2012 for publication and tabling in Parliament

10.	Contempt of Court Bill,	Five years	Submitted to the AG on 20th May, 2013 for publication and tabling in Parliament
11.	Controller of Budget Bill,	Five years	Submitted to the AG on 9th November, 2012 for publication and tabling in Parliament
12.	Magistrates Court (Amendment) Bill,	Five years	Submitted to the AG on 20 May, 2013 for publication and tabling in Parliament
13.	Mining Bill,	Five years	Submitted to the AG on 19th June, 2013 for publication and tabling in Parliament
14.	National Coroners Service Bill,	Five years	Submitted to the AG on 23rd July, 2013 for publication and tabling in Parliament
15.	Private Security Industry Regulation Bill,	Five years	Submitted to the AG on 5th August, 2013 for publication and tabling in Parliament
16.	Legal Aid Bill	Five years	CIC received an advance copy of the Bill from the then Ministry of Justice, National Cohesion and Constitutional Affairs awaiting submission of the final version of the Bill by the Attorney General to CIC for review
17.	National Registration and Identification Bill,	Five years	Under review by CIC
18.	Refugees Bill	Five years	Under review by CIC
19.	The Water Bill	Five years	Under review by CIC

### 3.1.3 Audit of Existing Legislation, Policies and Administrative Procedures

- i. General Audit of Legislation:** The Commission commenced an audit of all legislation enacted between September 2011 and January 2013, for compliance with the Constitution. At the time of reporting, this process is on-going and will continue into the next financial year.
- ii. Audit of Existing National Policies, Strategies and Legislative Instruments Relating to Access to Justice in Kenya:** During the period between September and November 2012, CIC carried out an analysis of access to justice in the judicial system with a view to ascertaining: (i) The gaps in policy and legislation relating to access to justice; (ii) the social-economic and other factors that impede full and equal access to justice and (iv) the efficacy of administrative procedures for the administration of justice. The report identifies impediments and strategic interventions designed to ensure equal access to justice.
- iii. Audit of Environment and Natural Resources Policies:** CIC commissioned a study to review policies, laws and regulations being implemented by the respective ministries and departments with a view of recommending alignment with the Constitution as appropriate. The study involved stakeholders from the environment and natural resources (ENR) sectors. The study identified a total of 65 policies and laws

for review to harmonise with the constitution. The main recommendations given were the need to put in place: (a) working modalities for developing a comprehensive policy, legislative and institutional framework at national and county level and (b) mechanisms for involvement of private sector, civil society and the public in the decision-making and management of the environment and natural resources.

### 3.1.4 Development of Administrative Procedures

Proper administrative procedures, regulations and institutional frameworks are required for the implementation of sector policies and legislation. During this period the Commission reviewed various proposed administrative procedures and regulations. The instruments reviewed are listed in Table 3.

Table 3 Regulations, Rules and Guidelines Reviewed by CIC in 2012-2013 Financial Year

Thematic Area	Regulations, Rules and Guidelines
Devolved Government	<p>CIC facilitated the review and provided input for the preparation of the following regulations on devolution</p> <ul style="list-style-type: none"> <li>• Guidelines by TA on the Assumption of Office of Governors, which were used by Governors in all the 47 counties during the assumption of office on the 27th of March 2013</li> <li>• Regulations to give effect to the following Acts of Parliament.               <ol style="list-style-type: none"> <li>1. County Governments Act, 2012</li> <li>2. Intergovernmental Relations Act, 2012</li> <li>3. Transitions to Devolved Government Act, 2012</li> <li>4. Urban Areas and Cities Act, 2011</li> </ol> </li> <li>• CIC issued Circular CIC/CIRCULARS/1 of 6th June 2013 on the role of county governments and county public entities in the implementation of the Constitution. This circular includes a reporting template.</li> </ul>
Representation of the People and the Legislature	<p>CIC participated in the review of various elections related rules and regulations, including;</p> <ul style="list-style-type: none"> <li>• the Elections (General) Regulations, 2012,</li> <li>• the Elections (Registration of Voters) Regulations, 2012,</li> <li>• the Elections (Voter Education) Regulations.</li> <li>• Elections (General) Regulations, Notice of Formula for Allocation of Party Lists, 2013</li> <li>• Supreme Court (Presidential Election Petition) Rules, 2013</li> <li>• The Elections (General) Regulations: Rules of Procedure on Settlement of Disputes, 2012</li> <li>• The Elections (Parliamentary and County Elections) Petition Rules, 2013</li> </ul> <p>The Commission reviewed and made recommendations on the standing orders for County Assemblies, the National Assembly and the Senate</p>

Human Rights	<ul style="list-style-type: none"> <li>During the reporting period, CIC reviewed and made recommendations on the Constitution of Kenya (Protection of Rights and Fundamental Freedoms) Practice and Procedure Rules, 2013. These rules have since been gazetted by the Chief Justice.</li> </ul> <p>Embarked on the development of an Implementation Guide for Integration of Constitutional Values and Human Rights for Implementers in the Public Service. The guide will be distributed to facilitate a rights-based approach to service delivery and implementation of the Constitution.</p>
Land and Environment	CIC has commissioned development of a simplified version of Chapter Five of the Constitution (Land and Environment) for ease of understanding amongst Kenyans.
Public Finance	The Commission developed a Handbook, “50 Things Every Kenyan Needs to Know About Public Finance Under The Constitution”. This is a citizen’s handbook which gives information on the management of public finances based on the Constitution and the Public Finance Management Act 2012.
Security	The Commission reviewed regulations under the Kenya Defence Forces Act, and participated in the development of Guidelines on the exercise of executive authority by County Governments.
Public Service and Leadership	The Commission worked closely with the Public Service Commission in the review of the Public Service Commission Act Regulations. The Public Service Commission adopted the CIC recommendation and is currently reviewing the Public Service Commission Act with the intention of amending the same to include functions contemplated in Article 234. The regulations will then be anchored on the same Act.
Judiciary	The Commission reviewed and provided input in the development of administrative procedures for the operation of the National Council on the Administration of Justice including the NCAJ Policy, Strategic Plan, Annual Work Plan and Guidelines for Court User Committees.

### 3.1.5 Public Advisories

Article 1 of the Constitution vests sovereign power in the people of Kenya. It provides for exercise of that sovereign power directly or indirectly, through elected representatives or delegation to Parliament, Judiciary, or National and County Executives. In recognition of this sovereignty and the fundamental right to information (Article 35) as well as the national values and principles of governance (Article 10), the Commission has issued public advisories and press statements to bring to the attention of Kenyans issues affecting the realisation of the letter and spirit of the Constitution.

During this reporting period the following public advisories were issued.

Table 4 Highlights of Public Advisories Issued During the 2012/2013 Reporting Period

Constitutional Issue	Highlights in the Public Advisory	Outcomes
Amendments to the Elections Act, 2011; and the Political Parties, Act, 2011	The proposals to amend these two Acts through a Miscellaneous Amendment Act with far reaching implications were not in the spirit of the Constitution. Some of the amendments were aimed at serving parochial interests, including those of Member of Parliament.	Parliament effected the amendments notwithstanding CIC advice. CIC has prioritised these laws for realignment with the constitution and has engaged stakeholders in this regard.
Appointment of the Members of the National Land Commission	There was an inordinate delay in appointing members of the NLC. The NLC has the important mandate of managing public land on behalf of the national and county governments. Delay in its appointment was a big stumbling block in the achievement of principles set out in Chapter 5 of the Constitution.	The NLC members were appointed on 20th February, 2013.
Appointment of the Command of the National Police Service	That the appointments of three officers of the same gender (male) violated Section 14 of the National Police Service Act and the values and principles set out in Articles 10, 27 and 232 of the Constitution.	The Command was appointed in accordance with the law of two-thirds gender rule.
Constituency Development Fund (CDF) Bill	In April 2013, the Commission issued an advisory in which it indicated that the Constituencies Development Fund (CDF) Act, 2013 was unconstitutional in that it contains provisions that fundamentally undermine the Constitution of Kenya 2010 and in particular the devolved government system. It is worth noting that the Act was enacted without the necessary consultation with the Commission as is required by the Constitution.	The subject matter of High Court Petition No. 71 of 2013 filed by TISA and to which CIC is enjoined.
Division of Revenue Bill	On 7th June 2013, the Commission issued an advisory regarding the role of the Senate in enactment of the Division of Revenue Bill. The National Assembly had resolved to ignore the views by the Senate on the bill on the basis that the Bill was not meant to be considered by the Senate. Articles 96(2), 110(1)c and 218 however require the involvement of the Senate as the House that constitutionally protects the interests of the Counties in any bill that affects the finances of the counties.	The Senate filed a application in the Supreme Court seeking an advisory opinion and CIC joined the same as amicus curiae.



<p>The exclusion of the Senate, whose sole justification is to protect the interests of the Counties, from having any role in the most important Bill that affects the finances of the Counties is not only unconstitutional, but also goes against basic logic and reason.</p>		
<p>Leadership and Integrity Bill</p>	<p>Article 80 of the Constitution requires that legislation to be enacted within 2 years. The Commission reviewed the Leadership and Integrity Bill within the specified timeframe and forwarded it to the Office of the Attorney-General. However, the Bill which was published and enacted;</p> <ul style="list-style-type: none"> <li>• did not establish transparent procedures and mechanisms for effective administration of Chapter Six,</li> <li>• did not provide for the processes of review and appeals for persons dissatisfied with decisions of institutions vetting (Chapter Six as required by Article 47), and</li> <li>• does not provide for disciplinary mechanisms and penalties as required by Article 75 and Article 80(b) of the Constitution.</li> </ul>	<p>As a result, CIC filed a suit with the High Court which determined that the matter can be addressed in subsidiary legislation.</p>
<p>Transfer of functions from the National to County Governments</p>	<p>On 13th June 2013, CIC issued a public advisory on the requirements for the transfer of functions from National to County Governments as outlined in Section 15 of the Sixth Schedule of the Constitution and the Transition to Devolved Government Act, 2012. In the advisory, CIC expressed its concern on the hurried and sometimes ad-hoc manner in which the transition process is being carried out. The Commission therefore urged the various players involved in the process of devolution to restructure the process of transfer of functions to County Governments, to ensure that it complies with the letter and spirit of the Constitution and law. CIC also called on the Senate to play its role of protecting the counties and county governments, by ensuring that they get sufficient funding for the legally transferred functions, together with ensuring that the transition process is seamless.</p>	<p>Led to further discussions on Counties' preparedness to take up functions assigned in the 4th schedule, and an agreement by all stakeholders on the need to comply with Section 15 of the 6th Schedule to the Constitution as well as Sections 23 and 24 of the Transition to Devolved Government Act, 2012.</p>

<p>Presidential Retirement Benefits (Amendment) Bill 2012, and the Retirement Benefits (Deputy President and designated state officers) Bill, 2012</p>	<p>Article 230(1) of the Constitution sets the Salaries and Remuneration Commission (SRC). This Commission has the mandate and power to set and regularly review the remuneration and benefits of all state officers. However in clear contravention of this Article, on 9th January, 2013, the National Assembly enacted the Presidential Retirement Benefits (Amendment) Bill 2012, and the Retirement Benefits (Deputy President and Designated State Officers) Bill 2012.</p> <p>The Commission issued an advisory and has requested the relevant state agencies not to implement these laws in contravention of the Constitution.</p>	<p>President assented to the Presidential Retirement Benefits (Amendment) Bill, 2012. CIC has engaged SRC and recommended that in line with its constitutional mandate, it set the terms and benefits including retirements benefits.</p>
<p>Remuneration and Benefits of State Officers</p>	<p>The Commission issued public advisories on the resolution by the National Assembly regarding the setting of remuneration and benefits of state officers. The Commission noted that in trying to revoke the SRC's decision on the salaries of the members of parliament, the Assembly was contravening several provisions of the Constitution.</p>	<p>Remuneration and terms reviewed in accordance with the constitution.</p>
<p>Mining Bill</p>	<p>The advisory was aimed at informing the public about the contents and issues in the Mining Bill and the broader public participation in the development of the law. Some of the key issues highlighted included: the principles of compensation; ratification of mining licenses; the role of the NLC; dispute resolution; and transparency.</p>	<p>The Mining Bill was developed, incorporating issues raised in the advisory.</p>
<p>Threats to Devolution</p>	<p>The advisory was prompted by the increasing tendency to rush through Parliament laws relating to devolution without the involvement of CIC and other stakeholders and without adhering to the principle of public participation. A number of policies contrary to the Constitution were also being developed or implemented by the Executive.</p>	<p>CIC and the Speakers of the two houses agreed on the legislative process to be followed in the preparation and enactment of Bills including private members Bills.</p>

Press Release/Statement issued by the Commission		
Election Checklist for Leadership and Integrity	The Constitution requires that leaders have integrity and good character. As such before the general elections of 4th March 2014, the Commission communicated to the people of Kenya by way of publication in two of the newspapers of nationwide circulation on the need to elect leaders who met the threshold set out in Chapter Six of the Constitution of Kenya, 2010. To enable voters to vote for leaders of integrity, the public at large was advised to consider ten critical questions to see if their candidates met the requirements of Chapter Six.	Kenyans exercised their democratic rights and elected leaders of their choice.
Transition to devolved system of government	The Statement issued jointly with the CRA and TA was aimed at informing the public on various activities relating to devolution legislation, administrative procedures, finances, infrastructure, assets and human resources, as well as transfer of functions and assumption of office by Governors.	Led to further consultations on the transfer of functions
Inclusion of women, minorities and marginalised groups in National and County Government appointments.	Very few women were elected during the 2013 General Election. The situation was even worse for persons with disabilities. Youth and minorities were also under-represented. To ensure that special interest groups are represented within the National and County Governments special measures will be needed from all stakeholders. CIC encouraged women, Persons with Disabilities and the Youth to apply for job opportunities under the new dispensation	Promoted awareness to Kenyans to ensure representation of special interest groups

### 3.1.4 Judicial Intervention

During this reporting period CIC sought judicial intervention on seven cases, summarised in Annex 2 in line with the provisions of:

- i. Article 165(3)(d) – jurisdiction of the High Court to hear questions on the interpretation of the Constitution
- ii. Article 258 - enforcement of the Constitution and
- iii. Article 249, - protection and promotion of constitutionalism

A summary of cases and their status is contained in annex 2.

## 3.2 Engagement with Citizens and other Non-State Actors

Public participation is one of the national values enshrined in Article 10 of the Constitution. Article 118 also requires that Parliament “facilitate public participation and involvement in the

legislative and other business of Parliament and its committees.” The Commission has worked to ensure public participation and consultations in all its work.

During the reporting period, the Commission engaged various stakeholders to facilitate establishment of structured mechanisms and dialogue on implementation of the Constitution. Among the major initiatives during the reporting period were:

- a. Stakeholder consultations on the development of a framework for public participation:** The Commission held a consultative forum in September 2012, bringing together representatives from both Governmental and Non-Governmental institutions to take stock of the state of public participation within the country and recommend the most suitable framework for public participation. The meeting resolved that a policy on public participation be developed to give effect to this principle. The then Ministry of Justice, National Cohesion and Constitutional Affairs undertook to steer the development of the policy.
- b. Consultations with other stakeholders:** The Commission held various consultative meetings with several stakeholders including:
  - **Engagement with the media:** The media plays a critical role in facilitating public participation in governance and democracy. The Commission undertook various activities to sensitise the media on its role in helping in the implementation of the Constitution and promoting a culture of constitutionalism.
  - **Meetings with civil society organisations:** the Commission participated in various civil society meetings during this reporting period. Issues discussed centred on having common understanding of relevant constitutional provisions and linking these to the roles of organisations to support implementation of the Constitution.
  - **Think-Tank conference in Belgium:** The Commission participated in a think-tank conference in Brussels, Belgium, organized by Hanns Seidel Stiftung Foundation. The Conference focused on “Challenges of Integrity: Political Processes and Leadership in Kenya. Some of the recommendations given to consider for future elections in Kenya include: the need for thorough and timely civic education, introduction of technology in good time to ensure systems are working and the importance of transparent voting process, including the tallying and communication of results. The Commission will continue working with Hans Seidel Foundation in areas of common interest.

### 3.3 The 2013 General Elections

The first General Elections under the Constitution of Kenya, 2010 took place on 4th March 2013. The elections involved six (6) elective posts (President, Governor, Senator, Member of National Assembly, National Assembly members elected based on provisions of Art 97 1(b), and Members of County Assembly). The General Election, which was keenly watched in Kenya and around the world against the backdrop of the violence that erupted after the disputed 2007 General Election, was the most complex the country has undertaken.

The Commission’s role was mainly observing and monitoring various aspects of the elections, for compliance with the Constitutional provisions, and issuance of advisories if and when need arose. In particular, the Commission was involved at three stages:

- a. Monitoring nominations by political parties:** The Commission had, before the date of nominations, issued an advisory to political parties, IEBC and the Registrar of Political Parties (RPP) on issues that needed to be adhered to during nominations pursuant to the Constitution, the Elections Act, 2011 and the Political Parties Act, 2011. Following issuance of the advisory, the Commission observed several of the political party nominations to assess:
- The level of knowledge and participation by members of the public,
  - The level of transparency and accountability in the nomination process, and
  - The level to which the nominations were carried out within the law and the political parties' regulations to promote free and fair elections.

From this exercise, the Commission noted that political party nominations experienced a number of challenges key among which were (a) little knowledge of electoral laws by the public, (b) widespread disregard of Constitutional principles, and (c) a lack of internal party democracy with allegations of nepotism, favouritism and rigging.

- b. Preparation for Elections by the IEBC:** In its role of overseeing the implementation of the constitution, CIC followed keenly IEBC elections preparatory work. On 24th February 2013, IEBC conducted a simulation of the election exercise which CIC observed. In the report forwarded to IEBC by CIC the main issues noted were: limited awareness of the six elections, confusing ballot boxes and ballot papers and their colours, missing Electronic Voter Identification Devices in some of the polling stations and challenges in transmitting results.
- c. Observing the General Election:** IEBC accredited the Commission as an elections observer during the 4th March 2013 General Election, including the observation of the tallying process at the IEBC national tallying Centre, Bomas of Kenya. The Commission's observation of the 2013 General Election was aimed at achieving three (3) main objectives:
- Monitor whether the General Election was conducted in accordance with the Constitution;
  - Generate lessons to guide the Commission in reviewing election laws and regulations in the future.
  - Share with IEBC its findings in order to contribute to the improvement of elections in the future.

The Commission deployed observers of the General Election in 12 randomly selected counties namely: Bomet; Kajiado; Kericho; Kiambu; Kisii; Nairobi; Meru; Machakos; Mombasa; Nandi; Nyeri; and Taita-Taveta. The Commission also sent a member to observe the election process in Rwanda. Consequently the Commission is finalising an observer report to be shared with the IEBC and other stakeholders in order to inform future election processes.

### 3.4 Implementation of the Devolved System of Government

Implementation of the devolved system of government is a central tenet of the Constitution. The objects and principles of the devolved system of government are provided for in Articles

174 and 175 of Constitution where the focus is on empowerment, equity and access to services. Through devolution, the Constitution seeks to address the governance challenges that affected the country under a centralised system. The Kenyan devolved system of government as stipulated in the Constitution and devolution-related laws provides for devolution of power, resources and functions from a central authority to two levels of government, namely a National Government and forty seven County Governments. The governments at the National and County level are recognised in Article 6 of the Constitution as distinct and inter-dependent and are required to conduct their mutual relations on the basis of cooperation and cooperation. Further, the Constitution in Articles 187 and 188 provides for exclusive, residual and concurrent functions of National and County Governments.

The Constitution envisages that implementation of the devolved system of government will take at least three years after the first general elections under the Constitution. In line with this provision on asymmetrical transfer, the devolution related laws stipulate a number of sequenced activities and processes to ensure seamless transition. These activities include the analysis and unbundling of functions that the constitution assigns to the national and county governments respectively; the costing of the functions followed by an efficient budgetary exercise; auditing assets and liabilities of the former central government and the former local authorities as a prelude to sharing the assets and liabilities between the National and County Governments. The implementation of devolution must also take into account the capacity of County Governments to take up the functions assigned to them before such functions can be transferred.

Fundamentally, implementation of the devolved system of government requires policies to be developed, laws to be enacted by parliament as well as regulations to give it effect. Implementation is also dependent on the functioning of a number of institutions and systems to facilitate its coming into full effect. Additionally, in view of the complexity of the system of devolution and the fact that as currently designed it is a new undertaking, critical to its implementation, is the effective management of the transition process including factoring in the emerging political dynamics. Moreover, it is imperative that during the transition period emphasis is placed on institutionalization of the practice and culture of constitutionalism.

In the operationalization of the devolved system of government during the reporting period 2012/2013 the specific achievements realized included the following.

- a. Review of the devolved government related laws and regulations:** In order to ensure that the main laws to facilitate the operationalization of the devolved system of government after the 4th of March 2013 General Elections were properly in place, the Commission facilitated, monitored and oversaw:
- Review of the Transition to County Government Appropriation Act, 2013 and the Transition to County Government Allocation Act, 2013 to address public finance management in county government in the period immediately preceding the election and assumption of office of Governors, Deputy Governors and members of County Assemblies.
  - Review of the County Governments' Public Finance Management Transition Act, 2013 to provide a legislative framework for the realisation of Article 218 of the Constitution and to put in place mechanisms for strengthening public finance management capacities of County Governments during the transition phase.
  - Auditing of various Acts, including the County Governments Act, 2012; the

Intergovernmental Relations Act, 2012; the Urban Areas and Cities Act, 2011; Transition to Devolved Government Act, 2012; and the Public Finance Management Act, 2012, for consistency and confirming compliance with the Constitutional requirements for devolution.

- Review of regulations to give effect to the following Acts of Parliament: (i) County Governments Act, 2012; (ii) Intergovernmental Relations Act, 2012; (iii) Transition to Devolved Government Act, 2012 and (iv) Urban Areas and Cities Act, 2011

#### **b. Monitoring Transition to the Devolved System of Government:**

- **Development of a reporting framework:** The Commission engaged key institutions involved in the transition process, including the Transition Authority (TA), the Commission on Revenue Allocation (CRA), the Public Service Commission (PSC), the Ministry of Finance, Office of the Controller of Budget and the Auditor General's office, to facilitate a smooth transition process that adheres to the Constitutional timelines and requirements for devolution. TA, as the mechanism through which CIC oversees transition to devolution, is required by the Transition to Devolved Government Act, 2012 to submit reports to the Commission and to the CRA, among other state organs, on the progress of transition. To facilitate this process, the Commission, during the reporting period, developed a reporting template for use by TA.
- **Undertaking County visits:** Section 15(2)(d) of the Sixth Schedule to the Constitution mandates Commission to monitor effective implementation of the devolved system of government. In March and May 2013, the Commission visited randomly selected counties. The purpose of the visits was to identify progress made so far in the implementation of the devolved system of government, any gaps in the process and challenges. Specifically the county visits focused on the following issues among others:

- Uptake of service delivery responsibilities by County Governments of functions transferred to County Governments immediately after the first elections under the Constitution of Kenya, 2010.
- Plan on delivery of functions and the necessary institutional mechanism to execute the functions.
- Legal framework relating to the functions to be delivered.
- Administrative units related to the functions.
- Further decentralization of the function and provision of related services by the county government.
- Financial management systems
- Budgeting process by counties for the financial year 2013 / 2014.
- Inter-governmental relations.
- Recognition of the distinctiveness of the two levels of government in execution of functions assigned.
- Relationship between the Senate and the County Assemblies.
- Operationalization of Urban Areas and Cities.
- Financing of County Governments.
- Capacity Building for County Governments.
- County governance unit (Executive committees and County services boards).
- Capacity assessment in relation to the function allocated to County Governments.
- Transition implementation plans.
- Integration of national values and principles in particular Art 10, 201 and 232 at the County level

During the visits, CIC made the following observations;

- **None of the Phase One Activities had been completed:** The Fourth Schedule of the Transition to Devolved Government Act of 2012 stipulates two phases of transition i.e., a period running before the first elections under the Constitution and one thereafter up to the end of the three-year transition period. The Act provides for seventeen activities to be undertaken by the Transition Authority during phase one and four activities in the second phase. Activities in the second phase include completion of any activity that may be outstanding after Phase One. During the county visits CIC observed that none of the required Phase One activities had been conclusively carried out. For example, the required analysis of functions and competency assignment had not been completed and neither had a plan for distribution of functions and competency been developed. Additionally the audit of assets liabilities, infrastructure and staff had not been undertaken.
- **Transfer of Functions:** The Commission observed that despite the initial transfer of functions under Section 23(1) of the Act, most of the Counties visited had not taken up the functions transferred, with the only visible function being revenue collection within the Counties. Further, CIC noted with concern, low levels of awareness within and lack of a common understanding between, National and County Governments on how these functions would be undertaken within the context of a devolved system of government.
- **Legislation:** The Commission established that none of the County Assemblies had enacted any legislation relating to the transferred functions nor had they adapted and adopted existing statutes dealing with the functions. It was observed that in undertaking their functions, the Counties were guided by the existing Acts of Parliament, particularly the public finance management and devolution-related acts. However, there were some Counties that had started developing laws, e.g., Vihiga County was working on its Appropriation Bill, 2013.
- **Establishment of the required institutional frameworks:** It was observed that some Counties had already established County Assembly service boards and County public service boards. Further, it was noted that no County had established units of further decentralization.
- **Public Financial Management in the Counties:** County Governments were in the process of establishing the required public finance management (PFM) structures as well as undertaking their budgetary processes. The Counties visited indicated that there were significant financial gaps where, for example, they lacked funding to cater for their infrastructural needs, office space, and equipment for service provision. Additionally, it was observed that most of the Counties visited required support to operationalize the Integrated Financial Management System (IFMIS)
- **Capacity Gaps:** Capacity gaps were observed with regard to human resources as well as the infrastructure required for service delivery.

Following these observations, CIC has engaged with all relevant actors including the Council of County Governors, the Transition Authority and the National Government to address such gaps as were identified and to strengthen the transition process with due regard to the need for a seamless delivery of services.

- c. **Participating in the first national conference for gubernatorial candidates:** the Transition Authority organised a national conference for gubernatorial candi-



dates that brought together more than 400 aspiring Governors from different political parties. CIC participated in the planning meetings as well as in the conference sessions to sensitise the aspirants of the duties and responsibilities of Governors and county governments under the Constitution and relevant laws.

- d. **Capacity building framework for the devolved system of government:** The Commission participated in the development of a capacity building framework. This framework spearheaded that was by the Transition Authority, aimed at addressing institutional development, organisational capacity development and professional development for improved performance to support implementation of the devolved system of government.
- e. **Issuance of guidelines to County Governments to guide implementation of the devolved system of government:** The Commission in consultation with the Council of Governors issued a circular on the role of County Governments and county public entities in the implementation of the Constitution. This circular aims to advise all County Governments and county public entities on the modalities and process for implementation of the Constitution of Kenya, 2010. It includes development of:
  - i. Change management strategies;
  - ii. Transition plans and progress reports on implementation of the devolved system of government;
  - iii. Public participation mechanisms. The circular also included a reporting template for Counties.
- f. **Engaging the Senate to buttress fulfilment of its mandate:** The Senate, in various provisions of the Constitution (Articles 96(1)(2)(3)(4), 217, 109 to 113) is mandated to protect the interests of the counties and provide oversight to their operations. Given this mandate, the Commission has had various meetings with Senate including:
  - i. A retreat (May 17–18) attended by senators, CIC and CRA, as the first in a series of planned meetings, to discuss the “Role of the Senate in effective implementation of devolution” and;
  - ii. Attending various committees of the Senate to address emerging opportunities and concerns in the implementation of the devolved system of government.
- g. **Engaging with Governors and the Council of County Governors:** In addition to meeting with the Governors during the County visits, CIC has made concerted efforts to meeting with the Governors and the Council of County Governors to review the practical experiences in the implementation of the devolved system of government including the challenges encountered.

### 3.5 Working with the Constitutional Commissions and Independent Offices

Section 5(6)(d) of the Sixth Schedule to the Constitution requires that CIC works with other constitutional commissions to ensure that the letter and spirit of the Constitution is respected. Further, all Chapter Fifteen Commissions and independent offices in terms of Article 249 of the Constitution have an obligation to protect the sovereignty of the people, secure the observance by all State Organs of democratic values and principles and to promote constitutionalism. Working with these constitutional commissions has been through thematic areas as follows:

CIC Thematic Area Leading	Commissions/Independent Office
Citizenship and the Bill of Rights	<ul style="list-style-type: none"> <li>Kenya National Commission on Human Rights (KNCHR)</li> <li>Commission on Administrative Justice (CAJ)</li> <li>National Gender and Equality Commission (NGEC)</li> </ul>
Representation of the People and the Legislature	<ul style="list-style-type: none"> <li>Independent Electoral and Boundaries Commission (IEBC)</li> <li>Parliamentary Service Commission (PARLSCOM)</li> </ul>
Public Service and Leadership	<ul style="list-style-type: none"> <li>Public Service Commission (PSC)</li> <li>Teachers Service Commission (TSC)</li> <li>Ethics and Anti-Corruption Commission (EACC)</li> </ul>
Land and Environment	<ul style="list-style-type: none"> <li>National Land Commission (NLC)</li> </ul>
Public Finance	<ul style="list-style-type: none"> <li>Commission on Revenue Allocation (CRA)</li> <li>Salaries and Remuneration Commission</li> <li>Office of the Controller of Budget</li> </ul>
Judiciary and Constitutional Commissions	<ul style="list-style-type: none"> <li>Judicial Service Commission (JSC)</li> </ul>
Executive and Security	<ul style="list-style-type: none"> <li>National Police Service Commission</li> <li>Office of the Attorney General</li> </ul>

During the reporting period the Commission continued to work with the Constitutional Commissions for full implementation of the Constitution. The work with the Commissions has been centred on engaging key actors to ensure:

- Policies which are compliant with the letter and spirit of the Constitution;
- Laws which are compliant with the letter and spirit of the Constitution; and
- Effective institutional frameworks and administrative procedures for the implementation of the Constitution.

Initiatives in this collaboration have involved consultative forums and County visits. The engagement has been at two levels:

- Engagement through the “Forum of Chairpersons of Constitutional Commissions and Holders of Independent Offices”. This forum deals with governance issues of public concern relating to the effective implementation of the Constitution.
- Ad hoc initiatives to support implementation of respective institutional mandates.

To strengthen the existing engagement mechanisms with Constitutional Commissions and Independent Offices as provided for in the Constitution, CIC developed a framework with three pillars of: (i) Enhancing performance i.e.: working together to support realisation of the respective mandates; (ii) Promoting learning by enabling sharing of lessons learnt as well as smart practices between Commissions and; (iii) Fostering innovation to address emerging opportunities and challenges.

### 3.6 Realisation of CIC Reporting Obligations

The Commission, as required under Section 4 of the CIC Act, prepared and submitted its four quarterly reports to the Constitutional Implementation Oversight Committee (CIOC). The reports contain information on the progress of implementation of the Constitution, as well as on impediments and recommendations on the way forward. Additionally, the Commission held several meetings with the CIOC during the reporting period to address emerging concerns in the implementation of the Constitution.



---

# CHALLENGES, IMPEDIMENTS AND RECOMMENDATIONS

---

## 4.1 Challenges and Impediments to the Implementation of the Constitution

While the implementation of the Constitution has achieved great progress, there are a number of challenges and impediments some of which are highlighted here below:

### i. Policy Gaps

- **Failure to develop policy prior to preparation of Bills:** Whereas it is accepted by all implementation partner that policy should precede legislation, there continues to be widespread disregard of this as evidenced by the lack of policies to anchor the respective laws enacted to implement the Constitution.
- **Non-compliant policy:** The majority of the implementing agencies are yet to review existing policies for consistency with the letter and spirit of the Constitution. Where policy has been developed and submitted to CIC, there are notable gaps particularly with regards to recognising the adoption of a devolved system of government.

### ii. Legislative Compliance

- **Enactment of legislation without following the due process:** Article 261(4) requires the Attorney-General to consult with CIC in preparing relevant Bills for tabling before Parliament, as soon as reasonably practicable, to enable

Parliament to enact the legislation within the period specified. Section 14 of the Sixth Schedule to the Constitution requires that CIC and CRA be consulted when processing laws relating to the devolved system of government (Section 2(3)(b) of the 6th schedule, with CIC and CRA given at least thirty days to consider such legislation. Despite these constitutional provisions, a number of Bills were developed and presented to Parliament without the Commission's input. The rush to pass laws without CIC input was particularly pronounced just before the dissolution of the 10th Parliament. While part of the rush was to pass laws required before the General Election, pressure of time cannot, in the view of CIC be a basis for flouting the Constitution.

Listed below are some of the laws that were enacted without following the process set out in Article 261 of the Constitution.

1. Breast Milk Substitutes (Regulation and Control) Act (No 34 of 2012)
2. Cancer Prevention and Control Act (No 15 of 2012)
3. Human Resource Management Professionals Act (No 52 of 2012)
4. Kenya Deposits Insurance Act (No 10 of 2012)
5. Kenya Plant Health Inspectorate Service Act (No 54 of 2012)
6. Kenya School of Government Act (No 9 of 2012)
7. Kenya School of Law Act (No 26 of 2012)
8. Legal Education Act (No 27 of 2012)
9. Micro and Small Enterprises Act (No 55 of 2012)
10. National Transport and Safety Authority Act (No 33 of 2012)
11. Partnerships Act 2012 (No 16 of 2012)
12. Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act, 2012 (No 56 of 2012)
13. Prevention of Terrorism Act (No 30 of 2012)
14. Public Service Superannuation Scheme Act (No 8 of 2012)
15. Publication of Electoral Opinion Polls Act (No 39 of 2012)
16. Supplementary Appropriation Act (No 7 of 2012)
17. Agriculture, Fisheries and Food Authority Act (No 13 of 2013)
18. Civil Aviation Act (No 21 of 2013)
19. Constituencies Development Fund Act (No 30 of 2013)
20. Crops Act (No 16 of 2013)
21. International Interests in Aircraft Equipment Act (No 27 of 2013)
22. Kenya Agricultural and Livestock Research Act (No 17 of 2013)
23. Kenya Institute of Curriculum Development Act (No 4 of 2013)
24. Kenya National Commission for UNESCO Act (No 5 of 2013)
25. Nairobi Centre for International Arbitration Act (No 26 of 2013)
26. National Honours Act (No 11 of 2013)
27. Public Benefit Organizations Act (No 18 of 2013)
28. Public Health Officers (Training, Registration and Licensing Act (No 12 of 2013)

29. Public Private Partnerships Act (No 15 of 2013)
30. Pyrethrum Act (No 22 of 2013)
31. Science, Technology and Innovation Act (No 28 of 2013)
32. Social Assistance Act (No 24 of 2013)
33. Supplementary Appropriation Act (No 3 of 2013)
34. Sports Act (No 25 of 2013)
35. Statutory Instruments Act (No 23 of 2013)
36. Technical and Vocational Education and Training Act (No 29 of 2013)

- **Laws enacted with fundamental constitutional flaws:** Some laws were enacted with fundamental constitutional flaws. An example is the Constituencies Development Fund Act

### iii. Institutional Failures

- **Delayed operationalization of constitutional commissions:** The key illustrations in this regard were the delayed establishment of the Teachers Service Commission, the Ethics and Anti-Corruption Commission and the National Land Commission.
- **Failure to engender a Rights-Based Approach:** This was evidenced, for example, in:

**Low levels of representation of marginalised groups:** In particular, there were few women and people with disabilities in elective and appointive positions, both at National and County governments.

**Limited public participation in the implementation of the Constitution:** The level of public participation in the development of policies, legislation administrative procedures as well as in the broader context of Article 10 of the Constitution remains low. There is lack of awareness among the population on the Constitution and the laws enacted thereunder. This can be attributed to: (i) the low level of awareness perhaps partially due to gaps in the development and implementation of the Kenya Integrated Civic Education (K-NICE) programme, (ii) the lack of a framework to ensure structured and broad based public participation and (iii) the Government has hardly budgeted any money for civic education.

### iv. Transition to the devolved system of government

- **Lack of Common Understanding of Kenya's Devolution Model:** The lack of common or shared understanding of the Kenyan model of devolution potentially means that the actors would and indeed approach the implementation differently. This may pose a danger to the effective implementation of this novel system of governance.

- **Institutional Failures during Implementation:**

Rushed transfer of functions as opposed to phased and asymmetrical transfer as envisaged in the Constitution

Delayed establishment of County structures that would implement the Constitution. These include County services boards, County executive committees, and other structures provided for in The Intergovernmental Relations Act, 2012.

Failure to appropriately sequence and undertake activities as stipulated in the Transition to Development Act 2012: The Transition Authority has for example failed to carry out an audit of assets and liabilities of central government and those of the defunct local authorities as a basis for sharing out these between the national and the county governments. Additionally, the reclassified urban areas and cities as required has not occurred meaning that county governments cannot embark on the competitive recruitment of managers of cities municipalities as well as administrators of towns.

Delayed issuance of Transition Implementation Guidelines to National Government Ministries and County Governments.

- **Resource gaps**

- Failure to pass laws to facilitate release of money to Counties by the National Government.
- Limited capacity in some County Governments to carry out the assigned functions.

- **Lack of synergy among actors during the implementation process as evidenced by tensions between:**

The National Assembly and the Senate over their respective law-making jurisdictions. The disharmony emerged during the process of passage of Division of Revenue Act in June 2013.

The Governors or County Governments generally and the National Government over the transfer of exclusive functions and unbundling of concurrent functions.

The County Executives and County Assemblies when budgeting for the limited County resources as well as when the assembly is exercising its oversight role

**v. Resistance to Change, the Culture of Impunity and Parliamentary Overreach**

Notwithstanding widespread acceptance and support of the Constitution, pockets of resistance remain both within and outside Government. Examples of this include:

- **Undermining the constitutional mandates of Commissions and Independent Offices, including attacks on constitutional office holders when they perform their duties:** During the reporting period, the National Assembly clearly purported to usurp powers bestowed by the Constitution on the Salaries



and Remuneration Commission by enacting The Presidential Retirement Benefits (Amendment) Act, 2013 without regard to the responsible Commission.

- Failure to respect court rulings such as in the matter of County Commissioners and the National Land Commission, respectively.
- Parliament is using some of its powers especially in the budget process in ways that contravene the spirit of the Constitution.

## 4.2 Recommendations

**Adherence of constitutional process for development of legislation:** The Executive, Parliament and Office of the Attorney General should adhere to the process of developing and enacting legislation as provided for in Article 261(4) of the Constitution.

**Audit and review of laws to align with constitution:** All those laws enacted with constitutional flaws should be identified, reviewed and aligned with the Constitution. The Commission has started this process and identified a number of them, which have already been shared with CIOC, the AG and the National Executive. The process of review should be expedited.

**Expedite transfer of functions:** Leveraging on the intergovernmental mechanisms, the Transition Authority in consultation with both levels of the relevant Constitutional Commissions and Independent Offices should expedite the completion of all Phase One activities as provided for in the Transition to Devolved Government Act, 2012.

**Capacities at County level:** In line with the National Government function as provided in the Fourth Schedule to the Constitution, the National Government in consultation with the County Governments should develop a comprehensive capacity building plan to increase capacities in the Counties.

**Change management strategies:** National and County Governments should develop and implement change management strategies to inform the realization of the Transition Implementation Plans. Additionally, the Governments should upscale reform efforts to enhance awareness as well as implementation of the letter and spirit of the Constitution.

**Public participation:** Development of a public participation policy should be expedited and programmes developed at all levels of Government to ensure establishment of robust public participation mechanisms.



# FINANCIAL REPORTS AND STATEMENTS FOR YEAR ENDED JUNE 2013

---

## CONTENTS

- Commission Information
- Statement of Commission Responsibilities
- Report of the Commission
- Financial Statements:
  - Appropriation Statement
  - Notes to the Financial Statements
  - Statement of Appropriation In Aid
  - Statement of Assets and Liabilities

## COMMISSION INFORMATION

### HEAD OFFICE

#### **PARKLANDS PLAZA**

CHIROMO LANE /MUTHITHI ROAD JUNCTION  
P o Box 40841 - 00100  
NAIROBI

### BANKERS

#### **CENTRAL BANK OF KENYA**

P.O Box 6000  
NAIROBI

#### **KENYA COMMERCIAL BANK LTD**

SARIT CENTRE BRANCH  
P.O Box 182  
WESTLANDS, NAIROBI

### AUDITORS

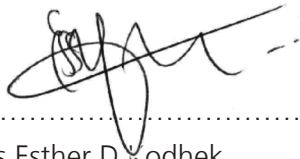
#### **KENYA NATIONAL AUDIT OFFICE**

P.O Box 30084 - 00100  
NAIROBI

## STATEMENT OF COMMISSION RESPONSIBILITIES ON THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2013

The Commission for the Implementation of the Constitution (CIC) Act 2010 requires the Commission to prepare financial statements and operating results at the end of each financial year, which gives a true and fair view of the state of affairs of the Commission. It also requires the Commission to keep proper accounting records that disclose, with reasonable accuracy, the financial position of the Commission. The Commission also takes responsibility of safeguarding the assets.

The Commission therefore accepts responsibility for the annual financial statements, which have been prepared using appropriate accounting policies. The financial statements are supported by reasonable judgements and estimates that are in conformity with Government of Kenya financial regulations and the generally accepted accounting principles. The Commission is of the opinion that the financial statements give a true and fair view of the state of the financial affairs of the Commission and of its operating results. The Commission further accepts responsibility for the maintenance of accounting records, which may be relied upon in the preparation of financial statements, as well as adequate systems of internal control.



.....  
Mrs Esther D Kodhek

**Ag. SECRETARY/CEO**

.....  
22<sup>nd</sup> August, 2013

**Date**

## REPORT OF THE COMMISSION FOR THE YEAR ENDED 30 JUNE 2013

The Commission submits its report and the unaudited financial statement for the financial year July 2012-June 2013, which shows the state of the Commission's affairs.

### 1 Auditors

The Kenya National Audit Office is responsible for the statutory audit of the Commission books of account in accordance with the CIC Act 2010.

**2. The Commission is established under section 5(6) of the Sixth Schedule to the Constitution of Kenya 2010(COK) and section 4 of the CIC Act 2010.** The Commission has been in existence since January 2011. During the last financial year the Commission's total revenue was Kshs 475 million with an expenditure of Kshs 468 million.

The achievements of the Commission included: facilitating the development, review of legislation and administrative procedures; monitoring and reporting on the implementation of the Constitution; working with Constitutional Commissions and Independent Offices; monitoring the transition to a devolved system of government; judicial intervention as well as institutional development.

The Commission has defined three Key Result Areas to guide its work, namely:

**Key Result Area 1:** A respected, well-functioning and independent Commission effectively delivering on its mandate

**Key Result Area 2:** Increased Constitutional compliance among state actors

**Key Result Area 3:** Citizen and Non-State actors engaged in monitoring and facilitating the implementation of the Constitution.

## ACCOUNTING OFFICER PUBLIC FUNDS REPORT

During the financial year under review, the Commission has been able to coordinate and facilitate the formulation and enactment of all legislations and related rules and regulations required for the implementation of the Constitution within the timelines specified in the Fifth Schedule to the Constitution. The medium term plan is to focus on Bills with deadlines to facilitate implementation of the Constitution. The priority plan is on facilitating and monitoring the implementation of the devolved system of government and ensuring increased public participation. At this juncture, I would like to appreciate the assistance so far extended to the Commission by the National Treasury (Finance) through resources allocated to enable CIC achieve its constitutional mandate.

Despite myriad challenges, including minimum manpower and limited resources to carry out its functions, I am glad to report that the Commission achieved most of its targets in the fulfilment of its mandate.

It is also worth stating that, during the financial year, there was a transition in the Commission leadership in which the Chief Executive Officer (CEO) left and I took over in an acting capacity as the CEO and Secretary to the Commission with 6 months to the end of the financial year July

2012-June 2013.

In conclusion it has been an eventful year and we are grateful for what we have achieved so far

a) **APPROPRIATIONS ACCOUNT**  
**APPROPRIATION ACCOUNT FOR THE YEAR ENDED 30TH JUNE 2013**

SUB VOTE	APPROVED ESTIMATES (Kshs)	ACTUAL EXPENDITURE (Kshs)	SURPLUS/DEFICIT (Kshs)
General Admin & planning	474,989,207.55	468,242,670.13	6,746,537.42

The Exchequer released Kshs 458,000,000.00 during the financial year to the Commission. The Commission utilized Kshs 13,305,867.55, being the amount brought forward and miscellaneous receipts of Kshs 1,286,340.00 while AIA received was Kshs 2,397,000.00. The Commission spent Kshs 468,367,369.20 on its programmes. The detailed appropriation account is provided in the notes below.

COMMISSION FOR THE IMPLEMENTATION OF THE CONSTITUTION (CIC)									
RECURRENT APPROPRIATION ACCOUNT FOR THE YEAR ENDED 30TH JUNE 2013									
HEAD	TITLE	SUB HEAD	ITEM	TITLE	Approved Estimates	EXPENDITURE	Actual Expenditures	Under Expenditure	Over Expenditure
276		0000		<b>650 General Administration and Planning</b>					
				<b>0000 Head Quarters</b>					
	Basic Wages - Temporary Employees		2110200	Basic Wages - Temporary Employees		91,522,774.15			
				<i>Original</i>	130,305,867.55				
				<i>Less Supplementary</i>	11,705,000.00	118,600,867.55	118,605,867.55		5,000.00
	Personal Allowance - Paid as part of Salary		2110300	Personal Allowance - Paid as part of Salary					
				<i>Original</i>	3,015,000.00				
				<i>Less Supplementary</i>	301,500.00	2,713,500.00	2,707,122.00	6,378.00	
	Utilities Supplies and services		2210100	Utilities Supplies and Services					
				<i>Original</i>	2,100,000.00				
				<i>Less Supplementary</i>	210,000.00	1,890,000.00	1,676,579.78	213,420.22	
	Communication Supplies and Services		2210200	Communication Supplies and services					
				<i>Original</i>	8,900,000.00				
				<i>Less Supplementary</i>	890,000.00	8,010,000.00	7,876,500.00	133,500.00	
	Domestic travel and Subsistence, and other Transport Costs		2210300	Domestic travel and Subsistence, and					
				<i>Original</i>	60,000,000.00				
				<i>Less Supplementary</i>	6,000,000.00	54,000,000.00	50,923,760.13	3,076,239.87	
	Foreign travel and Subsistence, and other Transport Costs		2210400	Foreign travel and Subsistence, and					
				<i>Original</i>	19,048,500.00				
				<i>Add Supplementary</i>	1,904,850.00	17,143,650.00	17,086,597.10	57,052.90	
	Printing, Advertising and Information supplies and services		2210500	Printing, Advertising and Information supplies and services					
				<i>Original</i>	52,000,000.00				
				<i>Add Supplementary</i>	5,200,000.00	46,800,000.00	42,888,754.00	3,911,246.00	
	Rentals of Produced assets		2210600	Rentals of Produced assets					
				<i>Original</i>	40,000,000.00				
				<i>Add Supplementary</i>	4,000,000.00	36,000,000.00	39,885,664.20		3,885,664.20
	Training Expenses		2210700	Training Expenses					
				<i>Original</i>	21,500,000.00				





## NOTES 1

### **Domestic Travel - 2210300**

The under-expenditure of Kshs. 3,076,239.87 was occasioned by the austerity measure of postponing programmes which had been planned for implementation before the end of the year. These measures were put in place due to the budget reduction towards the end of the Financial Year. The activities were postponed to the next financial year in order to safeguard the Commission from getting into financial distress.

## NOTES 2

### **Printing, Advertising and Information Supplies-2210500**

The under-expenditure of Kshs. 3,911,246.00 was occasioned by the fact that the line item was funded by development partners.

## NOTES 3

### **Rentals of Produced Assets – 2210600**

The over-expenditure of Kshs 3,885,664.20 was occasioned by reallocation of funds from printing and advertising, which were supported by donor funds. This enabled CIC to pay a bill that was outstanding into the next Financial Year.

## NOTES 4

### **Other Operating Expenses – 2211300**

The under-expenditure of Kshs 1,012,112.14 was due to part payment of the legal vote on contracts that needed further clarification before full payment.

## NOTES 5

### **Refurbishment of Buildings- 3110300**

The over-expenditure of Kshs 1 million resulted from completion of partitioning work during the year and due payments that were made to the contractor.

## NOTES 6

### **Purchase of Equipment and other Transport Costs- 3110700**

The over-expenditure of Kshs 1.5 million arose from purchase of laptops and other office equipment for new staff joining CIC during the year under review.

## NOTES 7

### Purchase of Office Furniture and General Equipment – 3111000

The over-expenditure of Kshs 1,669,424.47 was occasioned by the purchase of extra furniture for the new staff joining CIC during the course of the Financial Year.

## NOTES 8

### Research, Feasibility Study and Project Preparation, Design and Supervision – 3111400

The under-expenditure resulted from support from donors on certain vote lines. The same funds were used to meet the deficit in other areas of priority.

## b) REVENUE STATEMENTS APPROPRIATION IN AID STATEMENT

SUB VOTE	APPROVED ESTIMATES (Kshs)	ACTUAL EXPENDITURE (Kshs)
AIA	2,379,000.00	2,379,000.00

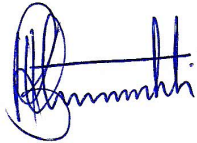
The Commission managed to collect the above amount from advertisement and subsequent sale of tender documents. The amount was not submitted to Treasury but spent on CIC program activities and operational expenses.

## c) STATEMENTS OF ASSETS AND LIABILITIES ASSETS AND LIABILITIES STATEMENT FOR THE YEAR ENDED 30th JUNE 2012

SUB VOTE	AMOUNT (Kshs)	GAV
TEMPORARY IMPREST	2,943,854.60	
SALARY ADVANCE	2,684,856.22	
BANK BALANCES (PMG)	1,664,681.20	
<b>TOTAL AMOUNT</b>	<b>7,293,392.02</b>	<b>7,293,392.02</b>

The assets and liabilities as at end of the financial year is as above, with temporary imprest being Kshs 2,943,854.60, outstanding salary advance Kshs 2,684,856.22, and bank balances of Kshs 1,664,681.20.

There were no outstanding bills at the end of the financial year June 2013



Bernard Cherutich

**HEAD- ACCOUNTING UNIT**

22<sup>nd</sup> August, 2013

.....  
**Date**

# ANNEXES

---

## ANNEX ONE

# CONSOLIDATED LIST OF ALL LAWS ENACTED SINCE THE PROMULGATION OF THE CONSTITUTION

## 2010

1. Commission for the Implementation of the Constitution Act (No9 of 2010)
2. Animal Technician Act (No.11 of 2010)
3. Competition Act (No.12 of 2010)

## 2011

4. Commission on Administrative Justice Act (No.23 of 2011)
5. Commission on Revenue Allocation Act (No.16 of 2011)
6. Elections Acts Act (No.24 of 2011)
7. Engineers Act (No.43 of 2011)
8. Environment and Land Court Act (No.19 of 2011)
9. Ethics and Anti-Corruption Commission Act (No.22 of 2011)
10. Independent Electoral and Boundaries Commission (No.9 of 2011)
11. Independent Offices
12. Independent Policing Oversight Authority Act (No.35 of 2011)
13. Industrial Court Act (No.20 of 2011)
14. Judicial Service Act (No.1 of 2011)
15. Kenya Citizenship and Immigration Act (No.12 of 2011)
16. Kenya Citizens and Foreign Nationals Management Service Act (No.31 of 2011)
17. Kenya National Commission on Human Rights Act (No.14 of 2011)
18. Limited Liability Partnership Act (No.42 of 2011)
19. Mutual Legal Assistance Act (No.36 of 2011)
20. National Construction Authority Act (No.41 of 2011)

21. National Gender and Equality Commission Act (No.15 of 2011)
22. National Government Loans Guarantee Act (No.18 of 2011)
23. National Payment System Act (No.39 of 2011)
24. National Police Service Commission Act (No.30 of 2011)
25. National Police Service Act (No.11A of 2011)
26. Political Parties Act (No.11 of 2011)
27. Power of Mercy Act (No.21 of 2011)
28. Price Tourism Act (No.28 of 2011)
29. Unclaimed Financial Assets Act (No.40 of 2011)
30. Urban Areas and Cities Act (No.13 of 2011)
31. Vetting of Judges and Magistrates Act (No.2 of 2011)
32. Veterinary Surgeons and Veterinary Para-Professionals Act (No.29 of 2011)
33. Control (Essential Goods) Act (No.26 of 2011)
34. Prohibition of Female Genital Mutilation Act (No.32 of 2011)
35. Public Appointments (Parliamentary Approval) Act,2011 (No.33 of 2011)
36. Salaries and Remuneration Commission Act (No.10 of 2011)
37. Appointment Act(No.8 of 2011)
<b>2012</b>
38. Appropriation Act,2012 (No.11 of 2012)
39. Assumption of the Office of the President Act (No.21 of 2012)
40. Breast Milk Substitutes (Regulation and Control) Act (No.34 of 2012)
41. Cancer Prevention and Control Act(No.15 of 2012)
42. Consumer Protection Act (No.46 of 2012)
43. County Governments Act(No.17 of 2012)
44. Finance Act(No.4 of 2012)
45. Finance Act(No.57 of 2012)
46. Intergovernmental Relations Act(No.2 of 2012)
47. Kenya Defence Forces Act(No.25 of 2012)
48. Kenya Deposit Insurance Act(No.10 of 2012)
49. Kenya Examinations Council Act(No.29 of 2012)
50. Kenya Plant Health Inspectorate Service Act(No.54 of 2012)
51. Kenya School of Government Act(No.9 of 2012)
52. Kenya School of Law Act(No.26 of 2012)
53. Land Registration Act(No.3 of 2012)
54. Leadership and Integrity Act(No.19 of 2012)
55. Legal Education Act(No.27 of 2012)
56. National AuthorityfortheCampaign AgainstAlcoholandDrugAbuseAct(No.14 of 2012)
57. National Intelligence Service Act(No.28 of 2012)
58. National Land Commission Act(No.5 of 2012)
59. National Security Council Act(No.23 of 2012)
60. National Transport and Safety Authority Act(No.33 of 2012)
61. Office of the Attorney-General Act(No.49 of 2012)
62. Partnerships Act,2012 (No.16 of 2012)
63. Petitions to the Parliament (Procedure) Act(No.22 of 2012)
64. Prevention,Protection and Assistance to Internally Displaced Persons and Affected Communities Act,2012 (No.56 of 2012)
65. Act,2012 (No.56 of 2012)

66. Prevention of Terrorism Act(No30 of 2012)
67. Public Finance Management Act,2012 (18 of 2012)
68. Public Service Commission Act(No.13 of 2012)
69. Public Service Superannuation Scheme Act(No.8 of 2012)
70. Publication of Electoral Opinion Polls Act (No.39 of 2012)
71. Statute Law Miscellaneous Act(No.12 of 2012)
72. Supplementary Appropriation Act(No.7 of 2012)
73. Teachers Service Commission Act(No.20 of 2012)
74. Transition to Devolved Government Act(No.1 of 2012)
75. Treaty Making and Ratification Act(No.45 of 2012)
76. Universities Act(No.42 of 2012)
77. Land Act(No.6 of 2012)
<b>2013</b>
78. County Governments Public Finance Management Transition Act(No.8 of 2013)
79. Kenya Institute of Curriculum Development Act(No.4 of 2013)
80. The National Commission of for UNESCO Act(No.5 of 2013)
81. National Honours Act(No11 of 2013)
82. National Government Co-ordination Act(No.1 of 2013)
83. Office of the Director of Public Prosecution Act(No.2 of 2013)
84. Public Health Officers Act(No.12 of 2013)
85. Supplementary Appropriation Act(No.3 of 2013)
86. Transition County Allocation of Revenue Act(No.5 of 2013)
87. Transition County Appropriation Act(No.6 of 2013)
88. Agriculture,Fisheries and food Authority Act(No.13 of 2013)
89. Basic Education Act(No.14 of 2013)
90. Civil Aviation Act(No.21 of 2013)
91. Constituencies Development Fund Act(No.30 of 2013)
92. Crops Act(No.16 of 2013)
93. Kenya Agriculture and Livestock Research Act(No.17 of 2013)
94. Kenya Law Reform Commission Act(No.19 of 2013)
95. Kenya Medical Supplies Authority Act(No.20 of 2013)
96. Nairobi Centre for International Arbitration Act (No.26 of 2013)
97. Public Benefits Organizations Act(No.18 of 2013)
98. Public Private Partnerships Act(No.15 of 2013)
99. Pyrethrum Act(No.22 of 2012)
100.Science,Technology and Innovation Act(No.28 of 2013)
101.Social Assistance Act(No.24 of 2013)
102.Sports Act(No.25 of 2013)
103.Statutory Instruments Act(No.23 of 2013)
104.Technical and Vocational Education and Training Act(No.29 of 2013)
105.Division of Revenue Act (No 31 of 2013)
106.Appropriation Act (No 33 of 2013)
107.County Allocation of Revenue Act (No 34 of 2013)
108.International Interests in Aircraft Equipment Act(No.27 of 2013)

## Amendment Acts

2010
1. Commissions of Inquiry (Amendment) Act,(No.5 of 2010)
2. Witness Protection (Amendment) Act,(No.2 of 2010)
3. Finance Act (No.10 of 2010)
2011
4. Capital Markets (Amendment) Act,(No.37 of 2011)
5. Central Depositories (Amendment) Act,(No.38 of 2011)
6. Industrial Training (Amendment) Act,(No.34 of 2011)
7. Nurses (Amendment) Act,(No.27 of 2011)
8. Tea (Amendment) Act,(No.4 of 2011)
9. Traffic (Amendment) Act,(No.3 of 2011)
10. Vetting of Judges and Magistrates (Amendment) Act,(No.6 of 2011)
2012
11. Capital Markets (Amendment) Act,(No.35 of 2012)
12. Central Bank of Kenya (Amendment) Act,(No.36 of 2012)
13. Elections (Amendment) Act,(No.31 of 2012)
14. Elections (Amendment) No.2 Act,(No.32 of 2012)
15. Elections (Amendment) No.3 Act,(No.48 of 2012)
16. Judicature (Amendment) Act, (No.10A of 2012)
17. Political Parties (Amendment) Act,(No.50 of 2012)
18. Proceeds of Crime and Anti-Money Laundering (Amendment)Act,(No.51 of 2012)
19. Seed and Plant Varieties (Amendment) Act,2012 (No.53 of 2012)
20. Statute Law Miscellaneous (Amendment)Act,(No.2 of 2012)
21. Traffic (Amendment) Act,(No.37 of 2012)
22. Traffic (Amendment) No.2 Act,(No.38 of 2012)
23. Truth, Justice and Reconciliation (Amendment) Act,(No.44 of 2012)
24. Vetting of Judges and Magistrates (Amendment) Act,(No43 of 2012)
2013
25. 25.CustomsandExcise(Amendment)Act,(No.10 of2013)
26. 26.Presidential RetirementBenefits(Amendment)Act,(No.9 of2013)

## County Legislation

### 1. Vihiga County Appropriation Act (No. 1 of 2013)



---

ANNEX TWO

# STATUS UPDATE ON LITIGATION

---

ITEM	PARTICULARS OF CASE / APPLICATION	CIC	ADVOCATES REPRESENTING CIC	NATURE OF COMPLAINT	STATUS
1.	Nbi. H.C. Petition No. 454 of 2012 The Commission for the Implementation of the Constitution –vs- Parliament of the Republic of Kenya and Another	Petitioner	M/s. NjorogeRegeru & Co. Advocates	Constitutional Petition challenging the constitutionality of procedures and mechanisms provided for in the Leadership and Integrity Act, 2012 to ensure effective administration of Chapter 6 of the Constitution. The Petitioner argued that the 1st Respondent diluted and watered down the Bill prepared by CIC in consultation with stakeholders during the enactment process, as a result of which the final product failed to meet the constitutional threshold as contemplated by Article 80. Further, the Act as enacted undermines the mandate of the EACC in as far as it failed to provide procedures and mechanisms for it to use in the enforcement of the Act.	Judgment delivered on 7/2/2013. Petition dismissed. The Court held that Part IV of the Act provides procedures and mechanisms for enforcement of the General Leadership and Integrity Code and by extension the principles set out in Chapter Six. These mechanisms are to be supplemented by rules and regulations enacted by the EACC. Part V of the Act provides criminal and civil penalties for infraction of the provisions of the Act. Apart from these, reference to the Public Officer Ethics Act, includes disciplinary action to an officer who contravenes not only the General Code on Leadership and Integrity but also the Code of Conduct and Ethics of the relevant public entity. Whether to have a “one stop-shop” or have various public entities involved in the implementation of Chapter Six under the umbrella of EACC is a matter for the legislative policy.
2.	Nbi. H.C. Petition No. 145 of 2012 The Commission for the Implementation of the Constitution –vs- The Hon. Attorney General and Another	Petitioner	M/s NjorogeRegeru & Co. Advocates	The issue raised was whether following the decision to segregate the Public Financial Management Bill and present part of it as two separate Bills namely, the Contingencies Fund and County Emergency Funds Bill, 2011 and the National Government Loans Guarantee Bill, 2011 Respondents disregarded the procedure expressly stipulated under Article 261(4) and the provisions of Section 14(1) to the Sixth Schedule of the Constitution that at least a 30 day period be allowed for the CIC to consider the Bills before their enactment.	Judgment delivered on 18/1/2013. Petition dismissed. The Court held that CIC had an opportunity to consider the content of subject Bills prior to their publication. The Public Financial Management Bill had been forwarded to the CIC by the letter dated 15th June, 2011 from the office of the Deputy Prime Minister. At the time the decision to sever the Bills was made in August, 2011, CIC had been in possession of the merged Bill for two months. The Court took judicial notice of the fact that the subject statutes had been repealed by Section 208 of the Public Finance Management Act, No. 18 of 2012 which was assented to on 24th July, 2012 and its provisions, save for those touching on county government came into operation on 27th August, 2012. The petition therefore, and prayers sought therein, were superfluous or had been overtaken by events.

<p>3.</p>	<p>Nrb. H.C. Petition No. 515 of 2012 Ali WarioGuyo –vs- The Hon. Attorney General &amp; 3 Others</p>	<p>4th Respondent</p>	<p>M/s. Chiurikirui&amp;Rugo Advocates</p>	<p>The Petitioner filed a petition seeking to challenge the decision of the Court of Appeal in Civil Appeal No. 74 &amp; 82 of 2012 on the grounds that the Petitioner’s right to vote and participate in a democratic free, regular and fair elections will be violated if the general elections are conducted on the 4th of March 2013.</p> <p>The Petitioner argued that the country was not ready to hold general elections on 4th March 2013 as ordered by the Court of Appeal and that in the event that the elections are held, they will likely be irregular and infringe upon the rights of the Petitioner and the citizens of Kenya because proper mechanisms for free and fair elections are yet to be achieved in order to ensure credible, free and fair elections.</p>	<p>Judgment delivered on 1/3/2013. Petition dismissed. The Court held that the Petitioner failed to meet the required threshold in proving violation of one’s constitutional rights. Justice Lenaola observed that IEBC had demonstrated its preparedness for the 4th March, 2013 General Elections and there was no material evidence to demonstrate that the whole preparation process was not ‘rushed’ thus resulting into malpractices and denial of the Petitioner’s right to fair administrative action.</p>
<p>4.</p>	<p>Civil Appeal No. 351 of 2012 The Commission for the Implementation of the Constitution -vs- The Attorney General and Another</p>	<p>Appellant</p>	<p>M/s. Kilonzo &amp; Company Advocates</p>	<p>This is an appeal filed by the Appellant the Commission for the Implementation of the Constitution, against the judgment of the High Court (Majanja, J.) delivered on 15th November, 2012 by which the learned Judge dismissed Petition No. 389 of 2012 filed by CIC, against the Attorney General and the Independent Electoral and Boundaries Commission. The dispute before the High Court related to the constitutionality of Section 34(9) of the Elections Act.</p> <p>At the hearing of the appeal, the Appellants argued that in interpreting “special interests” as used in, inter alia, Article 97 (1) (c) of the Constitution, the High Court should have applied the interpretational principle of ejusdem generis so that to qualify for inclusion, any additional or special interest needed to have a rational connection with youth, persons with disabilities and workers or else it would not fit in and Presidential and Deputy presidential candidates certainly did not belong in the categories of special interests or vulnerabilities listed in the Constitution.</p>	<p>Judgment delivered 14/6/2013. The Court held that the superior court misdirected itself in its interpretation of ‘special interests’ and declared section 34(9) of the Elections Act void as it is in contravention with Articles 97(1)(c), 98(1)(b)(c)(d), 100 and 177(a)(b) and (c) of the Constitution.</p> <p>The Court of Appeal stated as follows:</p> <p>“In the spirit of harmonization, and having considered the scheme of representation that runs through the Articles that deal with the Senate and those that deal with the County Assemblies, we have no doubt that the next category of members of the National Assembly under Article 97 (1)(c) must logically be the marginalized groups.</p> <p>... We agree that special interests is not defined in the Constitution but from what we have said regarding the corresponding provisions for the other legislative assemblies, they must bear the same meaning as marginalized groups. Moreover, this accords with our own understanding that the rationale for special seats is to open up political space for the entry and participation of persons, groups and categories of people who, due to various disadvantages and vulnerabilities, have historically been unable or incapable of generally and effectively finding their way through a strictly competitive methodology and have thus been relegated to the peripheries of the political playground.”</p>

<p>5.</p>	<p>Supreme Court Advisory Opinion Application No. 2 of 2012, In the Matter of the Principle of Gender Representation in the National Assembly and the Senate</p>	<p>Interested Party</p>	<p>M/s. Rachier&amp;Amollo Advocates</p>	<p>11/12/2012. The Supreme Court was of the view that the realisation of the rights under Article 27 (6) and (8) could only be fully realised using legislative as well as other measures but over a spaced period of time and by means of positive and good-faith exercise of governance discretion. That the realization of these rights cannot merely be attained by legislation but by policy and other measures. The court ruled that Article 81(b) bears a broad principle and not a right. It is a statement of aspiration: that wherever and whenever elections are held, the Kenyan people expect to see mixed gender. The Chapter in which Article 81 appears bears the title "representation of the people". Moreover, it concerns elective public bodies. In the Court's opinion, public elective bodies is not confined to just the National Assembly, Senate or County Government but to any public body in Kenya that holds some form of elections in its representation. Therefore, in its conclusion, Article 81 (b) cannot be attained immediately. The same cannot be applicable to the March 2013 General elections.</p> <p>The court unanimously ruled that, there is a lacuna in the Constitution regarding the settlement of disputes relating to the elections of the President after the first round of elections. Before legislative provisions to cover this lacuna are enacted, the Court held that it is its duty to provide a solution. The election of the President is a process. Article 140(1) of the Constitution provides for settlement of disputes only after there is a President-elect and not within the process leading to the attainment of a President-elect.</p> <p>The Court noted that the framers of the Constitution could not have intended that the Supreme Court only handles matters arising after the administrative pronouncement of the final results of an election yielding a President-elect. The Court posed the question whether it would be tenable to hold the second round of elections within 30 days after the first round of elections? The court in applying a purposive approach held that 30 days, in this instance, should be taken to mean 30 days after all the disputes regarding the first round of presidential elections have been settled. The court therefore held that it has jurisdiction to hear disputes relating to the first round of Presidential elections under the Constitution.</p>
-----------	--	-------------------------	--	---

6.	H.C Petition No. 71 of 2013 The Institute for Social Accountability (TISA) -vs- The Hon. Attorney General and Another	Interested Party	M/s. Nderitu & Partners Advocates	Constitutional petition challenging the constitutionality of the decision of the Minister for Finance to release the sum of Kshs. 10.1 Billion to the Constituencies Development Fund (CDF) Management Board for disbursement to constituencies under the auspices of the Constituencies Development Fund at a time when Parliament was facing dissolution by operation of law and local authorities were facing imminent dissolution.	The Petition came up for directions on Thursday 27th June 2013, before the Hon. Justices Lenaola, Ngugi and Mwanjia and was set for hearing on 25/07/2013.
7.	Supreme Court Advisory Opinion Application No. 2 of 2013, In the Matter of the Division of Revenue Bill, 2013	Interested Party	M/s. Nderitu & Partners Advocates	The Senate filed an application in the Supreme Court seeking an Advisory Opinion on the constitutionality of the National Assembly's decision to ignore its amendment to the Division of Revenue Bill which was enactment and signed into law by the President on 11th June 2013.	The matter was set for hearing on 20th August, 2013

# MEMBERS OF THE COMMISSION



**Mr. Charles Nyachae**  
Chairperson



**Dr. Elizabeth Muli**  
Vice-Chairperson. Convener  
of the Executive and Security  
Thematic Team



**Dr. Imaana Kibaaya Laibuta**  
Convener of the Judiciary and  
Constitutional Commissions  
Thematic Team



**Prof. Peter Wanyande**  
Convener of the Devolved  
Government Thematic  
Team



**Mr. Kamotho Waiganjo**  
Convener of the Public  
Finance Thematic Team



**Ms. Catherine M. Mumma**  
Convener of the Bill of Rights  
and Citizenship Thematic  
Team



**Dr. Ibrahim M. Ali**  
Convener of the Land and  
Environment Thematic Team



**Mr. Philemon Mwaisaka, EBS, SS**  
Convener of the Public Service and  
Leadership Thematic Team



**Dr. Florence Omosa**  
Convener of the  
Representation of the People  
& the Legislature Team

# KEY SECRETARIAT PERSONNEL

---

## A.g Secretary / Chief Executive Officer and Director of Programmes

1. Mrs. Esther Kodhek

## Administration

1. Lily Koros, Director, Management Services
2. Kennedy Malinda, Supply Chain Management
3. Khalid Salim, Head of Communications
4. Margaret Akutekha, Internal Audit Manager
5. Bernard Cherutich, Senior Accounts Officer and Head of Accounts
6. Felix Oganga, Senior Finance Officer and Head of Finance
7. Fredrick Oromo, Senior Supply Chain Management Officer
8. Catherine Muia, Records and Documentation Officer
9. Lauraine Anyango, ICT Officer
10. Monicah Wambua, Human Resource Officer
11. Phillip Abishai, ICT Officer
12. Patrick Lumumba Musonye, Supply Chain Management Officer
13. Lechuta Vashti Nadayat, Hansard Officer
14. James Mburu, Legal Clerk
15. James Kamucha, Head of Transport
16. Janeth Maiyo
17. Ann Wandia Njoroge, Executive Assistant I
18. Rose Boit, Executive Assistant II
19. Nina Kabayo, Executive Assistant II



20. Pamela Mugei, Executive Assistant II
21. Rebecca Akoth, Executive Assistant II
22. Hassan Abdi, Accountant II
23. Pauline Kamurutu, Accountant II
24. Ziporah Kiguta, Records Officer
25. Haron Papa Osukuku, Clerical Officer
26. Dorothy Mogiri, Clerical Officer
27. Edward Orot Omer, Driver
28. Benson Wetindi Etabale, Driver
29. Daniel Ngetich, Driver
30. Mustafa Khainga, Driver
31. Isaac Anampiu Mugambi, Driver
32. Bryson Mwakio, Driver
33. Joseph Kariuki, Driver
34. Fredrick Kisuli Kyalo, Driver
35. Peter Maina Kariuki, Driver
36. Godwin Radiro, Driver
37. Mary Ndunge Munyao, Office Assistant
38. Betty Awuor, Office Assistant
39. Joyce Kadenge, Office Assistant
40. Pamela Aloyo, Office Assistant

### Temporary Staff

1. Judy Kirior, Human Resource Officer
2. Wilson Mukuha, Supply Chain Management Officer
3. Kelvin Letuya, Accounts Clerk
4. Tabitha Wairimu Mburu, Receptionist

### Programmes

1. Esther Kodhek, Director of Programmes
2. Mugita Gesongo, Head of Monitoring and Evaluation
3. Elizabeth K. Obiero, Principal Programme Officer, Organisational Development & Institutional Strengthening
4. James Wagalla, Principal Programme Officer, Organisational Development & Institutional Strengthening
5. Doreen Muthaura, Principal Programme Officer, Legislative Drafting

6. Ruth Muthui, Senior Programmes Officer
7. Valerie Nangidi, Senior Programmes Officer
8. Sophia Sitati, Senior Programmes Officer
9. Victor Odhiambo, Senior Programmes Officer
10. Abdirazak Abdi, Senior Programmes Officer
11. Christine Njeru, Senior Programmes Officer
12. Mary Goretti Orwa, Senior Programmes Officer
13. Edith Cheramboss, Senior Programmes Officer
14. Timothy Kariuki, Senior Programmes Officer
15. Jeremiah Nyakundi, Senior Programmes Officer
16. Caroline Gaita, Senior Program Officer
17. Kephass Okach, Snr. Programme Officer, M&E

## Interns

1. Victor Odanga, Devolved Government Thematic Area
2. Muna Ibrahim, Devolved Government Thematic Area
3. Robert Mabwa, Human Rights and Citizenship Thematic Area
4. Jackline Muthoni, The Judiciary and Constitutional Commissions Thematic Area
5. Tim Muiruri, Representation of the People & the Legislature

# DEVELOPMENT PARTNERS

---

CIC acknowledges and appreciates the material, technical and financial support received from the following development partners:

1. Government of Japan
2. The Royal Netherlands Government
3. International Development Law Organisation
4. International Rescue Committee
5. Swedish International Development Cooperation Agency
6. United Nations Development Programme
7. United Nations High Commission for Refugees
8. United States Agency for International Development
9. World Wide Fund for Nature
10. State University of New York, Kenya
11. United Kingdom, Department for International Development