

Law Society of Kenya



Annual Report 2018



NOTICE

The Advocates' Benevolent Association



TO:
ALL MEMBERS OF THE
ADVOCATES' BENEVOLENT
ASSOCIATION

Lavington, opp Valley Arcade, Gitanga Road
P.O Box 72219-00200 Nairobi, Kenya
Dropping Zone 149 – Revlon Plaza
Tel: +254 20 387 4664
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Fax: +254 20 387 5534
Website: www.lsk.or.ke
Our Ref: ABA/AGM

Your Ref:

Date: 27th February, 2019

NOTICE IS HEREBY GIVEN, pursuant to Rule 21 of the Advocates' Benevolent Association Rules, that the **ANNUAL GENERAL MEETING** of the Association shall be held at the **Auditorium, Bomas of Kenya** along Langata/Forest Edge Road, at **9:30a.m.** on **Saturday 30th March, 2019.**

AGENDA

1. Secretary to read the Notice convening the Meeting.
2. Adoption of the Agenda.
3. Silent tribute to departed members.
4. Confirmation of the Minutes of the General Meeting held on Saturday 24th March, 2018 at the Intercontinental Nairobi.
5. Matters Arising.
6. The Report of the Board of Management for the year ended 30th September 2018.
7. Presentation of the Accounts and Balance Sheet for the year ended 30th September 2018.
8. Ratification of Restructuring of the Advocates' Benevolent Association's Education Benefits (Tertiary Category) and approval of the Establishment of a Revolving Education Fund in collaboration with the Higher Education Loans Board
9. Notices of Motion, if any.
10. Any Other Business.

BY ORDER OF THE BOARD

MERCY K. WAMBUA
SECRETARY/CEO

NOTICE

Law Society of Kenya



TO:
ALL MEMBERS OF THE
LAW SOCIETY OF KENYA

Lavington, opp Valley Arcade, Gitanga Road
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Our Ref: G/2

Our Ref:

Date: 27th February 2019

NOTICE IS HEREBY given pursuant to Section 30(1), Section 32 of the Law Society Act 2014 and Regulation 32(1) of the Law Society of Kenya (General) Regulations 1962, that an **ORDINARY GENERAL MEETING** of the Society is convened for and shall take place at the Bomas of Kenya, Langata/Forest Edge Road at **11:00am** on Saturday, **30th March 2019**.

AGENDA

1. Secretary to read the Notice convening the Meeting.
2. Adoption of the Agenda.
3. Silence in tribute to members departed.
4. Confirmation of Minutes of the Ordinary General Meeting (AGM) held on 24th March 2018 at Intercontinental Nairobi.
5. Matters Arising.
6. Report of the Council pursuant to Section 26 of the Law Society of Kenya Act.
7. Presentation of the Accounts and Balance Sheet for the year ended 31st December 2018, pursuant to Section 25(2) of the Law Society of Kenya Act and appointment of auditors.
8. Consideration and adoption of the Council's decision to have the Independent Electoral and Boundaries Commission (IEBC) appointed as the body to undertake elections for the position of membership to the Council pursuant to Section 20 of the Law Society of Kenya Act, in the year 2020.
9. Notice of Motion by members given to the Secretary (if any).
10. Any other business which may be admitted in accordance with the provision of Regulation 35.

BY ORDER OF COUNCIL

MERCY K. WAMBUA
SECRETARY/CEO

NOTICE



Law Society of Kenya

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TO: ALL MEMBERS

INVITATION TO THE LAW SOCIETY OF KENYA ANNUAL DINNER & DANCE TO BE HELD ON SATURDAY 24TH MARCH 2019

I am pleased to inform you that the Law Society of Kenya's **Annual Dinner and Dance** will be held at the **Intercontinental Nairobi**, Mara Ballroom, Nairobi, on 30th March 2019 from **6:30p.m.**

The cost of dinner is **Kshs.4,500/- per person** and **Ksh.8,000/-** per couple inclusive of table wine. A discount of **Kshs.200/- per person** shall be extended to those who opt to book a **table** of eight(8) pax. Members who attend the above event shall be awarded half(0.5) CPD unit. The dress code for the event is **formal**. Informally dressed persons shall not be admitted.

Members who wish to attend should book the event online as per the instructions provided below:

Booking and Payment Procedure:

- Log-in to your online account
- Proceed to book for the Annual Dinner event
- Download the invoice from the portal
- Proceed to make payment either through the *Mpesa or deposit/transfer to the Law Society of Kenya's, Kenya Commercial Bank (KCB) Account as per the details provided in the invoice.* While making the payment via mpesa, please quote the Invoice Reference number as the Account Number.

— NOTICE

Kindly note the following:

- The bookings will only be confirmed upon making the payment.
- All bookings and remittances must be received not later than **Wednesday 27th March, 2019.**
- You will not be able to make payment without making online booking and obtaining an invoice.
- The invoice will not be transferable.
- No cash or cheque payment will be allowed at the LSK Secretariat.
- Cancellations or transfer of payments requests must be made in writing (e-mail or letter) and reach LSK offices at least 24 hours before the date of the event. Cancellations done after the expiry of 24 hours or after the event will not be granted.

MERCY K. WAMBUA
SECRETARY/CEO
LAW SOCIETY OF KENYA

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INTRODUCTION - Council members

NO	NAME	POSITION
1	Allen Waiyaki Gichuhi	President
2	Harriette Chiggai	Vice President
3	Roseline Odhiambo Odede	Council Member- At least 25 years standing
4	Eric Wafula Nyongesa	Council Member- Coast Representative
5	Herine Akoth Kabita	Council Member- General Member
6	Maria Mutua Mbeneka	Council Member- General Member
7	Borniface Apamo Akusala	Council Member- Nairobi Representative
8	Carolyne Kamende Daudi	Council Member- Nairobi Representative
9	Aileen Aluso Ingati	Council Member- Nairobi Representative
10	Damaris Ndinda Kinyili	Council Member- Upcountry Representative
11	Jane Cheptoo Masai	Council Member- Upcountry Representative
12	Bernhard Kipkoech Ngetich	Council Member- Upcountry Representative
13	David Njuguna Njoroge	Council Member- Upcountry Representative

Vision

A Society that promotes quality and robust legal practice and the rule of law,

Mission

To empower the legal profession with quality member services and promote the rule of law, through advocacy and good governance.



Allen Waiyaki Gichuhi



Maria Mutua Mbeneka



Jane Cheptoo Masai



Harriette Chiggai



Roseline Odhiambo Odede



Eric Wafula Nyongesa



Herine Akoth Kabita



Barniface Apamo Akusala



Carolyne Kamende Daudi



Aileen Aluso Ingati



Damaris Ndinda Kingili



Bernhard Kipkoech Ngetich



David Njuguna Njoroge



Mercy Wambua
Chief Executive Officer

Annual General Meeting (AGM)

The Law Society of Kenya Annual General meeting was held on Saturday 24th March 2018 at the Intercontinental Hotel in Nairobi. The meeting was attended by over 2,000 Advocates and also saw new Council sworn into office by Justice Lee Muthoga, SC.

The Council entails: **Allen Waiyaki Gichuhi** (President); **Harriette Chiggai** (Vice-President); **Roselyne Odede** (General Membership Representative of at least 25 years standing); **Eric Nyongesa** (Coast Representative); **Herine Kabita** (General Member); **Maria Mbeneka** (General Member); **Borniface Akusala** (Nairobi Representative); **Carolyn Kamende** (Nairobi Representative); **Aileen Aluso** (Nairobi Representative); **Ndinda Kinyili** (Upcountry Representative); **Jane Masai** (Upcountry Representative); **Bernhard Kipkoach** (Upcountry Representative); **David Njoroge** (Upcountry Representative); and **Mercy Wambua** (Secretary/CEO).



LSK President addressing members after being sworn into office during the LSK AGM 2018.



Mr. Lempaa Suyianka, Advocate addressing members during the AGM.

COUNCIL RETREAT AND MEETING WITH BRANCH CHAIRPERSONS

The newly elected Council of Law Society of Kenya held its maiden retreat between 17th and 22nd April 2018 at the Sarova Whitesands in Mombasa to set out goals and objectives and to discuss issues affecting its members.

The retreat entailed training the new Council on corporate governance with a focus on values & principles, systems and good practices, understanding LSK objects, functions and principles, the governance/ management organs of the LSK, amongst other issues. The Council held its inaugural Council meeting and made various resolutions touching on the mandate of the Society, specifically on practice and welfare of members. This included granting of a six months waiver for payment of practicing certificate back fees for advocates applying for practicing certificates, pursuant to Section 25(1)(a) of the Advocates Act, a position aimed at encouraging advocates who have not taken out practicing certificates for a period of more than 12 months.

During the retreat, the Council additionally held a consultative forum with Branch Chairpersons, to discuss various issues among them practice issues, welfare matters, Branch operations/structure, set-up and experiences. The Council and Branch Chairpersons deliberated on the Draft Law Society of Kenya (General) Regulations 2017, ahead of the planned Special General Meeting held later in the year.

During the retreat, the Council held a joint meeting with the Branch Chairpersons and the Board Members of the Advocates Benevolent Association (ABA). the discussions touched on members welfare as well as collaboration between the three organs of the Law Society of Kenya towards effective operation and service delivery. During the meeting it was agreed that there was need to establish a pension scheme for members, to cater for their retirement age and the need for establishment of member welfare programs.



The LSK Council and branch chairperson pose for a group photo during the Council retreat and meeting with branch chairpersons in Mombasa.

STRENGTHENING OF GOVERNANCE STRUCTURES OF THE LAW SOCIETY OF KENYA

• **Reconstitution of the Committees of the Law Society of Kenya**

Pursuant to Section 40 of the Law Society of Kenya Act, the Council of the Law Society of Kenya undertook a detailed analysis of the constitution of the Society's Committees, with a view to ensuring that they work effectively and efficiently. Towards this end, the Council reconstituted the Committees by:

1. **Merging Committees with similar mandate with a view to creating synergy and efficiency.**

i.e the Council merged the Devolution and County Legislation Committee with the Law Reform and Constitutional Implementation Committee as both Committees were carrying out similar functions in the field of law reform.

2. **Establishing of new Committees in line with Section 4 of the Law Society of Kenya Act.**

- ✓ Tax Committee; comprising of experts in Tax matters. The Committee was formed to advise the Council on policy and legislative review in relation to tax matters and to identify matters of public interest within existing tax regime.
- ✓ Council (Branch) Devolution Committee; To advise the Council on matters concerning Branches including resolution of disputes, statutory and regulatory compliances by Branches, disbursement of devolution funds to Branches, setting proper structures to support the work of the Branches and establishment of functional Branches of the Society.
- ✓ Budget and Finance Committee. Established in line with Section 40(2) of the Law Society of Kenya to advise the Council on how to maintain fiscal stability and long term economic health of the Society and oversee the financial planning and fiscal management of the Society.
- ✓ Advocates/Office Manual Development Committee. Formed to assist the Council with development of Advocates/Office Manual.

- ✓ Development and Investment Committee. The Committee was established with a view to provide expert impartial advice and guidance to the Council, on significant development and investments proposals and other development related matters, set out in the LSK Strategic Plan

- ✓ Advocates (Review) Remuneration Ad Hoc Committee. Committee constituted on ad hoc basis to consider amending the Advocates (Remuneration) Order, 2014, the Court of Appeal Rules, 2010 and the Supreme Court Rules, 2012 in matters pertaining to taxation and costs.

- ✓ Communications Committee: The Committee comprising of Council Members and Staff. The Committees aim is to increase the visibility of Law Society of Kenya through strategic Brand promotion and continuous relevance in the media and public. The Committee is working on an LSK Communication Manual and Strategy.

3. **Co-option of Branch Chairpersons to Serve in Society's Committees**

The Council incorporated Branch Chairpersons in the Society's Committees with at least each Branch Chairperson being incorporated to serve in at least one of the Society's Committee of their choice, based on area of expertise. This was necessitated by the need to incorporate the Branch Officials in the policy making process of the Society. Consequently, they are able to bring input from members in their various regions.

4. **Capacity building of members of various Committee**

Under its capacity building component, new committee members from different committees were trained on Advocacy. Trainings held with the support of various partners were aimed at capacity building being, to continually improve advocacy skills of the different members within the Law Society to enable them carry out effective advocacy in their specific areas of focus. The

training drew members from various committees including: Public Interest Litigation, Law Reform and Constitutional Implementation Committees.

- **STRENGTHENING OF LSK BRANCHES**

Section 15 of the Law Society of Kenya Act establishes 8 Branches of the Law Society of Kenya as organs of the Society. In order to strengthen Branches to undertake their core mandate of handling practice and welfare matters, the Council:

- **Enhanced funding to the Branches**

The Council implemented the member’s resolution of March 2018, providing for a devolution fund in addition

to the Annual Grant of Kshs 1,000,000 given to each Branch. The Kshs 3, Devolution and Regional Integration Levy paid by members annually to the Law Society of Kenya is channeled to support.

Branches as devolution fund.

The Funds are then distributed to Branches based on the formula below, founded on resolution of members made on 24th March 2018. As at November 2018, Branches were entitled to Kshs 27,234,600 as devolution fund, making it to a total of Kshs 35, 34,600 funds devolved to the Branches. Some of the funds were not transferred to the Branch as at December 2018 due to non-compliance with the set out Branch requirements.

SHARING FORMULA

PART 1: FUNDS APPORTIONED TO BRANCHES	
Annual Grant:	Kshs 1,000 per Branch

NO	PARAMETERS	PERCENTAGE
1.	Basic Equal Share – Total sharable amount is shared equally amongst all the Branches	60%
2.	Member Based Share – Shared proportionately according to the number of members in each of branches	30%
3.	Distance to Courts – Cumulative distance measured and added up from the Branch headquarters to the various centres in the branch where there is a High Court Station.	5%

Devolution Fund	Aggregate of the amount paid by each member taking out practising certificate in the sum of Kshs 3,000 per member as Devolution and Regional Integration Levy
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4.	Equalization fund: administered by the Council upon criteria	5%
TOTAL		100%



- **Supporting the establishment of functional Branch Offices**

In order to support branches to effectively undertake their mandate the Council set out a check list of compliance requirements for Branches. Key among the requirements was the need to establish functional Branch Offices. This is an on-going process which will see all Branches establish functional secretariats:

- ✓ Nairobi Branch moved to leased office on the 17th December 2018
- ✓ West Kenya Branch moved to leased premises in December 2018 and office officially opened by the Council on the 9th February 2019.

- **Enhancing transparency and accountability at the Branch Level**

With increased funding to the branch offices the Council noted that there was need to put in place a compliance check list to guide branches on the minimum requirements. In consultations with the Branch Chairpersons the Council developed a checklist of requirements most of which the Branches were able to comply with in the year 2018 with implementation of the rest expected to be implemented progressively;

The requirements include:

- Establishment of Branch Secretariat offices
- Structure of Branch Leadership
- Accountability mechanism including: appointment of branch auditors, submission of audited accounts setting up internal controls in respect of disbursements of funds, approval process of budget among others

- Formula for disbursement of funds to Chapters falling within Branches
- Establishment of welfare programs at the Branch Offices.

- **Undertaking of periodic internal audits of the Branches;**

The Council through the Internal Audit Function of the national office undertook internal audit of all the Branches. Periodic internal audits will be undertaken with a view to ensuring a systemic approach to evaluating and improving effectiveness of risk management, control and governance processes at the Branch level.

- **Council - Branch Chairpersons Caucus**

The Council introduced quarterly meetings between the Council members and the Branch Chairpersons with a view to ensuring constant consultations on matters touching management and affairs of the Society. The First meeting was held during the Council Retreat, followed by a meeting held during the Annual Conference and lastly a meeting held during the East Africa Law Society Conference. These meetings have created an avenue for the Council and Branch Chairpersons to build consensus on various matters, give feedback and plan on matters touching on the objects and functions of the Society.

- **Establishment of Council Devolution Committee**

The Committee chaired by Mr. Eric Nyongesa and comprising of Nairobi Representatives and up Country Representatives Council members aimed at assisting the Council with handling Branch related matters.



Council members led by LSK President, Allen Gichuhi pose for a group photo during the LSK branch visit.

FORMATION OF COAST BRANCH OF THE LAW SOCIETY OF KENYA

One of the Branches established under the Law Society of Kenya Act is the Coast Branch. The Branch comprises of Mombasa, Malindi/Kwale, Lamu and Taveta practice centres. The Mombasa Law Society and Malindi Law Society had previously operated as independent Societies without the formation and recognition of a Coast Branch. The Council through the Devolution Committee, brought together Mombasa Law Society and Malindi Law Society to aid in the formation of the Coast Branch.

After extensive discussions, the two Societies agreed to have the Coast Branch formed. On 24th August 2018, in a meeting between representatives of the two Societies and attended by the President of LSK, Allen Gichuhi and Mr. Eric Nyongesa (Coast Branch Representative), saw the officials form an Interim Steering Committee to spearhead the process of

formation of Coast Branch. The Steering Committee was composed of:

- Mathew Nyabena - Interim Branch Chairperson
- Natasha Ali Errey - Member
- Paula Ngetich - Member
- Jacqueline Waihenya - Member
- Gicharu Kimani - Member
- Lucy Mwangi - Member
- Tonia Mwanja - Member

The Interim Officials with the support of the Council, organized the inaugural Annual General Meeting of the Coast Branch on the 25th January 2018 at Pride Inn Hotel, Mombasa. The Meeting confirmed the Interim Officials and adopted the Coast Branch Charter, paving way for the operations of the Branch.



Members pose for a group photo with the DPP Noordin Haji, LSK President and the Council during a dinner with members of the Coast branch during the branch visit.

MEMBERS ADOPT THE LSK (GENERAL) REGULATIONS 2018

DURING THE SPECIAL GENERAL MEETING (SGM) HELD ON 15TH SEPTEMBER 2018

Section 41 of the Law Society of Kenya Act requires the Council of the Law Society of Kenya with the approval by a special resolution to make Regulations to operationalize the Act.

Law Society of Kenya (General) Regulations 1962 have been in force for more than 50 years. They were amended only about 4 times. The amendments essentially introduced additional requirements without changing the existing Regulations.

The process of developing the Regulations was initiated in the year 2016 with the formation of a Regulations Committee comprising of members with expertise in policy and legislative drafting. The Regulations Committee engaged members through Stakeholder forums held in various regions in the Country in the process of developing the General Regulations. The Draft Regulations were then submitted to members during a Special General Meeting held on the 15th September 2019 and passed with some amendments.

Subsequently the Council submitted the LSK General Regulations to the National Assembly as required by the Statutory Instruments Act.

The Regulations provide for the following:

- A. Annual subscriptions;
- B. Manner of application for membership of the
- C. Society;
- D. Grounds for, and procedure relating to, suspension or expulsion of members of the Society;
- E. Resignation of members from the Society;
- F. Regulation of powers exercisable by the Council and any committees or subcommittees of the Council, and delegation of powers;
- G. manner of convening meetings of the Council and the committees of the Council, and quorums and procedure of meetings of the Council;
- H. manner of convening general meetings of the Society, and quorum and procedure of general meetings;
- I. manner of election, removal and replacement of the president, the vice-president and the other members of the Council, and of representatives of the Society on the Disciplinary Committee;
- J. the functions and powers of the branches and sources of funding of the activities of the branches;
- K. the membership, governance of the branches and the regulation of the conduct of business by branches;
- L. recognition and competencies of chapters of the

- members of the Society or other local formations within branches;
- M. manner of election of the branch representatives in the Council;
- N. the manner of election, removal and replacement of a person nominated by the Society to any constitutional or statutory body;
- O. recognition, regulation and membership status of non-practicing members;
- P. custody and use of the common seal;
- Q. alternative forms of dispute resolution, including reconciliation, mediation and arbitration;
- R. professional conduct and etiquette by the members; and the regulation of marketing and advertising by members of their services;
- S. reciprocal recognition of qualification with the other bar associations

COLLOQUIUM TO CONSIDER THE SUPREME COURT DECISION IN PRESIDENTIAL PETITIONS

In Partnership with the United Nations Development Programme (UNDP) and the Ford Foundation, the Society held a successful one day colloquium on the 2017 Presidential Election Petitions at Hilton Hotel, Nairobi on Monday 22nd January 2018.

The Colloquium convened key stakeholders to analyze and discuss the Supreme Court's decisions, to draw lessons for future consideration and to suggest policy and legal reform recommendations.

Bar leaders from the East Africa region and the Rtd. Justice Krieger who delivered a Key Note Speech titled Building Judicial Resilience and Stable Jurisprudence on Presidential Election Disputes. More than 150 advocates participated. The President of Court of Appeal Justice Kihara Kariuki represented the Chief Justice.

The following topics were discussed:

1. Supreme Court's Approach in Petitions No. 1, 2 & 4 of 2017.
2. Perspectives from the Bar
3. The Impact of the Petition on the Current Electoral Law Reforms.
4. Perspectives from East Africa

The Council is discussing with partners to hold similar sessions at the Branch level with a view to enrich the report that is currently under development

CONSULTATIVE SESSIONS WITH MEMBERS THROUGH BRANCH VISITS

To enable the Council meet its mandate under the Law Society of Kenya Act, the Council organized and held interactive consultative sessions with members throughout the eight Branches of the Law Society of Kenya. Through the interactive sessions members were able to provide feedback to the Council and concerns for Councils action with a view to improving conditions of practice and members welfare. Council took the opportunity to hold meetings with the Branch Executives with a view to deliberating on matters touching on practice and welfare of members within. Members were sensitized on the various programs under the Advocates Benevolent Association (ABA) and how to benefit from the said programs. During the Branch visits the Council paid courtesy call meetings with the members of the Bench in the various stations and held deliberations on challenges facing administration of justice through strengthening of Bar Bench relations and other joint initiatives. The interactive sessions through Branch visits availed members an opportunity to input on the work of the Council.

Date	Branch	Station Visited
8th June, 2018	South Eastern	Machakos
28th -29th June, 2018	Mt. Kenya	Kerugoya, Embu, Nyeri and Meru
6th July, 2018	Coast	Malindi and Mombasa
7th September, 2018	North Rift	Bungoma and Eldoret
19th October, 2018.	Rift Valley Branch	Kericho & Nakuru
8th - 9th February, 2019	West Kenya Branch	Kisii, Kakamega & Kisumu

The Council identified cross cutting issues raised by members during the Branch visits taken the following actions.

CONCERNS	ACTIONS TAKEN
Backlog of cases leading to closure of Court Diaries early in the year leading to delayed dispensation of Justice	The Council raised the issue of backlog with the Chief Justice during the courtesy call meeting
Inadequate number of judges of the Environment and Land Court and Labor and Employment Courts	Council raised concerns with the Chief Justice and the LSK Representatives to the Judicial Service Commission on the need to have more Judicial Officers. Subsequently Judicial Officers were recruited and JSC advertised for more positions
Operations of the Lands Registry	The Council held a Courtesy call meeting with the Cabinet Secretary Ministry of Lands and raised concerns touching on the operations of the Ministry. The Law Society of Kenya is part of a task Force formed following successful public interest litigation on digitization of the lands processes. This will result to the formation of regulations to operationalize Regulations 90 of the Land Registration (General) Regulations 2017 dealing with electronic dispositions
Inadequate Court Infrastructure	The Council brought to the attention of the Chief Justice and Judicial Service Commission. The matter is under consideration based on budgetary allocation. Recovery of grabbed land belonging the Judiciary: One of the challenges facing the judiciary is lack of sufficient land to put up infrastructure. This is partly as a result of loss of land allocated to Judiciary through land grabbing. The Council has initiated the process of assisting the Judiciary to recover the grabbed land. On 19th September 2018, the Council wrote to the Chief Justice requesting for a report by a Committee of inquiry (established in 2016) on the status and recovery of land chaired by Hon.(Rtd)Justice John Mwera. The findings in the report will inform the action to be undertaken by the Council.

CONCERNS	ACTIONS TAKEN
Delay in issuance of Practicing Certificates	<p>The Council has continued to ensure that the Enterprise Resource Planning (ERP) System is fully set up and ensure the application process simplified.</p> <p>The Council is pursuing an amendment to the Advocates Act to enable the signing and issuance of Practicing Certificates to be done by the Law Society of Kenya. Members will be able to print certificates online reducing the turnaround processing period currently experienced by the need to have Certificates manually by the Chief Registrar of the Judiciary.</p>
Sensitization of Member on the Role and products under the Advocates Benevolent Associations	<p>The Council partnered with the Advocates Benevolent Association Board by incorporating the Board Members to the Branch visits with a view to sensitizing members on the functions and products under the Advocates Benevolent Association.</p>
Concerns on the process of winding up of Law Firms	<p>Members raised concerns on the need for the Society to provide guidelines on the process of winding up of Law Firms in the event of demise of the proprietor or otherwise the inability to continue with the operations of the Law Firms. The Council through the Practice Standards Committee is working on guidelines on winding up of Law Firms.</p>
Reduced budgetary allocations to the Judiciary hampering its functions	<p>The Council received concerns from Judicial Officers and advocates on the effects of reduced budgetary allocations to the Judiciary in the year 2018 affecting its functions. To mitigate this Council was engaged in advocacy and lobbying for review of the budgetary allocation to the Judiciary. On 27th July 2018, the President of the Law Society of Kenya wrote letters to the National Assembly and the Senate raising concerns on the adverse effects of drastic budgetary cuts of over 70%. The President in his letter requested the two houses to reconsider its decision and funding of judiciary, other Commissions and Independent Offices under the Constitution.</p>
Operationalization of the various Tribunals	<p>The Council received concerns from members on various challenges facing the operations of various Tribunals established by different Acts of Parliament. Among the Tribunals to be fully operationalized the following were identified; Tax Tribunal, Retirement Benefits Appeals Tribunal, Cooperative Tribunal Micro & Small Enterprises Tribunal</p> <p>The Council undertook a review of the sector and identified the following challenges and possible solutions which were communicated to the Attorney General through a petition letter dated 16th January 2019:</p> <ul style="list-style-type: none"> - Inaction by the executive leading to non-appointment/gazettment of members of the Tribunal. Justice delayed is justice denied. The ripple effect of this inaction affects the citizens' right to have matters determined expeditiously which in turn affects investor's confidence and the government's ability to collect revenue. - A system must be set up, in a manner that a vacuum is not created when the term of a tribunal member expires. A guideline should be circulated to all ministries concerned to ensure that at least 6 months prior to the expiry of a member's term measures are already in place to commence the selection process with a view to having new members gazette a month preceding the expiry of the term of sitting members. <p>The Council requested for details of all the various Tribunal with a view to further examination and evaluation of the performance of various Tribunals.</p>

COUNCIL BONDING RETREAT HELD ON THE 2ND NOVEMBER 2018 AT ENASHIPAI RESORT, NAIVASHA

In order to build synergy and improve working relationship amongst the Council members, the Council organised and held a Council bonding retreat held at the side-lines of the Continuous Professional Development Committee Annual Retreat held on the 12th November 2018 at the Enashipai Resort Naivasha.

The Council bonding retreat undertook situational analysis and functional analysis and future dreaming exercise encapsulated in the “walls of greatness” which included looking at how the LSK had been over six months since the Council got into office, keeping in mind the internal and external environmental factors facing the Society. The wall

of greatness is a situational analysis tool that keeps positive frame provided by Appreciative inquiry and a comprehensive look at an organisation provided by the Balanced Score Card Framework. Through the framework the Council was able to analyse what it had achieved in the last six months and what the Council wanted to achieve in the next 15 months. In the end the Council developed a joint strategy to guide the Councils activities.

The walls of greatness were then looked at in the context of the vision, mission and values and the Council came up with their own guiding principles to assist them in achieving their set strategies.



Council members during the Courtesy call to the Chief Justice, Hon. David Maraga.

PRACTICE AND WELFARE MATTERS

The Council through the Branches and through the national office continued to handle matters touching on practice with a view to representing, protecting and assisting members of the legal profession in Kenya in matters relating to the condition of practice and welfare. LSK has the mandate to ensure that advocates maintain professionalism in legal practice and ascertain that consumers of legal services are protected. Towards this end the Council undertook various activities including the following:

A) DEVELOPMENT AND LAUNCH OF LAW SOCIETY OF KENYA LAW FIRM MANAGEMENT MANUAL(2018)

Through an Ad hoc Committee the Council developed a Law Firm Management Manual which covers various aspects of practice and operation on law firms. The Law Firm Manual was launched by the Honorable Chief Justice during the Annual Conference held in August 2018. Copies of the Law Firm Manual are available at the Secretariat at a minimum fee for production cost only. The Law Firm Management Manual is intended to be used as a guide or template adopted by any law firm with necessary modifications, alterations, qualifications and exclusions.

The manual is aimed at.

1. Standardizing the management of Law Firms in Kenya
2. Raising standards of practice within the Jurisdiction
3. Improving the level of efficiency and consistency in the administration and dispensation of justice

The Manual will be reviewed periodically with a view to incorporating any new and emerging practice issues.

B) DEVELOPMENT OF BAR- BENCH PRACTICE GUIDELINES

With the support of the Branches Chairpersons, the Council developed Bar- Bench Practice Guidelines to be used to guide Bar- Bench Committee. The Guidelines launched at the same time with the Law Firm Office Management Manual is aimed at ensuring efficiency in the operations of the Committees. The purpose of these guidelines is to provide information and guidance to members of the Bar and members of the Bench on how to conduct Bar Bench meetings.

The guidelines provide for the following:

- ✓ Terms of Reference for the Bar- Bench Committees
- ✓ Composition/membership to the Committee
- ✓ Manner of carrying our meetings
- ✓ Frequency of meetings
- ✓ Minutes and Resolutions

- ✓ Manner of handling complaints against stakeholders
- ✓ Judiciary Evaluation Template- A monitoring and evaluating tool aimed at evaluating judicial officer's performance advocates and other stakeholders.

C) Establishment of Young Lawyers Mentorship Program

The Council, in its fulfillment of the functions and objectives of the Law Society as stipulated in Section 4 of the Law Society of Kenya Act, No. 21 of 2014, established a Mentorship Board with a view of bridging the gap between the Senior and Young advocates and to provide an environment where professional skills are passed on by seasoned advocates to younger advocates.

On the 9th of August 2018 at the LSK Annual Conference, the Chief Justice launched the LSK Mentorship Manual. The mentorship program as set out in the manual is meant to ensure young advocates, 0-5 years, in practice are mentored by their seniors in the profession, with the intention of creating a strong profession and ensure the quality legal services in the Country is raised to a world class level.

The mentorship manual provides for the formation of a Board whose mandate is to operationalize and oversee the running of the program.

The Board consists of:

- A representative from the ODPP:- **Mrs. Dorcas Oduor, OGW**
- A representative from the Office of the A.G:- **Ms. Marisella Ouma**
- A representative from the Judiciary:- **Hon. Paul Ndemo Maina**
- At least four senior legal practitioners:-
 - ✓ **Justice (Rtd) Lee Muthoga, SC**
 - ✓ **Mr. Nzamba Kitonga, SC**
 - ✓ **Ms. Lucy Kambuni, SC**
 - ✓ **Prof. Patricia Mbote, SC**
- Representatives from the LSK Council:-
 - ✓ **Mr. Allen Waiyaki Gichuhi**
 - ✓ **Ms. Roseline Odede**
 - ✓ **Mr. David Njoroge Njuguna**
- A representative from the Legal Practitioners:- **Ms. Betty Sungura, MBS**

- Three junior practitioners selected from the Young Lawyers Committee:-
 - ✓ **Ms. Aluso Ingati**
 - ✓ **Mr. Brian Mutoro**
 - ✓ **Ms. Bernadette Ochieng**
- A representative from the LSK Secretariat, Secretary to the board:- Ms. Mercy Wambua

The Mentors and Mentees shall comprise of Advocates across all sectors; the Judiciary, the ODPP, the AG, In-house Counsel, Litigating Advocates among others.

Upon deliberation, the Board resolved that the pilot project should commence in June 2019, after extensive consultation and public participation from the membership. The Board shall continuously engage members on the modalities, structure and the form that the mentorship program shall take.

A call for participants and any further communication shall be published and made available to members in due course.

D) HANDLING OF CONCERNS ON HARASSMENT, ARBITRARY ARRESTS AND VICTIMIZATION OF ADVOCATES

✓ Engagement with the Law Enforcement Agencies ;

The Society is engaging law enforcement agencies with a view to development of guidelines to guide Police- Advocate engagements with a view to reducing instances of abuse of advocates by the police. The Council hosted representatives from the Kenya Police Service, the Directorate of Criminal Investigations, and The Administration Police Service on 19th September 2018 for a round table discussion on Advocate Police relations. Through the Nairobi Branch of the Law Society of Kenya, the Society has developed draft guidelines which are in their final stages of consensus building with all the law enforcement agencies. Once finalized, the guidelines will be implemented across the board throughout the Country. The Council will in addition hold periodic engagements with the law enforcement agencies across the Country with a view to building a conducive, cordial working relationship between Advocates and the police including being involved in capacity building of the police on the Bill of Rights under the Constitution among other relevant legal topics.

✓ Protest Against Victimization of Advocates

On the 11th July 2018, the Council petitioned the Director of Public Prosecution, the Attorney General,

Inspector General of Police and the Ethics & Anti – Corruption Commission raising concerns regarding harassment, arbitrary arrest and victimization of advocates including those handling conducting Land Transactions. The Council protested the arbitrary arrests and frivolous and obnoxious processes that their recourse lies with the ministry of lands issuing authentic documents.

✓ Filling of Public Interest Litigation

In order to cushion advocates and members of public from arbitrary arrests including arrests on Fridays and refusal to cash bail or police bond, the Council of the Law Society of Kenya filed two petitions in Court;

Constitutional Petition Number 9 of 2019 Law Society of Kenya versus the DPP & Others

Seeking to protect advocates from harassment by the police while undertaking their legal duties in behalf of their clients. The petition still pending in Court seeks declaratory orders that the inhibition of advocates' rights to represent their clients within the ambit of the Advocates Act by the police contravenes the provision of the Constitution. Further the suit seeks orders of injunction against the respondent from harassing and arresting advocates in so far as it relates their practice of law and before exhaustion of the mechanisms set out in the Advocates Act. Further orders sought are orders compelling the respondents to always release advocates on free bond whenever it becomes apparent that the advocates must be arrested for whatever reason.

Constitutional Petition Number 8 of 2019 Law Society of Kenya versus the DPP & Others

The petition seeks to preserve the rights of an arrested person including right to bail and to be presented to a Court of Law within 24 hours of arrest. The case seeks to protect all Kenyans from arbitrarily and planned arrests on Friday with a view to deny bail and defeat Constitutional Rights. The matter is still pending in Court.

E) ESTABLISHMENT OF COUNCIL AND JUDICIARY QUARTERLY MEETINGS

In order to assist the Judiciary in matters relating to legislation, the administration of justice and the practice of law in Kenya, the Council established strong working relationships with the Chief Justice and other heads of specialized divisions. The first quarterly meeting was held on 31st October 2018. Subsequently meetings will be held on a quarterly basis to review the progress made on various recommendations that will improve the administration of justice and improve bar bench relationships.

Council holds Bar-Bench luncheon

The Law Society of Kenya held a Bar-Bench luncheon on the 31st October 2018 at the Serena Hotel, Nairobi with a view of holding deliberations aimed at enhancing the cooperation of the Bench and Bar towards the overall objective of fostering the administration of justice and the rule of law.

The forum drew participation from the Judiciary, Senior Counsel and Law Society of Kenya Council members led by the President Mr. Allen Gichuhi Waiyaki. The Delegation from the Judiciary was led by the Hon. Justice David Maraga, Chief Justice & President of Supreme Court of Kenya. Present also was the President of the Court of Appeal, Principal Judge of the High Court, Judges of the Supreme Court and Deputy Chief Registrar of the Judiciary among other Heads of various divisions of the High Court.

Lengthy deliberations were held on the role of the Bar and the Bench in the administration of justice, strengthening of the Bar- Bench relationships as well as ways of addressing various challenges facing the judicial system and ways and means of addressing the same. It was agreed, the Bar and the Bench will endeavor to meet frequently in order to enhance the cooperation of the Bench and Bar towards the overall objective of fostering the administration of justice and the rule of law in the Country.

The following are the agreed targets for the first quarter.

FIRST QUARTER TARGET FOR THE BAR- BENCH

1. Review of the Social Media and Media Standards of Etiquette
 - a. Adopt with the necessary modifications the IBA International Principles for Social Media Standards for the Legal Profession. This is work in progress by the LSK Committee on Standards and Ethics. The aspect of Social Media standards will entail an amendment to the LSK Code of Standards of Professional Practice and Ethical Conduct.
 - b. Emphasis on the sub-judice rule to avoid discussing matters in the print media and social media.
 - c. Maintain high standards of ethical conduct by not attacking persons with no right of reply in publications and social media.
2. Consider Amendments to the Advocates (Senior Counsel Conferment and Privileges) Rules, 2011 to provide, inter alia, a code of ethics and standards, disciplinary mechanism involving ADR and the removal process.
3. Promote the pilot scheme mentorship program for young advocates and encourage senior advocates to actively come out and mentor young advocates.
4. Lobby for the judiciary in parliament or elsewhere. Identify

areas that the judiciary needs support

5. Oral submissions in courts- courts should consider allocation of reasonable time where there are weighty issues of law and public importance. The public would also appreciate the oral advocacy skills that will assist the public appreciate the matters in issue.
6. Service week- There needs to be proper planning and consultation between the bar and the bench. There should be at least 6 months of advance notice, case identification and notification of cases to be heard during the service week so that advocates are prepared and witnesses given due notice. The practice has been disruptive and caused cases to be dismissed for lack of adequate notice and preparation.
7. Operationalize the LSK Bar Bench Committee Guidelines. All courts should actively embrace the guidelines that set out quarterly meetings. The best practices in various courts should be reviewed with a view to applying the best practices countrywide.
8. Appointment of more judicial officers to reduce backlog in the various courts.
9. There should be no mentions in any court to take a ruling date when parties have filed submissions. The practice in some courts is to give distant dates for taking a Ruling date when both parties have complied. Judges should manage their cause lists to ensure that there are no delays in the dispensation of justice.
10. The LSK to set up an ad hoc committee to review parts of the Advocates Remuneration Order, the Supreme Court and Court of Appeal taxation costs.

F) ANTI-CORRUPTION & ECONOMIC CRIME DIVISION PRACTICE DIRECTIONS GAZETTE NOTICE 7262

On the 24th July 2018, the Council petitioned the Hon. Chief Justice to consider suspending the implementation of Direction no 3 contained in the practice direction gazette notice no 7262 as the same will lead to delays in hearing and determination of cases, increase in cost of litigation by litigants and witnesses and deny litigants the right of choice of counsel to appear in their matter and or subsequently deny our members equal opportunities to our members practicing outside Nairobi to appear in matters touching on anti-corruption. Direction no 3 provides as follows "All new cases relating to corruption and economic crimes to be filed in the Principal Registry of the Division at Nairobi for hearing and determination".

Subsequently after the petition by the Council, the Chief Justice gazetted several sub- registries and Judges would be able to hear cases at the High Courts at the sub registries.

G) ADDRESSING CHALLENGES FACING LAND ADMINISTRATION AND REGISTRATION EXERCISES

The Council engaged the Cabinet Secretary on various issues touching on the administration and registration of Land.

- Digitization of the Lands Registry- Online processing of Land Transactions
- Challenges with Land Administration and Registration Exercise
- Implementation of Land Regulations

Online Processing of Land Transactions

On the 18th March 2018 the Ministry of Lands issued a Notice through local dairies announcing the temporary closure of the Nairobi and Central Registries for preparation of on – line services. On 4th April 2018 the Principal Secretary issued a public notice for validation of Lands details for online processing. The Council of the Law Society of Kenya intervened in the matter as the process was being implemented in contravention of the Law.

- **Petitioned the Ministry to suspend the implementation of the on-line processing of land transactions.**

On 5th April 2018, the Council petitioned the Ministry to suspend the on line processing of Land Transactions as the same was purporting to enable transfer of properties online, to automatically process spousal consent, land control board consent and county consents in contravention of the laws of the Country. It was imperative to wait for the Land Regulations passed to enable the implementation of the on line registration process.

- **Courtesy Call Meeting on the Cabinet Secretary and Principal Secretary Ministry of Lands**

The President and the Chief Executive Officer paid a courtesy call on the Cabinet Secretary Hon. Farida Karoney to discuss the online processing of Land Transactions. The Council made several proposals including the suspension of the online registration process and formation of a taskforce to consider the various areas of concern before implementation

- **Filed Constitutional Petition no. 144 of 2018 Law Society of Kenya versus AG, Principal Secretary Ministry of Lands & others**

The Council through Henia Anzala & Company Advocates filed the petition seeking for orders. The Petition was certified urgent on 17th April, 2018 and Lady Justice A. Okwany issued the following orders-;

1. A conservatory order in the nature of an injunction is issued restraining and staying the 2nd and 3rd

Respondents from implementing electronic filing of conveyancing documents as per the Notice on e-filing dated 4th April, 2018.

2. The Petition and the Application be served upon the Respondents within 7 days.
3. The matter be mentioned on 2nd May, 2018 for further directions.

Subsequently a Consent was filed in court on 22nd May, 2018 to the effect that;-

1. The 3rd Respondent do establish within seven days an all-inclusive Taskforce comprising of representatives of all relevant stakeholders to develop guidelines for implementation of the electronic land transactions.
2. Specific processes shall continue to run electronically.
3. Applications for registration, transfer, charge, lease, caution/caveat, court orders, consent etc shall run concurrently on electronic and manual form.
4. Members of the Petitioner be granted unfettered access to the physical copies of land records.

- **Taskforce on Electronic Registration and Conveyancing System**

Pursuant to the Consent order, the Ministry of Lands established an all-inclusive Taskforce vide gazette notice 7858. The Law Society of Kenya is represented in the Taskforce by the following members:

1. Charles W. Wamae
2. Paulette Achieng
3. Lucy Sereu Moinket

The Terms of Reference of the Taskforce Include:

To study and review the Land Registration Act, 2012, the Land Registration (General) Regulations, 2017 and Land Sector related laws with a view to formulating guidelines for electronic registration transactions and conveyancing systems. The Taskforce has developed guidelines and subjected the same to public participation and forwarded the guidelines to the Ministry of Lands.

Implementation of Land Regulations

The Council petitioned the Cabinet Secretary on 23rd August 2018 to implement the Land Regulations which were developed with the technical support of the Law Society of Kenya through its Land and Conveyancing Committee. The Council through its letter to the Cabinet Secretary raised concerns on the non-implementation of the Land Regulations especially on the use of the new land forms as set out in the regulations and made the following recommendations:

- ✓ To alert all registries on the changes in the law and train the registry staff on the new regulations.
- ✓ To upload all the land forms in the electronic platform of the ministry
- ✓ To ensure the procedures of extension of leases, change of user and other land administration functions follow the due process set out in the Lands Regulations
- ✓ In consultation with National Land Commission to set up a multi-disciplinary working committee to coordinate the implementation of migration of the various land registries.
- ✓ To revise the Community Land Regulations to factor the changes proposed by parliament and have these regulations re-gazetted as soon as possible.

Challenges with Land Administration and Registration Exercise.

On 4th October 2018, the Council further petitioned raising the following concerns on the operations of the registries affecting administration and registration exercise. The LSK President, Mr. Allen Gichuhi wrote a complaint letter to the Cabinet Secretary Ministry of Lands Hon. Farida Karoney over the massive delays of all land registration processes at the central registry, the Nairobi registry and the collector of stamp duty department. Due to the transfer of all the officers in the Accounts Office, Clerical officers and Office of the Collector, there has been inability to process the relevant booking receipts, paralysis within the banking halls and lack of endorsement for stamp duty payments respectively.

The LSK therefore called upon for the urgent intervention by the Ministry to arrest the current dire situation by regularizing all functions enumerated in the letter above since it may expose the registry to unprecedented integrity issues that will undermine the due performance on the entire ministry

- **Absence of Chief Registrar** - The office of the Chief Land Registrar remained without substantive head for several years. The delay in making the appointment resulted to great inefficiencies in the registries generally
- **Absence of Key Staff**- Several Registries in the Country were operating with very minimal staff affecting service delivery. The sections affected the most included; stamp duty office, Registry superintendent, valuations, registrations and land rent section
- **Change of User/Extension of Lease process.** The Council raised concerns and the need for the Ministry to engage the National Land Commission in the process of change of user/extension of leases to avoid legal challenges

H) BUSINESS REGISTRATION PROCESS

The Council engaged the Acting Director General, Business Registration Services on challenges facing the Registration process. On 18th May 2018, the Council petitioned the Director General identifying myriad of challenges facing the electronic registration system and made suggestions on ways of improving the same.

The highlighted challenges included;

1. Missing company files making it impossible to undertake search when the files are been converted
2. Challenges facing the registration of securities by a third party under the Movable Property and Securities Rights Act.
3. The system as currently set up is ineffective and results in costly delays and erodes investor confidence.

The Council recommended the formation of a taskforce to provide urgent solutions to the serious issues highlighted by the Council.

- **Joint working Committee between Council and the Office of the Attorney General**

The Council of the Law Society of Kenya during its courtesy call on the 11th of June 2018 to the Honourable Attorney General submitted a Memorandum outlining critical issues affecting the legal profession. With a view to addressing all the issues raised in the LSK Memorandum of 11th June 2018, the Hon. Attorney General constituted a Committee comprising of officers of the Office of the Attorney General and Department of Justice and the Law Society of Kenya Council Members to jointly review the issues raised in the LSK Memorandum, to consider the position of the Office of the Attorney General on the issues raised and to compile a Report with recommendations to address the issues raised.

The Committee convened its inaugural meeting on 2nd August 2018 and held a total of seven meetings between the months of August and November 2018, to discuss the broad issues raised in the LSK Memorandum as follows:

- A. Mentorship, Practice Standards and Bar-bench practice directions
- B. Contempt of Court Orders
- C. Procurement of external Legal Services
- D. The Fight against Corruption
- E. The process of formulation of Bills and amendments to various Statutes
- F. Business Registration Services
- G. State Counsel to take out Practising Certificate and Attend CPD
- H. Building Capacity of State and Improving their terms of Service

- I. Decentralization of the Office of the Attorney General
- J. Strengthening and support to the Advocates Disciplinary Tribunal
- K. Support to Legal Aid
- L. Legal Education Standards (Advocates Training Program)
- M. Higher Education Loans Board (HELB) support to the Advocates Training Program

The joint Committee finalized its work and submitted its report to the Hon. Attorney General. The Report contains recommendations to address the issues discussed and proposals on the implementation of the recommendations.

I) GUIDELINES ON ROBBING BY ADVOCATES

The Council took note of directions on robing requirements by Advocates issued by various Court stations throughout the County and noted that Courts issued different directions which sometimes conflict with each other. In order to streamline the practice through its Practice Standards Committee petitioned the Hon. Chief Justice on the need to have uniform robing requirements in order to avoid the challenges caused by the uncertainty which had led to advocates been denied audience by several Courts for not appearing before particular Courts while robed. The Council held deliberations with the Branch Chairpersons and prepared guideline on robing which was communicated to members and the Chief Justice. The directions provided that:

1. Advocates should robe in the Supreme Court and the Court of Appeal during main hearings
2. Robing in the High Court is compulsory
3. No requirements for advocates to robe before any magistrates courts
4. Advocates to notify LSK Secretariat if they are denied audience in any Court for not robing or encounter any notice in Courts contrarily to 1-3 above

In order to preserve the dignity of the Court and legal profession generally, the Council reminded advocates to adhere to the LSK Dress Code (2013) requiring them to dress appropriately before all Courts and Tribunals sessions.

J) INITIATED THE PROCESS OF REVIEWING THE ADVOCATES REMUNERATIONS ORDER

The Council has set up a Committee to consider the review of the Advocates Remuneration Order. The Ad Hoc Committee to be chaired by Benjamin Musau Advocate will consider the necessary amendments to the Advocates (Remuneration) Order, 2014, the Court of Appeal Rules, 2010 and the Supreme Court Rules, 2012 in matters pertaining to taxation and costs.

K) SUPPORT FOR STUDENTS OF KENYA SCHOOL OF LAW ADVOCATES TRAINING PROGRAM

In the last five years Law Society of Kenya has noted the growing in ability of students to undertake the Advocates Training Program due to inability to pay the school fees. To mitigate this, the Council of the Law Society of Kenya held deliberations with various stakeholders and lobbied the Higher Education Loans Board to establish a fund that will support students undertaking Advocates Training Program. The Council submitted a joint memorandum with Kenya School of Law to the HELB and held discussions with the HELB on establishment of a sector specific fund that will cater for Advocates Training Program. Negotiations are ongoing and Council of Legal Education has confirmed that the Fund should be established by June 2019. The fund will however cater for Examination Fees only in the first instance as deliberations to expand the same to cover training fees continues with stakeholders.

L) THE COUNCIL LAUNCHES THE MALINDI ADVOCATES LOUNGE

Pursuant to member's resolution mandating the Council to furnish the Malindi Advocates Lounge, the Council furnished the Malindi Advocates Lounge at the Malindi Law Courts and officially launched the same during the LSK Council Coast Branch visit. To grace the occasion was Hon. Chief Magistrate Dr. Julie Oseko and Judge James Olola who congratulated the Council for the good work it has continued to undertake. Members were elated and appreciated the Council for furnishing the lounge which will be used not only by advocates practicing in Malindi but also by other advocates from across the Country who attend Courts. Members now have a spacious, well-built and furnished lounge they call their own to relax as they await for court sessions and have meetings. The furnishing included provision of basic requirements including office seats (sofa sets), reception desk, secretarial chair and water dispenser.

M) DEVELOPMENT OF ANTI-MONEY LAUNDERING GUIDELINES

The Council with the support of the GIZ has started the process of developing Anti Money Laundering guidelines. The overall objective of the project is to develop a framework that guides the legal profession in the effective provision of their legal services while fully complying with domestic and international standards and obligations for Anti-Money Laundering (AML). The global fight against money laundering and terrorist financing has gained momentum, largely due to the scale

of crimes associated with money laundering and the widespread social and economic harm they cause in the countries where such crimes is rampant. Advocates may become vulnerable to exposure to money laundering activity in the course of representing their clients and may find themselves being prosecuted for various money laundering offences such as the acquisition and possession of proceeds of crime, or assisting another to retain the proceeds of crime or being called as witnesses in such cases in this regard and in order to protect the Legal Profession, advocates are required to equip themselves with the necessary tools, knowledge and guidance to enable them handle cases of money laundering and represent their clients effectively, while protecting themselves from the risks associated with the said activities and protecting public good.

Due to the negative and far reaching impact of money laundering to the financial system and of terrorism globally, the Financial Action Task Force (FATF) was set up as the global standard setting body for AML compliance. FATF has come up with guidelines known as the FATF Recommendations which criminalize the offence of money laundering and terrorist financing and comprise of various guidelines to prevent money laundering and terrorist financing.

In this regard, countries are required to have appropriate legislation in place with adequate safeguards to fight money laundering and terrorist financing, which must comply with the FATF recommendations. Under the FATF recommendations, the key measures for fighting Money Laundering activity are;

- a) Know your customer and customer due diligence both at entry level and in on- going customer relationships (including establishment of beneficial owners for corporate)
- b) Transaction monitoring to detect suspicious activity
- c) Watch list screening against FATF recommended sanctions list to detect possible Terrorism Financing activity.
- d) Suspicious activity reporting (internal and regulatory)
- e) Training of staff on AML awareness
- f) Record keeping- 7 years
- g) Sanctions/ penalties for noncompliance.

These basic tenets are incorporated in AML legislation in all jurisdictions, including Kenya with the key objective of ensuring that criminals are not allowed to derive a financial benefit from the proceeds of their crimes. The recommendations place critical importance on the role of banks and other financial institutions such as insurance companies, investments banks, payment service providers

in the fight against money laundering/ terrorist financing and also extend the obligations to designated non-bank financial entities or professions such as casinos, forex bureau, real estate agencies, lawyers, accountants, tax advisors et who may deal with proceeds of crime in the course of their business. The preparation of the guidelines is spearheaded by the Practice Standards and Ethics Committee of the Law Society of Kenya convened by Mr. Kipkoech Ngetich, Council Member. Other Committees involved in the process include the In House Counsel Committee and Land, Environment and Conveyancing Committee.

The Council will use a participatory approach which includes desk review of the international best practises, Laws, subsidiary legislation, reports on advocate's compliances with AML & CFT Requirements. The Committee will interview selected stakeholders and in collaboration with the LSK Branches organize stakeholder workshops to receive feedback on the draft guidelines and finally subject the guidelines to members' validation process.

N) SUPREME COURT PRACTICE DIRECTIONS

The Law Society of Kenya is represented in the Bar- Bench Committee is working on the Supreme Court Practice Directions by Nzamba Kitonga, SC. The Law Society of Kenya was invited by the Hon. Chief Justice to make presentations on the Supreme Court Practice Directions. The Hon. Chief Justice is mandated to issue practice directions to facilitate the better carrying out of provisions of the Supreme Court Rules.

The Society considered the draft Supreme Court Practice Directions and made recommendations on areas that required improvement including;

-]
- The granting of powers to the Registrar to reject documents at the registry at the first instance of filing. The registrar should exercise his/her powers under Rule 4A (1)(b) by addressing any and all non-compliance with provisions on filing at the onset of the application for appeal in order to save judicial time. It should however be noted that stringent requirements as to filing may violate Article 159(2) (d) which prohibits denial of justice due to procedural technicalities.
- The Supreme Court should introduce a Certificate of Delay mechanism similar to that of the High Court with regard to the filing of the record of appeals. This would limit the current practice of filing applications to have the record admitted out of time on routine matters such as the delay by the Court of Appeal to supply the proceedings, thus saving judicial time. Furthermore, the



The Chief Justice Hon. David Maraga addressing the Council at his chambers.

Practice Directions should give directions on filing of submissions on routine and uncontested applications.

Other areas covered included:

- ✓ Filing of cases electronically
- ✓ Filing of applications, submissions and authorities
- ✓ Hearing of urgent applications and appeals
- ✓ Withdrawal of matters before the Court
- ✓ Fixing of dates
- ✓ Adjournments
- ✓ Process service

MEMBERS GROUP MEDICAL COVER

The Society continued to partner with Mega Health Agencies and various Companies including Madison Insurance and AAR to provide members with comprehensive medical cover for themselves, members of their families and members of staff working in their law firms and their dependents.

Currently the Scheme comprises of:

- A. LSK Madison Scheme A and B
- B. AAK Wakili- with additional benefits such as professional indemnity and Personal Accident Cover
- C. The Young Lawyers Medical Scheme under Madison Insurance
- D. Nairobi Branch Lawyers underwritten by AAR Insurance
- E. LSK Madison Kisumu Medical Scheme

F. LSK Madison Mombasa Medical Scheme

SPECIAL FEATURES OF THE SCHEME

- a) No medical examination required
- b) General waiting periods are waived
- c) Open panel providers
- d) Discounted medical premiums
- e) Covers prematurity/congenital conditions
- f) Pre-existing/ newly diagnosed conditions are covered

The partnership with Branches has seen an increase in uptake by members although not many lawyers are currently covered. The scheme has been ongoing for the last three years. As at December 2018, registered members under the scheme increased from 43 advocates under AAR to 57 while those registered under Madison Scheme increased from 304 in 2017 to 453 in 2018. The Council encourages members to take up the medical cover.

The Council is also currently pursuing other schemes with a view to giving members wider variety of options and competitive rates. The Council is currently engaging UAP-Old Mutual Health with a view to providing a tailor-made cover for members across the Country.

COURTESY CALL MEETINGS

COURTESY CALL ON THE HON. CHIEF JUSTICE & PRESIDENT SUPREME COURT OF KENYA HON. JUSTICE DAVID MARAGA.

The Council paid a courtesy call to the Chief Justice, Hon. David Maraga at his chambers in Supreme Court on 14th May 2018. The Council presented a memorandum to the Hon. Chief Justice on the Council's priority areas and on matters requiring the Hon Chief Justice's prompt intervention.

The Council raised several concerns affecting practice and administration of Justice in the Country including the need for the Judiciary to address the issue of backlog, transfer of judicial officers without proper notice leading to disruption in determination of cases and in some instances leading to miscarriage of justice. The Council suggested the need to give Judicial officers at least three months' notice before transfer to allow them time to finalise cases that they were handling. The Council also raised concerns regarding shortage of judicial officers causing a lot of challenges in most parts of the Country for instance the case of Eldoret where the High Court had been left without a judge for a long period of time following the transfer of three Judges thereby paralysing service delivery. Concerns were raised on the unreasonable delays in gazettment of succession matters were gazettment took up to three months which is an impediment to justice. Other issues raised included the need to improve infrastructure at the various Court stations throughout the country, issues of Duplex Charge Sheets, the need to have the bail and bond reviewed, need to issue practice directions on issuance of eviction orders and need for the Judicial Officers to adhere to the recommended court timelines to handle applications for injunctions among other issues touching on administration of justice.

The Council shall continue to engage the Chief Justice on matters of administration of justice from time to time and request members to forward through the Secretariat any issue that requires the intervention of the Council in good time.

COURTESY CALL ON THE ATTORNEY GENERAL, HON. JUSTICE (Rtd) PAUL KARIUKI

The Council paid a courtesy call to the Attorney General (AG) Hon. Justice Kihara Kariuki at his office on the 11th June 2018. The Council presented a memorandum to the AG on their priority areas and on areas that sought his intervention. The Council raised concerns on the following issues that required urgent intervention by the Attorney General.

1. Disobedience of Court Orders by Government and Government officials.
2. Challenges facing the procurement of legal services by Government, nonpayment of legal fees for work done by advocates on behalf of the Government.
3. Need for State Counsel to be made active members of the Law Society of Kenya through payment of the subscription fees in order to enable them benefit from services provided by the Law Society of Kenya including capacity building through Continuous Professional Development Program
4. The Council urged the AG to advise the government on the need to strengthen the anti-graft laws and have necessary policies towards total eradication of corruption in the country.
5. Other matters discussed included recommendation of formation of a taskforce to address various challenges facing the business registration service.



Council Members pose for a group photo with the Chief Justice Hon. David Maraga.



Council members pose for a group photo with the AG Justice (Rtd) Kihara Kariuki at his offices.

6. The need for the office of the Attorney General to be decentralized and sufficiently staffed for enhanced efficiency

7. Engagement with the office of the AG on Law Reform process.

In order to adequately address all the issues raised by the Council the Attorney General established a joint Committee between LSK Council and representatives from his office to deliberate and provide recommendations. The Joint Committee held numerous meetings and submitted a report to the Attorney General setting out various recommendations towards addressing the various concerns raised by the Council.

COURTESY CALL ON THE ETHICS AND ANTI-CORRUPTION COMMISSION

The Council called on the Chairperson of the Ethics and Anti-corruption Commission Archbishop (Rtd) Eliud Wabukala flanked by the CEO Mr. Halakhe Waqo, Commissioners; Rose Macharia, Paul Mwaniki and Dr. Dabar Maalim and Mr. Abdi Mohammed, Director Investigations and Mr. David Too, Director Legal services.

The meeting explored areas of collaboration and strategic engagement to create synergies. The Council highlighted the following:

- ✓ The need for the EACC to establish and maintain strategic linkages and partnerships with other stakeholders including the private sector, civil society organizations, faith based organization etc.
- ✓ The LSK plays a very significant role in the fight against corruption as it is the most unique and inherent feature being that of a watchdog towards government.
- ✓ The LSK urged EACC to build synergy through the Justice Cup Tournament whose theme focused on kicking out corruption as a way of creating awareness on the need to kick out the vice out of the country
- ✓ The need for EACC to observe the Client- Advocate Privilege Rule while undertaking investigation and refrain from harassing of advocates on account of fees earned and investigations on various aspects touching on clients matters.
- ✓ The Commission and the LSK to engage the salaries and remuneration commission on the implementation of non-practicing allowance circular issued on 11th June 2010.



Council Members pose for group photo with the Chairperson of EACC Archbishop (Rtd) Eliud Wabukala flanked by CEO and Commissioners.

COURTESY CALL ON THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION

The Council led by the LSK President, Mr. Allen Gichuhi paid a courtesy call to the Independent Electoral and Boundaries Commission (IEBC) Chairperson Mr. Wafula Chebukati and the Commissioners. The Council raised concerns on unpaid legal fees to many advocates who had provided and continue to provide legal services to IEBC. The Chairman of the Commission assured the Council that he was following on the issue to ensure that advocates legal fees was paid without further delays although he explained as having had challenges of limited funding from the treasury.



Mr. Wafula Chebukati, Chairperson of IEBC addressing the Council led by LSK President Mr. Allen Gichuhi at the IEBC offices.

On the same breath the Council requested the IEBC to kindly share with the Law Society of Kenya notices for prequalification of legal service providers in future and that way the Society would publish the information to members for wider reach and avail equal opportunities to many advocates.

After deliberations it was agreed that the Council will partner with the IEBC on the following key areas:

1. Undertake continuous civic education with a view of sensitizing citizens on good governance, democracy and aspects of elections management.

2. Law reform on electoral laws and review of various policies.
3. Capacity building of advocates through seminars and CPD forums on electoral laws and policies.
4. Preparation for election observation including capacity building of advocates on election observation, relevant tools and fundraising.

COURTESY CALL ON THE DIRECTOR OF PUBLIC PROSECUTION (DPP)

The Council paid a courtesy call on the Director of Public Prosecution (DPP) Mr. Noordin Haji at his offices at the NSSF building on 21st May 2018. The Council was led by the LSK President, Mr. Allen Waiyaki Gichuhi who presented a memorandum to the DPP on areas of intervention.

The Council raised several concerns with a view of assisting the government and the courts in matters relating to legislation, administration of justice and the practice of law in Kenya. The concerns included the non-involvement of legal practitioners in the plea bargain process and delays in processing of plea bargaining cases. The Council proposed to have a reasonable timeframe within which the DPP handles plea bargains, it was agreed that the Council will partner with the ODPP in the process of developing plea bargaining guidelines. The Council also raised concerns regarding appeals that were heard by mixed benches which have not been fixed for hearing despite the Supreme Court's decision in 2017 ordering the same to be heard afresh, a proposal to have concerted efforts between the Judiciary, the DPP's office and pro-bono lawyers was floated with a plan to have a service week for the appeals.

The Council requested the DPP to ensure that Sexual Gender Based Violence (SGBV) cases and Children's cases are dealt with carefully and the need for utilization of the (SGBV) special prosecutors and ensuring that no criminal case against a minor proceeds without the minors having legal representation. Other areas of concern discussed were the need to deal with the rampant cases of duplex charge sheets which have resulted to backlog and acquittal of suspects on defective charge sheets, the Council will work with the DPP to review the various charge sheets and come up with a compendium of templates of charge sheets which can guide the police and prosecutors when preferring charges against suspects. The Council raised concerns on the increased cases of harassment of advocates by police officers which is hampering the independence of the legal practitioners, the Council sought for directions to be issued to the effect that no advocate should be arrested by the police without the knowledge of the Law Society of Kenya and that the DPP needed to review all files against advocates before charges are placed against them.

The DPP Mr. Noordin Haji appreciated the Council for meeting with him and promised to find common grounds of working with the Council. He proposed to set up a task force from his office that would work with LSK in developing guidelines which will be exhaustive on plea bargain; he was in agreement with the need to utilize the special prosecutors to prosecute GBV cases which have been rampant. On the appeal he reinforced the need to work jointly with the Judiciary, LSK and his office and further noted that he will institute an internal affairs unit to enforce the code of conduct. To deal with the shortage of prosecutors, the ODPP will hasten the pending recruitment of prosecutors and appoint a liaison officer in his office to work jointly with the office of the Inspector General of Police to handle any reported cases of harassment of advocates. The Council will continuously engage the DPP through biannual engagements.

COURTESY CALL ON THE SENATE STANDING COMMITTEE ON JUSTICE, LEGAL AFFAIRS AND HUMAN RIGHTS

The Council paid a courtesy call to the Senate Standing Committee on Justice, Legal Affairs and Human Rights at the Parliament Building, Nairobi. The Council presented a memorandum to the Committee on areas of collaboration and those that needed the committee's prompt intervention. The Council in its commitment to ensure that the Law Society of Kenya achieves its mandate and objectives under the LSK Act 2014, specifically to assist the Government and the courts in matters relating to legislation, the administration of justice and the practice of law in Kenya, the Vice President (who presented the Memorandum on behalf of the LSK President Mr. Allen Gichuhi) stressed on the need to:

- Collaborate/partner with Senate Standing Committee on Justice Legal Affairs and Human Rights In preparation of necessary legislation, offer technical expertise needed in legislative drafting at county level, partner and influence policies



Council Members with the DPP Noordin Haji during the courtesy call.

for counties. The Senate and LSK will designate officers for purposes of sharing information and tracking of bills.

- Partner and conduct civic education at branch level
- Closer working relationship with the Attorney General and County Attorneys to enable synergy between the two levels of government so that decisions emanating from the two offices are consistent.
- Have LSK through its various Committees partner with Senate in drafting and reviewing of various pieces of legislations and policies touching on devolution, data protection, and local content among others.
- Partner with Senate to create channels and platforms for pupillage especially at county level as resources are limited in law firms to take up pupils.



Council members pose for a group photo with the Senate standing committee on Justice, Legal Affairs and Human Rights Committee during the courtesy call.

The LSK requested the Senate to consider the Memorandum submitted by the Council on the County Attorney Bill and the need to have the expected qualifications/experience for one to be appointed as a County Attorney reduced from 10 years to 5 years' experience in order to give opportunity to many advocates practicing at the County level. It was noted that Supporting Inclusive Resource Development in East Africa (SIRD), a Canadian project collaborating with LSK) has experts who are willing to assist in reviewing legislations touching on the extractives sector. Other matters discussed were: LSK requested the Senate to involve the LSK ICT Committee, led by Maria Mbeneka Council member in provision of expert opinions on ICT related issues including but not limited to Data Protection Bill, the need to create a pool of lawyers in each county to partner with counties especially Young lawyers who are willing to assist on voluntary basis and need to form a caucus to share ideas between Senate & LSK members.

The Chairperson of the Senate Standing Committee on Justice Legal Affairs and Human Rights, Senator Samson Cheragei, assured LSK of their full support. Representatives of the Law Reform, Devolution and Constitutional Implementation Committee, chaired by Ms. Herine Kabita, Council member were also present during the Courtesy call meeting.

COURTESY CALL ON THE KENYA LAW REFORM COMMISSION

The Council paid a courtesy call on the Kenya Law Reform Commission (KLRC) on the 21st June 2018 during which various issues touching on the LSK's key mandate and areas of collaboration were discussed.

The Society in its memorandum raised concerns and various propositions as below:

- ✓ Collaboration in reviewing of numerous bills; through the Law Reform Committee the Law Society of Kenya had the capacity to critic numerous bills
- ✓ Collaboration between the Commission and Law Society of Kenya in undertaking citizens participation on various draft legislation as required by the Constitution.
- ✓ It was emphasized that there is a huge challenge at the county level due to the vast array of poorly drafted laws which weakens the quality of legislation and indicated that its urgent to improve the quality of legislation to ensure that it complies with the letter and spirit of the Constitution which is equally important and various trainings around the counties be undertaken to enhance the capacity of drafters at the county level. The Council offered to assist the Commission with the drafting of County legislation through its members who have extensive expertise in legislative drafting.
- ✓ The Council highlighted on the need for the Commission to draft and review legislations which focuses on the prevention of corruption and asset recovery as part of anti-corruption campaign
- ✓ Review of the Workmen's Injuries Compensation Act: the Council highlighted various challenges facing the implementation of the said Act and sought the urgent intervention of the Commission to have various Sections of the said Act reviewed



The Council with officials from Kenya Law Reform Commission during the courtesy call.

with a view to enhancing access to Justice. Among the key identified areas of review is the requirement to have claims determined away from the Court as well as the statutory limitation of time prescribed as one year while the standard limitation timelines for tort is three years. The Council later presented a petition to the Commission highlighting the areas that require urgent review and align the Act with the current constitution and best practice from other jurisdictions

ENGAGEMENT WITH THE SENIOR COUNSEL AND REPRESENTATIVES OF THE YOUNG LAWYERS COMMITTEE

To strengthen the legal profession through inclusivity by exploring the role of the Senior Counsel in reinvigorating the Legal profession, the Council hosted the Senior Counsel to a luncheon on the 27th June 2018 at Serena Hotel, the forum brought together Senior Counsel, Council and representatives of the Young Lawyers Committee convened by Ms. Aluso Ingati, Council member.

The following key issues were deliberated during the luncheon.

1. The role of the Senior Counsel in transforming the Society by: provision of advisory opinion on work of the Council, including actively participating in the Society's activities
2. Mr. Lee Muthoga, SC gave a key note speech on the Role of Senior Counsel in Mentorship. Senior Counsel were called upon to play a critical role in mentorship program under the Law Society of Kenya.
3. Mr. Fred Ojiambo, SC in his key note speech on Strengthening the Legal Profession; The Role of Senior Counsel, stated that SC's role is crucial and occupy a position of privilege since their etiquette has been built overtime. He indicated that the Society needs role models: lawyers who have a clear valued system, who will and aim to pass values to the younger ones for example value of respect ad responsibility. He appreciated the SCs who have put efforts to bring the Society together and added that they should converge often to discuss issues at hand.
4. The Role of Senior Counsel in mentorship and unification of the profession bringing together the juniors and the seniors.
5. It was noted that there was need for the Council to develop guidelines prescribing duties, powers and privileges of the Senior Counsel as required under the Advocates (Senior Counsel Conferment and Privileges) Rules 2011.



Chairperson of the Senior Counsel Committee Mr. Fred Ojiambo, SC addressing members.



Members pose for a photo after the meeting.

INDUCTION OF THE ADVOCATES DISCIPLINARY TRIBUNAL

The Council conducted an induction of the Disciplinary Tribunal members in a seminar held at the Intercontinental Hotel, Nairobi on 13th – 14th June 2018.

The seminar aimed at sensitizing members of the Tribunal on the disciplinary process gave an opportunity for Council members and representatives from the Advocates Complaints Commission to participate in the training seminar. Under the Advocates Act, Council members are called upon to serve as Tribunal Members when for whatever reason the Tribunal cannot form a quorum and hence the need for them to be sensitized on the Tribunal processes

The following were some topics presented and deliberated during the two days induction seminar;

- Legal Framework for Advocates Disciplinary Process Institutions involved in Advocates Disciplinary, by Ms. Mercy K. Wambua, Secretary/ CEO LSK.
- The Role and Mandate of the Advocates Complaints Commission Mr. Beuttah Siganga, Chairperson of the Advocates Complaints Commission (ACC).
- Procedure of hearing complaints, applications and submissions, formal proceedings, decision making/ findings, sanctions and harmonization of judgments and sentences (sentencing guidelines manual 2012) by Professor George Ochich, former member of the advocates disciplinary tribunal and Ocharo Kebira, former member of the Advocates Disciplinary Tribunal.
- Composition, powers and duties of the disciplinary tribunal the role of the disciplinary tribunal in the legal profession and the society by Ezekiel Wanjama, Chairman Disciplinary Tribunal.
- Perspectives from Prosecutors by George Nyakundi, Secretary to the ACC and Defence Counsel by Robert Wanga, Advocate.
- Enforcement of the Disciplinary Tribunal Decisions: (Execution of Orders), Reviews, Judicial Reviews and Appeals, Applications for restoration to the Roll by James Nyiha, Advocate/LSK prosecutor.
- Overview of the Disciplinary Tribunal Rules (1990) by Gladys Wamaitha, Member Advocates Disciplinary Tribunal.
- Challenges facing the disciplinary tribunal, self-evaluation of the disciplinary tribunal performance by Assa Nyakundi, Member Advocates Disciplinary Tribunal.
- The Role of the Judiciary in Advocate's Disciplinary Process-Supporting the work of the Tribunal (Judicial Review & Appeals) by Justice Charles Kariuki- Presiding Judge Makueni High Court.
- Criminal offences under the Advocates Act by Jacqueline Njagi, Senior Principal Prosecution Counsel ODPP.
- Discipline in a Profession: Challenges and Lessons from

the Medical Profession by Dr. Daniel M. Yumbya, CEO Kenya Medical Dentist & Practitioners Board.

- Place of the Lawyers Assistance Program in the Disciplinary Process by Dorcas Kitaa, Chairperson, Advocates Benevolent Association.

The two day seminar came to a close with a call to the Tribunal members to retool, rebrand and invigorate the Tribunal and to have new ideas and ways of operation.

COUNCIL THROUGH THE IN-HOUSE COUNSEL COMMITTEE HOLDS AN INAUGURAL IN-HOUSE CAUCUS

The LSK Council through the In-House Counsel Committee chaired by Council member Ms. Ndinda Kinyili, organized and held the inaugural In - House Counsel Caucus at Safaricom's Michael Joseph Centre. The forum held under the theme 'Governance as the Epitome of Successful Organizations - the Role of the 21st Century In - House Counsel' whose main speakers were Ms. Joy Mdivo, Executive Director - East Africa Center for Law and Justice and Mr. Paul Muthaura, CEO Capital Markets Authority.

The plenary elicited a number of challenges facing the in-house counsel including; cost cutting which in turn leads to departments being overstretched, challenge of retaining counsel in startup businesses and on legal consultants who are often left out in extensive discussions on the grand scheme of things. Emphasis was laid on the need for In House Counsel to-;

- Cut out a niche and be unique in their operations to the extent that they become resource persons for their organizations and for startup businesses.
- Form consortiums of professionals in the same line of practice to have leverage since there is usually greater bargaining power in numbers.
- Understand the technical aspects of your organization so that in-house counsel become more than just compliance persons but reference and resource persons.
- Adhere to the profession's code of ethics and standards.
- Adopt Preventive Lawyering – identify risk elements of the organization's activities and recommend mitigating factors.
- Re-engineering themselves by embracing evolving technology and inculcating the same at their organizations to provide more efficient solutions.
- Play a bigger role the in-house committee and the numerous forums to engage with other practitioners, share ideas and network.

The event was attended by over 100 in-house counsels from different organizations within the public and private sector.

LSK HOSTS A DELEGATION FROM MALAWI

The LSK CEO Ms. Mercy K. Wambua hosted a delegation from Malawi. The delegation was led by Mr. Philip Sabuni of Paralegal

Alliance Network in Zambia and Mr. Clifford Msiska, Paralegal Advisory Institute in Malawi. In attendance and accompanying the team was Ms. Caroline Amondi, Acting Director National Legal Aid Service. The team was in Kenya on a benchmarking mission on the structures, laws and policies Kenya has put in place to embrace provision of legal aid by Paralegals.

The team paid a courtesy call on the LSK to learn on the linkages between lawyers and paralegals. Deliberations were held on regulatory framework, training and discipline of paralegals in Kenya and in Malawi. The courtesy afforded an opportunity to the institutions to share best practices with a view to strengthening the paralegal sector. The team was delighted to note that Kenya is one of the very few countries that have embraced paralegals.

LSK PARTNERS WITH US EMBASSY TO IMPROVE KENYAN JUSTICE SECTOR

The Society hosted officials from the USAID's Sector Governance (USG) Justice Sector Assessment Team, Mr. Greg Gisvold and Dr. Collins Odote of Chemonics International Inc at the Secretariat where they discussed on how the team will collect and review key documents on the justice sector; background material on issues affecting the justice sector; and applicable sections of USAID and U.S. government project documentation with a purpose of identifying ways in which the US Embassy can improve its assistance in the Kenyan Justice Sector.

The Embassy identified LSK as a key partner in the justice system where they will carry out an assessment of Kenya's justice sector, including an analysis of the current sector, GOK priorities in advancing the rule of law and justice sector in Kenya, a mapping of current justice sector programming, and recommendations for USG assistance.

The team will interview actors across the Kenyan justice sector and donor community to examine the Kenyan justice sector's (police, prosecutors, judges, etc.) current environment, needs, and gaps, including primary challenges and opportunities in advancing the rule of law and strengthening the justice sector, current programming, and the Government of Kenya's priorities for reform. The analysis and recommendations will address, but not limited to, the following key issues:

- Independence of the judiciary
- Access to justice
- Criminal justice system, specifically case backlog and court-appointed criminal legal representation
- Corruption in the justice sector
- Active and electronic case management

- GOK interagency systems and communication
- Links between the justice sector and violent extremism and/or radicalization
- USG, GOK, local and international programming in the justice sector

CONSULTATIVE FORUM ON CONSTITUTIONAL REVIEW

The Law Society of Kenya, Federation of Women Lawyers (FIDA) and International Commission of Jurist (ICJ-K) held a joint half day consultative forum on Constitutional Reforms in Kenya at the Four Points by Sheraton Hotel in Nairobi on the 14th November, 2018. The forum brought together advocates whom in consensus agreed that the Constitution should be evaluated first before proposing any changes and further indicated the need to focus on the supreme law.

The lawyers noted that there is need for full implementation of the current Constitution before proceeding to push for its amendment while also defining the problems that need to be addressed since currently the Country is not at a moment where the Constitution needs radical amendments but rather urge Advocates to ensure there is full implementation of the Constitution.

It was noted that Constitutional reform process should be participatory, inclusive, and transparent and one that assists in building consensus around a shared vision of a society.

Lawyers have the responsibility to promote the purpose, values and principles of the Constitution, protect and preserve the Constitution and further protect the interest of the public. LSK members were challenged to play their respective roles to ensure the full implementation of the Constitution. It was noted that there is need to conduct an in-depth analysis of the Constitution starting with: monitoring and evaluation, analysis of the implementation indicators of the Constitution, analysis of the gaps and challenges that have faced the implementation of the Constitution.

The forum ended with the development of a communique highlighting the pertinent issues raised with a call to His Excellency the President to forthwith demonstrate goodwill by ensuring that the executive, and legislature unlocks the impasse in the constitution of the Judicial Service Commission by gazetting the duly elected representative of the Court of Appeal; prioritize reforms in the Independent Electoral and Boundaries Commission by ensuring that positions that were vacated are filled according to the Constitution amongst other issues.

ENGAGEMENT WITH INTERNATIONAL DEVELOPMENT LAW ORGANIZATION (IDLO)

The International Development Law Organization (IDLO) County Director, Mr. Romualdo Mavedzenge hosted a roundtable lunch meeting with a section of the LSK council led by LSK President Mr. Allen Gichuhi at the Panafric Hotel. The purpose of the meeting was to establish areas of synergy and partnership relating to enhancing application of rule of law, human rights, good governance and access to justice and legal aid.

The meeting broadly identified the following possible areas of collaboration and partnership;- Electoral Disputes Resolution (EDR) – advocate for enhanced regulations on EDR and training of lawyers ahead of the next elections, Environmental Justice – enhance jurisprudential awareness and programs on Public Interest matters on environmental justice, Develop reference tools and knowledge products for Court Users Committee, Initiate strategic law reforms through engaging with members of the National Assembly and sectoral stakeholders, capacity building of advocates in various emerging areas and enhance the Young Lawyers Mentorship program amongst other areas. IDLO is an international inter-governmental organization devoted to enhancing the rule of law, promoting peace, justice, sustainable development and institutional strengthening with Kenya being a member party, IDLO has over the years provided technical assistance to the government and various state agencies in Constitutional implementation among other matters



The LSK President Allen Gichuhi with a section of the Council and officials from IDLO.



The LSK President Allen Gichuhi flanked by LSK Vice President, Harriette Chiggai presenting a copy of the mentorship programme for young lawyers to the AG Justice (Rtd) Kihara Kariuki during the LSK Annual Conference 2018.

ADMINISTRATIVE STRUCTURE; SECRETARIAT

DEPARTMENTAL REPORTS

A) Legal Research Unit

The Legal Research Department offers research assistance to the various departments within the Society with a view to support the achievement of LSK Objectives by providing support to ensure smooth, timely and efficient delivery of LSK mandate. The Department as currently constituted is being run by **Ms. Linda Olingo**, Legal Research Assistant Parliamentary and Legislation Affairs Department and **Mr. Marvin Tallam** Legal Research Assistant, Office of the CEO. The department undertook its mandate by researching, monitoring and analyzing emerging legal issues with a view to develop appropriate timely and relevant interventions and responses.

The Department further satisfied the following objectives to ensure smooth running of the secretariat;

- Developed position papers for consideration by heads of the department.
- Preparation of draft report/researches and concept note for approval by the supervisor
- Reviewed Parliamentary Hansard to appraise the department of any developments in Parliament in relation to Bills.
- Development of media brief and speeches for the president.

The department's achievements were informed by two objectives namely;

- Offered quality service to members
- Writing progress reports from information acquired out of the President's diary of activities

Objective: Institutional growth and development

During the period under review, the following were departments highlights of progress made towards institutional growth and development.

- ✓ Developing position papers on emerging legal issues,
- ✓ Organizing, drafting, coordinating and compiling documents relating to various meetings/workshops/conferences attended
- ✓ Developing media briefs and speeches for the LSK President and for the entire Council,
- ✓ Engage relevant stakeholders in policy and legal reform,
- ✓ Review and critic of various bills by submitting memorandum
- ✓ Writing relevant and periodic reports from

information acquired in various workshops

B) Communications Department

The communications department was responsible for publication and liaison of the Council with the mainstream media. **Ms. Agnetta Rodi** is the programme Officer and **Sharon Kinyanjui** the Assistant Programme Officer.

Through the Department the Secretariat:

- ✓ **Acquisition of communication Equipment:** The department acquired various communications equipment which has eased the operations of the department in covering events and activities of the society.
- ✓ **Visibility through media:** The department enhanced the visibility of LSK by facilitating media coverage through TV and radio for various LSK events and activities which included issuing various Press releases, Annual General Meeting, LSK elections, the Annual Conference, and the legal awareness week amongst others.
- ✓ **Knowledge creation through publications:** The department through the LSK Editorial committee produced various publications that contributed to enhanced knowledge in the legal fraternity. The publications included LSK Journals and the Advocate magazine.
- ✓ **Published the weekly electronic newsletter:** The department also circulates a weekly e-newsletter to members on the events, programs and activities of LSK and within the legal fraternity.
- ✓ **Social Media and Website:** The LSK social media sites and website are the main source of information of the LSK activities by providing up to date information on all LSK activities, programmes and events to members, stakeholders, and the general public. The website and social media sites also provided engagements for members of the public on various aspects within law. The website and social media sites are;
 - Website: www.lsk.or.ke which has 8,000,000 views,
 - Facebook page: Law Society of Kenya which and;
 - Twitter: @lawsocietykenya has 51,000 followers.
 - The department recently subscribed LSK to the following sites:
Youtube Channel: Law Society of Kenya
Instagram page: [lawsocietyofkenya_](https://www.instagram.com/lawsocietyofkenya_)

- ✓ **Communication with members:** The department is also charged with the responsibility of sending out notices/communicating to the 16,000 members of LSK on a regular basis on various issues via email.

c. Audit Department

The Internal Audit department is headed by **CPA Joab Mbakaya**. The department is charged with the responsibility of ascertaining that the ongoing processes for controlling the operations throughout the Society are adequately designed and are functioning effectively. The department is also responsible for reporting to Management and the Audit Committee on the adequacy and effectiveness of the Society's systems of internal control, together with recommendations to improve the systems.

During the year, the department undertook a number of systems audit which were reported to the audit committee in September 2018 and communicated to the management for implementation of recommendation. Regular follow up on implementation of recommendation was done to ensure compliance. The department offered a number of advisory services to the management on request basis which was vital in guiding the systems of internal control. The department was able to roll out the risk management infra-structure by ensuring the establishment of the risk management committee and appointment of the risk champions.

d. Compliance and Ethics Department

The Law Society of Kenya Act 2014 under Section 28 (2) (b) provides that the Secretariat shall consist of the Compliance and Ethics Directorate whose main responsibility is to receive and evaluate complaints against advocates and to prosecute matters before the Disciplinary Tribunal.

The Compliance and Ethics Department has satisfied its mandate this year through receiving and dealing with hundreds of complaints from both the public and the membership. We have also managed to settle amicably many of these complaints between complainants and advocates and effectively prosecuted cases that have moved forward to the Disciplinary Tribunal. The department is managed by **LSK Deputy Secretary Florence Muturi, Advocate** as the Head of Department; Programme Officer **Mary M. Kitonga, Advocate** and Programme Assistant **Angelica Mecha, Advocate**.

Further to its core duties, the Department has successfully prosecuted cases throughout the year at the Tribunal and managed to conclude many of the

existing cases ensuring significant reduction in backlog. The Department organized a successful induction programme for the newly elected members of the Tribunal held in June 2018. The department has other objectives that it has managed to satisfy to ensure the smooth running of the Secretariat. These include;

1. Monitoring and ensuring compliance of individual advocates
2. Liaison with Advocates Complaints Commission and other relevant stakeholders
3. Issuance of Certificates of Good Standing
4. Handling general enquiries on advocates
5. General administration and Management of the Secretariat for the Disciplinary Tribunal/ Committee
6. Fundraising
7. In charge of the coordination of the LSK Retirement Benefit Scheme
8. General administration of relevant LSK Committees under the department;
 - Practice Standards and Ethics Committee
 - Gender Committee
 - Young Lawyers Committee
 - Tax Committee
 - Legal Education Committee

The department is working together with other departments and IT experts to improve the current complaints case management system to make it more efficient so as to handle the current influx of information and new advocates. The Enterprise Resource Planning (ERP) system will integrate all the current processes into one platform.

E. Information Communication Technology (ICT) Department

The Information Communication Technology (ICT) Officer is **Mr. Geoffrey Karani** assisted by one intern.

Online Member Services

The ERP (Enterprise Resource Planning) System implementation continued throughout the year 2018 with the aim of making the online processes user friendly and service delivery fast.

- ✓ An additional server was procured that made the online application of Practising Certificate smooth as well as booking for the CPD events online.
- ✓ The online Practising Certificate form was redesigned for a better user experience and through this we have achieved a huge milestone since the number of Advocates requesting for assistance has dropped drastically.

- ✓ Member services sub-unit was created that is handled by the ICT Intern with assistance from other Interns. A dedicated email address was created to handle member online issues. Members are also required to obtain an invoice for any service payment to LSK which has made accounts reconciliation easy and accountability enhanced.
- ✓ The CPD module is nearly complete with all the major functions activated.
- ✓ Compliance and Ethics and ABA modules are still under development.
- ✓ Office support functions continued well throughout the year even with the limited human and other resources.

The ICT Officer attended training on ICT Network, ERP Security & Fraud Detection organized by the Computer Society of Kenya in June 2018 where valuable knowledge was acquired in line with the strategic objectives of the Society.

F) Continuing Professional Development (CPD) Department

Mr. Harold Ayodo, Advocate is the Programme Officer of the Continuing Professional Development (CPD) Department. **Ms. Emily Tenge** and **Ms. Florence Owoko** are also staff at the Department which ordinarily works with the CPD Committee which provides policy direction for the Programme.

The Department is charged with the responsibility of ensuring continuous professional learning for all advocates and also responsible for:

- **Monitoring Compliance Status of Members**
All Advocates practicing in the country are required to attend Continuous Professional Development sessions and acquire five units before they become eligible to take out the Practicing Certificates. The Department issues compliance certificates to members who have complied with the Regulations.
- **Implementation of the CPD Calendar of Events**
The Department handles training needs for members by contacting speakers who present at CPD events as well as the session chairs and branch officials and also handles logistics for all CPD seminars across the country by getting suitable venues. The Department fully implemented biometric registration of members attending CPD Seminars in 2018 towards improved efficiency in handling increased members attending the said seminars countrywide.

The Committee together with the secretariat organized a total of 57 seminars across the country compared to 53 in the year 2017. All events took place as advertised in the Calendar except for the Seminar on two concurrent CPD Seminars scheduled for Friday 15th June 2018 in Nairobi and Kitale respectively as the Government Gazetted the said date as a Public Holiday. The two seminars were held on Friday 6th July 2018 at the scheduled venues. The Induction Course scheduled for Kisumu on Friday 6th July was moved to Saturday 24th November 2018. The Committee on CPD added one more additional Seminar – a Lecture on Limited Liability Partnerships (LLPs) on Thursday 15th November 2018. This was due to increased demand by members.

The topics that elicited good response were:

- ✓ Life Skills
- ✓ Limited Liability Partnerships
- ✓ Child Law
- ✓ Intellectual Property Law
- ✓ Alternative Dispute Resolution
- ✓ Economic Crimes
- ✓ Taxation Laws
- ✓ Land Law
- ✓ Company Law
- ✓ E-Commerce
- ✓ Induction Course

- **Handling Applications for Exemption and Accreditation from Members**

The Department facilitates monthly meetings of the CPD sub-committee on accreditation by placing all applications for both exemption and accreditation from members before the committee and drafting correspondence communicating the committee's decisions.

- **General Administration**

The Department coordinates all the activities of the Committee by organizing monthly meetings and taking down Minutes.

The Department also facilitates partnerships with other organizations to offer trainings beneficial to members. The department also assists walk in members and responds to telephone enquiries and emails on all matters relating to the pro

G) Public Interest Human Rights and Legal Aid Departmental

The Public Interest and Advocacy Department engaged in various activities throughout the year. **Ms. Joyce Wangari, Advocate** is the Programme Officer and **Mr. Chris Murathe, Advocate** Program Assistant.

The department in charge of:

1. Managing the pro bono database

- a. Running the pro bono scheme which has 1,120 active Advocates
- b. In 2018 the department handled and referred over 100 needy litigants to Advocates for pro bono assistance. The department manages an in house legal aid unit handling walk in members of public seeking for legal aid.
- c. Monitoring and evaluation of the case referrals through continued correspondence with the advocates and litigants.

The department enrolled 120 new pro bono Advocates adding a good number of active advocates offering specialized pro bono legal services in various fields.

2. Case management

Last year LSK took part in 21 Public Interest Litigation matters. Whereas some matters are still ongoing, others were concluded.

3. Providing the Public Interest Legal Aid and Human rights and In-house Counsel and Committee with administrative and technical support

- ✓ Provided technical Support to the Public Interest Litigation committee. Carrying out research on PIL matters to supplement and assist pro bono advocates.
- ✓ Provided administrative support to the advocates instructed on behalf of the society.
- ✓ Projects and Events planning
- ✓ Carried out Legal Awareness Week at Milimani Law Courts and through the branches
- ✓ Planned and carried out the Pro bono of the year award in collaboration with Amnesty International and Each Rights.

4. Liaisons with key players in the Legal Sector in policy formulation and implementation

The department was involved in development and validation of various state reports, development of policy documents and contributions in stakeholder forums.

H) Finance Department

The Finance department is headed by CPA Owen Kibunja (Chief Accountant), CPA Michael Chege (Senior

Accountant), CPA Titus Gitu (Accountant), Mr. Shadrack Musyoki (Accounts Assistant) Mr. Cleophas Nyanyuki (Accounts Clerk).

The department had a very busy but productive year. The external audit for the Law Society of Kenya and Advocate Benevolent Association for the year 2018 and LSK 2019 Budget were facilitated and completed successfully and on time.

Over 10,000 practicing certificate application payments were processed. To improve on the efficient and financial workflow, department handled different financial transactions relating to different programs and projects such as,

- ✓ Continuous Professional Development (CPD),
- ✓ Annual General Meeting,
- ✓ Disciplinary Tribunal Committee,
- ✓ Justice Cup,
- ✓ Annual Conference,
- ✓ Annual Cocktail
- ✓ Different Projects
- ✓ ABA Financial year 2018/2019,

All these was done despite the numerous challenges with the deployment of the new ERP system.

The department is working closely with the ICT department to ensure that the ERP system is finalized ensuring adequate controls, troubleshooting especially on the events management module is dealt with adequately to ensure smooth user experience as well as back office management.

I) Parliamentary and Legislation Affairs Department

The department engaged in various law reform initiatives through offering technical support directly or through committees of the Council to various stake holders in the rule of law and access to Justice Sector. The department as currently constituted is run by two counsels with experience in legislative drafting and legal and policy audit. The Head of the department is **Mr. Collins Harrison Odhiambo** deputized by **Itoto Echakara, Advocate.**

LSK Secretariat

CEO and Heads of Departments



Mercy Wambua, Advocate - Chief Executive Officer



Collins Odhiambo, Advocate - Deputy Secretary-Parliamentary Affairs and Legislation



Florence Muturi, Advocate - Deputy Secretary (Compliance and Ethics)



Joab A. Mbakaya - Manager Audit and Risk



Owen Kibunja - Chief Accountant



Harold Ayodo, Advocate, Programme Officer- Continuing Professional Development



Joyce Wangari, Advocate- Programme Officer, Public Interest, Legal Aid and Human Rights



Agnetta Rodi, Programme Officer- Communications



Geoffrey Karani - Programme Officer, ICT



Esther Muriuki, Advocate- Programme Officer- Advocates Benevolent Association

ADVOCACY AND PUBLIC POLICY ENGAGEMENTS

Advocacy is an integral role the Law Society plays on behalf of its members particularly and the society as a whole generally. In its advocacy capacity, the LSK engages at the county, national and regional levels in legislative, policy, institutional and constitutional processes through collaborative partnerships with government institutions, private and third sector organizations in order to achieve its mandate.

In 2018, the Law Society engaged with and in the following organizations and processes;

1. Government Sector Institutions

The Law Society of Kenya regularly engages with the various public and state agencies. The offices include:

a. Parliament

The collaborative initiative with the parliament is through engagement with specific parliamentary committees from time to time as they may call for the Societies input. The Society developed and forwarded various memoranda for attention of the parliament.

b. Government Ministries

The Society partnered with various ministries in advocacy and policy development:

The Ministry of Devolution and Planning; State Department of Devolution Validation forum for the Intergovernmental Alternative Dispute Resolution(ADR) Regulations

On The 28th February 2018 State Department of Devolution under the Ministry of Devolution and Planning, held a Validation forum for the Intergovernmental Alternative Dispute Resolution (ADR) Regulations. The State Department of Devolution pursuant to section 38(1) of the Intergovernmental Relations Act 2012, in consultation with Key stakeholders, developed draft Alternative Dispute Resolution regulations to guide the resolution of intergovernmental disputes.

The Regulations are to guide all intergovernmental structures in the consideration of concerns, controversies and disputes arising in the course of implementing government programme in a collaborative manner.

State Department of Trade and the Export Promotion Council Validation meeting of the

National Export Development and Promotion Strategy

The State Department for Trade functions include: Trade Policy, Export Promotion, Coordination of Regional Trade matters – COMESA, AGOA, IOR-ARC & IGAD, Trade Negotiations and Advisory Services and Enforcement of International Trade Laws, Regulations and Agreements etc.

The stakeholders reviewed the draft strategy and provided comments that were Incorporated appropriately. As the Law Society of Kenya is a membership organization, the strategy afforded an opportunity for the Society to empower its members through identification of business opportunities in external markets with full government support.

Validation Workshop on Trade In Services By The Ministry of Foreign Affairs and International Trade.

The Ministry of Foreign Affairs of the Republic of Kenya was established in 1963 after Kenya's Independence as the Kenyan government ministry which oversees the foreign relations of Kenya.

The State Department of international trade is responsible for the management of Kenya's International trade relations and the promotion and protection of its interests overseas to contribute to the country's Development plans including vision 2030. Kenya is a member of the Common Market of Eastern and Southern Africa (COMESA) among 19 countries. COMESA embarked on a programme for liberalizing trade in services in the key sectors and on the terms determined by the Member States. The programme covers services sectors including; communications, transport, financial, tourism, construction, energy and business services prioritizing designated sectors.

The liberalization negotiations are conducted in two phases. Phase one took place in the period of 2010 to 2014 where the programme handled communications, transport, financial, and tourism sectors. Phase two was to commence in the year 2018 focusing on three key priority sectors namely, business services, construction and related engineering services and energy services.

The State Department of International Trade commissioned work on service sectors to gauge the state of each sector, its export potential and identify areas for consideration of opening to competition within the COMESA region. The State department also identifies policies, laws and regulations that affect trade and investment in the service sectors to inform the positions that Kenya may adopt for various services sectors in relation to what has been liberalized regionally, multilaterally and autonomously.

The Ministry through the Association of Professional Societies of East Africa has been engaging on the Trade in Services on the professional services component resulting in an initial draft working paper on Trade in Services. Both organizations held a validation workshop between the 26th and the 27th March 2018 at Gelian Hotel to review the study constituting a draft working paper. The workshop examined professional sector initiatives and efforts towards trade liberalization in services, identified trends and challenges within those subsectors. Some challenges highlighted are: Lack of awareness of export market opportunities for professional services based on concluded regional, bilateral and multilateral agreement; Lack of regional harmonized education curriculum and certification standards for classification of profession; Inadequate mutual recognition agreements (MRA); Slow implementation of concluded MRA due to inadequate regulatory reforms etc.

Various policy recommendations were discussed to address the emanating challenges such as; Sensitization of export market opportunities for professional services based on concluded regional, bilateral and multilateral agreement; Commitment or Liberation interest markets for professional services that Kenya has competence & capacity to export; Enhance cooperation among Member States to improve the efficiency and competitiveness of the markets amongst others.

c. Office of the Attorney General and Department of Justice.

The Office of the Attorney General is an independent office established under Article 156 and is the principal legal adviser to the Government. The Office of the Attorney General Act Cap of the Laws of Kenya gives the Attorney General the function of developing legal policy.

The State Law Office established the Department of Justice to replace the defunct Ministry of Justice, National Cohesion and Constitutional Affairs. The department is seized with the function of developing legal policy amongst others. The Law Society of Kenya was involved in various deliberations with the Office of the Attorney General and legal sector stakeholders to engage on the Liberalization of Services under the East African Community Protocol and in particular the Mutual Recognition Agreement between the EAC member states.

d. The National Council for Law Reporting.

The National Council for Law Reporting is a semi-autonomous state corporation whose parent institution is the Judiciary established under the National Council for Law Reporting Act and the Law Revision - Legal Notice No. 29 of 2009. The functions of the Council inter alia are: monitor and report on the development of Kenya's jurisprudence through the publication of the Kenya Law Reports; To revise, consolidate and publish the Laws of Kenya amongst others.

The LSK signed an MOU with the Council leading to a national civic education project on the various laws. The project is known as 'Know your Law Campaign' whose objective is to enhance knowledge and information to the public on the Constitution, Devolution, Land and Traffic. The Law Society in executing its mandate on advising the government and the public on law and ancillary matters has nominated its technical officers to the project. The process involves the development of content for incorporation into a handbook to be availed to the public. The MOU was signed by respective CEOs of the institutions in March 2017.

Kenya law subsequently held a six day workshop held between the 18th to 24th February 2018 at the Pride Inn Paradise Hotel Mombasa. The workshop was part of the 'Know Your Law Campaign' with the result of the campaign is to develop user friendly booklet for use of the public in an effort for civic education. The workshop was to review the content generated for the development of offlets for dissemination. Each established committee would take the entire group through their material and substantive discussions ensued. The final booklets would be recirculated for approval and adoption in preparation of the next stage of the campaign.

e. Workshop on the HIV and AIDS Prevention And Control (Privacy Regulations) By The National Aids Control Council At The Windsor Hotel

The National Aids Control Council was established under Legal Notice 170 of 1999. The Council is mandated to develop policies and guidelines relevant to the prevention and control of Acquired Immunodeficiency Syndrome-AIDS. The Council is bound by Article 47 of the constitution on the right of persons to attain the highest possible standards of health. It is also bound by the requirement to minimize discrimination especially amongst persons living with HIV. The persons living with HIV are subjected to discrimination and stigma.

In pursuit of its mandate under section 20 of the HIV and AIDS Prevention Act, No 14 of 2006, the Council had undertaken a series of workshops to develop draft regulations on privacy. The Council between 27 – 29th August 2018 held a workshop to deliberate on the developed draft privacy regulations which were broadly based on the General Principles on Data Privacy. A final draft would be subsequently developed and validated by the relevant stakeholders.

f. Workshop on the Development of County Model Law on HIV and Aids by the National Aids Control Council.

The National Aids Control Council in pursuit of its mandate is to devolve the prevention, control and management of HIV at the county level. Subsequently, the Council conducted a sensitization programme with the Counties which recommended the development of a model county legislation. The Society through the Parliamentary Legislative Department, thereafter assisted with the development of model laws on the management, prevention and control on the HIV and AIDS at the County level in a Four day workshop. The County Model Law are drawn from the 4th Schedule of the constitution of Kenya giving effect to operationalization of the County functions

2. Private Sector Organizations

The Law Society of Kenya also partnered and collaborated with a number of private organizations. Noteworthy are;

a) Association of Professional Societies of East Africa (APSEA);

The Association of Professional Societies in

East Africa (APSEA) is an Association that brings together professional bodies of diverse disciplines including the Law Society of Kenya. Currently, the Association has thirty three (33) corporate members in Kenya constituting all major professions in the country. APSEA was established in 1961 as an umbrella body for all professional Associations in the then East Africa protectorate. The main aim was to maintain, advance and advocate for the highest professional standards and ethics in the public interest and to promote the interests of the members both regionally and internationally.

APSEA held its first National Professionals' convention between 5th and 6th July 2018 at the Safari Park Hotel. APSEA has been planning the conference since November 2017 which begun with a breakfast launch. The theme was 'The Role of Professionals in Leadership and Integrity'. The theme was selected to spotlight the issue of leadership and integrity and address the spate of corruption scandals in the country. The Thematic Areas Included:

- i. The enhancement and enforcement of Chapter six of the Constitution of Kenya on leadership and integrity;
- ii. Professionalism vis a vis Trade Unionism;
- iii. Professionals in Curriculum Development;
- iv. The role of professionals in Management of Public Affairs and Economic Regeneration;

The Association of Professional Societies of East Africa subsequently issued a Communique to the Public Sector Representatives on the resolutions and recommendations that emanated from the conference.

b) Institute of Economic Affairs

The Institute of Economic Affairs is a public policy think tank based in Nairobi. It has worked as a forum for professionals with an interest in development of rational economic and public policy in Kenya. The IEA houses the Parliamentary Initiatives Network (PIN) a forum for non-state actors in Kenya with an interest in the work of Parliament. (PIN) is a network of eighteen non-state actors in Kenya with a programmatic interest in Parliament. The Law Society of Kenya is a partner with PIN and hence with IEA. The Institute held several workshops during the period of 2018.

The Institute in partnership with the Inter Agency Group for East and Central Africa conducted a

study on the contribution of International Non-governmental organizations in Kenya in order to showcase the actual benefits and advantages of hosting the INGOs in the country. The Institute held a focus group discussion on the Contribution of International Non-Governmental Organization in Kenya which it would subsequently collate and circulate a paper to the participants in due course

The Law Society of Kenya participated in a workshop held the 28th June, 2018 on the Post-Budget Analysis at the Hilton Hotel and made recommendations including; tax reforms to increase projected revenue collection, review of the VAT Act and the revision of the zero exemption regime, ensure the remission of PAYE by non-compliant institutions etc.

3. Third Sector Organizations and Institutions

1. New Partnership with the Kenya Alliance of Residential Association.

The Kenya Alliance of Resident Associations (Kara) is the apex body representing the voice and pro-active action of resident associations on consumers and taxpayers' rights countrywide. The realization of the common interests of our people has made it imperative that Kara invests in information, education and communication around issues of essential service delivery.

KARA held a meeting and engaged with the Law Society of Kenya on 9th of July 2018. The meeting focused on establishing modalities of engagement, collaboration and creating synergies. The broad areas for synergizing are: Legal Advisory Services and Public Interest litigation, Legal Aid, Information and sensitization, Alternative Dispute Resolution and various other activities. Both organizations have drawn up a Memorandum of Understanding awaiting formalization.

The Second World Bank Kenya Urban Dialogue

The Law Society of Kenya participated in the

Second World Bank Kenya Urban Dialogue held on the 15th and 16th October 2018 at the Radisson Blu Hotel. The participation was the result of the engagement and partnership with the Kenya Alliance of Residential Associations.

It is noteworthy the 12 million of the country's approximately 44 million people live in urban areas, by 2050 the number of urban residents alone will be about 40million. With an equivalent increase of half a million city dwellers every year, the affordable housing demand and supply complexities continue to affect sustainable development of urban areas throughout the country. The objective of the Urban Dialogue Series is to continually carry out a discourse on urbanization that was initiated by the Launch of the Kenyan Urbanization Review in the year 2016. The second Dialogue themed '**Delivering on Affordable Housing Agenda**' aimed to build a common understanding on the importance of cross-institutional and cross-Sectoral linkages in bridging the affordable housing gap.

The Forum featured Government sector representatives and state officials from the Executive and Parliament such as Cabinet Secretaries and Principal Secretaries of the Ministry of Transport infrastructure Housing and Urban development: Governors from various counties-Nairobi Included, Senate Speaker; The World bank Officials-Country Director and The Global Director for Urban and Territorial Development, International experts-Deputy Executive Director UNHABITAT e.t.c.

The discussions centered on '**Delivering the Housing Agenda in Kenya**' and 'Enablers of Affordable Housing'. The discussions took a panel approach which engaged global approaches to affordable housing focusing on Brazil and Kenya's proposed affordable housing delivery approach.

ENGAGEMENT WITH PARTNERS

BUSINESS ADVOCACY FUND

The Fund offers support to business member organizations, such as the LSK, in order to enable the organizations effectively perform their functions and mandate within their sector. Besides the financial support that the Law Society received from the Business Advocacy Fund to finalize with the development of the Regulations under Section 41 of the LSK Act, 2014.

Under its capacity building component, new committee members from different committees were trained on Advocacy. The capacity building aims to continually improve advocacy skills of the different members within the Law Society to carry out effective advocacy in their specific areas of focus. The committees trained include: Public Interest Litigation, Law Reform and Constitutional implementation.

• REVIEW OF THE STATUTORY INSTRUMENTS ACT, 2013

Through the support of Business Advocacy Fund the Law Society of Kenya is currently undertaking a Review of the Statutory Instruments Act, 2013. The Statutory Instruments (SI) Act, 2013 makes provision for the making, scrutiny, publication and operation of statutory instruments (subsidiary legislation - rules, regulations etc). The SI Act requires that all government bodies, before subsidiary legislation is made, must: carry out consultations, undertake regulatory impact assessments; submit Regulatory Impact Assessments (RIAs) to parliament for scrutiny and enactment. Over the last five years there have been virtually no RIAs completed as required by the SI Act, to justify the need for, and inform the design of any proposed subsidiary legislation. Through the project the Law Society of Kenya will

The LSK will undertake a series of activities as follows:

Activity 1: Develop a suitable policy position paper on the implementation of the SI Act, 2013:

- ✓ Recruit a consultant to conduct a brief research to inform the development of a suitable PPP (10 working days). The consultant will work with a BAF Research and Policy Advisor to develop the PPP.
- Organise a forum with the LSK Law Reform Committee to consider and agree the PPP.

Activity 2: Organise forums with the key implementers of the SI Act, specifically:

Office of the Auditor General; Kenya Law Reform Commission; Parliamentary Committees on Delegated Legislation, and Justice and Legal Affairs; Council of Governors; and the Ministry of Planning.

Activity 3: Engage with the Office of the Attorney General and the Directorate of Legal Services in Parliament to agree on the implementation of the SI Act

Activity 4: Engage a PR consultant to publish articles and editorial pieces on the value of the SI Act

LSK will seek further BAF support to monitor the implementation of the SI Act, 2013

CANADIAN BAR ASSOCIATION (CBA)

SUPPORTING INCLUSIVE RESOURCE DEVELOPMENT (SIRD)

Brief Project Report

The Support Inclusive Resource Development in East Africa (SIRD) is a regional project implemented by the Law Societies of Kenya, Uganda and Tanzania in partnership with the Canadian Bar Association (CBA) and funded by the Government of Canada through Global Affairs Canada (GAC). The projects ultimate aim is to increase sustainable economic growth for East Africans, in particular, women. The project has two expected Intermediate Outcomes:

- ✓ Increased engagement of East African law societies to advocate for law reform to reflect the principles of transparency, gender sensitivity and accountability in the extractive industries.
- ✓ Increased community participation, particularly of women, to advance and protect their rights related to the extractive industries.

In Project Year 2 (April 2018 – March 2019) the project undertook the following activities:

1) Inaugural LSK-SIRD National Forum

The Law Society of Kenya in partnership with the Canadian Bar Association and Global Affairs Canada held its first National Forum Themed: **“Towards Transparency, Gender Sensitivity and Accountability: Extractive Industry Developments in Kenya”** from 26th to 28th April, 2018 in Nyahururu, Kenya. The National Forum brought together over fifty (50) Kenyan and Canadian extractive industry stakeholders and experts including Members of the Law Society of Kenya, Canadian Bar Association - Technical Experts, Government of Kenya Officials, County Government officials, representatives from academia, the chamber of mines, civil society, community leaders and representatives.

The overall objectives of the National Forum were to provide participants with the opportunity to:

- a. Exchange knowledge and share experiences on best practices related to gender sensitivity, transparency and accountability in the extractive sector;
- b. Identify key challenges and opportunities to maximize benefits and reduce harms, in particular to women and girls affected by the extractive industry in East Africa;
- c. Analyse the governance structures of the extractive industry in East Africa, and provide recommendations for the formulation of effective gender sensitive legal and policy reform and,
- d. Build partnerships and develop networks for increased coordination among stakeholders.

2) Conduct of a comprehensive review of national laws and underlying policy frameworks, through a gender lens, to identify gaps and focus on areas for possible law reform

SIRD entered into an agreement in September 2019 with Mr. Jonah Mngola (consultant) from Strathmore Extractives Industry Centre to conduct the comprehensive Law review with the aim of receiving recommendations for areas of possible reform. The main objective of the exercise is to Identify issues affecting women and communities under the following thematic area to be addressed through law and policy reform;

- a. Community consultation, engagement, and decision-making;
- b. Land acquisition, resettlement, and compensation;
- c. Environmental protection;
- d. Revenue allocation, and community development;
- e. Local content – opportunities for women;

The activity will delve further to Identify pertinent laws, regulations, policies, and other instruments relevant to each identified issue and examine if gender equality has been addressed and if not, if and how it be entrenched into these laws, regulations and policies. with the aim of particularly ensuring that gender inclusivity is factored into.

Canadian Technical Assistance

As part of Canadian Technical Assistance, the LSK received the support of a law review expert from the CBA, Ms. Laura Faryna came to Kenya in September 2018 to assist the consultant and the project in undertaking the law review exercise. Laura remained in the country for a period of four weeks.

The review process is currently on-going, the consultant submitted his first report in February 2019 and the

process is expected to conclude with the submission of a final report by the by the end March 2019.

3) Ministry of Petroleum and Mining - State Department of Mining

State Department of Mining Gender Advisor Mrs. Grace Wasike formally submitted the State Department's Gender Strategy to the LSK SIRD Project with a request for review, comments and recommendations. The Gender Strategy was forwarded to CBA, Three Canadian Technical Experts assisted in preparing a comprehensive report containing views, recommendations and comments on the document. This report was submitted to and received by the Ministry's Gender Advisor and its recommendations will be incorporated in the gender strategy, the recommendations made by CTA with regard to the Gender Strategy will ensure that the strategy incorporates broader views from Canadian gender experts alongside those presented by Kenyan experts. This was an important exercise which aided in continuing to strengthen the LSK/SIRD ties with the Ministry of Petroleum and Mining.

4) Kwale County leaders Assessment Forum

In September 2018, the SIRD Project conducted a Leaders forum in Kwale County with the aim to assess the level of understanding of County Leaders on the legal frameworks governing the extractive sector. A total of 30 leaders (19 men and 11 women) were invited to participate in the assessment. Participants included representatives from CSOs, national and county government as well as community leaders.

The purpose of the forum was threefold:

- a. To determine the level of County Leaders' understanding of the policies, practices, legal and regulatory frameworks governing the extractives sector with particular regard to the rights of community members, in particular women and girls.
- b. To determine training needs of the County leadership, and identify leaders who will participate in Leaders training programs slated to commence in project year 3.
- c. The base information collected from this exercise will be utilized to analyze and determine impact or change in knowledge levels of the local leaders in Kwale County pre and post the training exercise.

The pre training assessment exercise pointed to a huge gap in County leadership understanding of legal and regulatory frameworks governing the extractives sector. The Low levels of understanding which were evident

from the assessment exercise greatly undermine the leader's capability to agitate for and advocate for their community rights. Of particular concern was that the analysis pointed to a much lower score by women participants as compared to their male counterparts, the implication of this being that women are further disadvantaged in their ability to understand their rights and obligations and in receiving equal benefits and opportunities from extractive industries. This result underscored the urgent need for the planned training programs.

5) Community Referral Pathway

The project conducted a one-day round table exercise with Kwale County leaders in November 2018, participants were drawn from county and national government officials, Kaya Elders, police officers, teachers, religious leaders, youth leaders as well as CBO and NGO representatives etc.

The purpose of the exercise was to assess the existence (or otherwise) of a formal/informal referral pathway mechanism through which community members forward complaints/cases on matters touching on GBV, SGBV and extractive industry grievousness; To assess the level of participant's understanding of the case/complaint's referral mechanism and the effectiveness (or otherwise) of existing pathway if any; where it was found that such pathway does indeed exist and is functional, to establish the mechanism through which the project would entrench itself as part of this pathway through introducing and informing participants of the legal services that would be available from the Law Society of Kenya on the pathway for members of the community, primarily women needing legal assistance. The intent of which would be to establish a clear pathway where SIRD PM, pro bono trained lawyers, outreach sub contracted CBOs/Paralegals, local authorities and women's groups would then establish a pathway in collaboration with relevant offices (police, hospitals, schools, social services) where persons affected by the operations of the extractives industries can seek and receive legal and/or other assistance and support.

6) Media Sensitization exercise

The Law Society of Kenya (LSK) and Media Council of Kenya (MCK) held a sensitization forum for Editors and Reporters from the Mainstream Media Houses on the 11th of February 2019 at the LSK Secretariat Grounds, in Valley Arcade, Nairobi. The Purpose of the forum was to formally introduce the Law Society of Kenya's SIRD Project on Extractives. The Media Sensitization Forum

explored avenues of collaboration between LSK and the various media houses in the reporting of advocacy initiatives and activities as well as on the import role of media collaboration in highlighting Public Legal Education and Awareness raising campaigns on matters touching on the extractives sector in Kenya.

7) Advocates Training Programme - Extractive Sector Laws

The LSK SIRD Advocates Training Programme commenced on 5th March 2019 and is expected to be carried out through the months of March, April and May 2019 in 5 sessions of 10 training days total. The Programme was developed with the goal of sharpening the skills and capacity of Kenyan advocates to better deal with governance issues of the extractive sector. The training programme is facilitated by a select team of experienced trainers in mining oil and gas laws including Lawyers from both Kenya and Canada to ensure that participant trainees get the best in international practice, practical knowledge and skills in tackling recurring and emerging issues of the sector.

8) Round Table Meetings

SIRD LSK continually held and participate in round table discussions/meetings/forums during project year 2, to keep abreast of the advocacy actions underway with actors in the extractive sector. These meetings ensure that the project compliments rather than duplicates activities and efforts of other stakeholder organizations through offering assistance where the project can contribute to positive changes in the industry. Some of the meetings held/ attended included:

- a. National Advisory Committee meetings held in April, June and November 2018
- b. Round table meeting with State department of Mining CS and other officials held in Mombasa in November 2019
- c. Roundtable on Gender and Artisanal and Small-Scale mining held on 1st November 2018 at the University of Nairobi, Parklands Campus.
- d. Global Affairs Canada - Training Workshop on Gender based Analysis + held on 1st and 2nd October 2018
- e. Round table meeting with 30 Women Leaders on referral pathway in Kwale on 26th September, 2018.
- f. World Bank Group Compliance Advisory Ombudsman AO - CSOs Outreach Meeting hosted by the World Bank Group on October 4th 2018
- g. Inaugural National Mining, Oil & Gas Conference



POLICY ADVOCACY TRAINING - SESSION 1



THE CANADIAN
BAR ASSOCIATION



Global Affairs
Canada



Law Society of Kenya



Tanganyika
Law Society



“Jukwaa La Madini, Mafuta na Gesi” - an initiative of the Kenya’s Civil Society Organizations working on extractives held on 25th – 27th September 2018

RETIREMENT BENEFITS AUTHORITY (RBA)

The Retirement Benefits Authority is the regulatory and supervisory institution mandated to regulate and supervise the establishment and management of retirement benefit schemes. In line with its mandate to develop the retirement benefits industry RBA embarked on a multi-faceted awareness campaign to educate stakeholders on the importance of saving and channels available.

The Law Society of Kenya partnered with the Retirement Benefits Authority and offered free Continuing Professional Development Seminars on Pensions and Saving Options in Kakamega, Kisii, Kitale and Malindi.

KENYA REVENUE AUTHORITY (KRA)

The Law Society of Kenya through the Continuous Professional Development Committee partnered with the KRA and offered one day training in Nairobi on Emerging Tax Issues. The objective of the forum was to create awareness on the rights and obligations of members in respect to compliance with the legal requirements of Income Tax, Value Added Tax, Pay as You Earn (PAYE), Rental Income Tax laws and Finance Bill 2018

EAST AFRICA LAW SOCIETY (EALS) AND ADVOCATES FOR INTERNATIONAL DEVELOPMENT

The Law Society of Kenya partnered with the East Africa Law Society (EALS) and Advocates for International Development (A4ID) - in provision of two free trainings for members in Kisumu and Mombasa on Law and Development. The trainings were aimed at raise awareness of the UN Guiding Principles on Business and Human Rights (UNGPs) among business lawyers in East African jurisdictions and to build professional capacity

to advice on how businesses can integrate respect for human rights throughout their business operations and supply chains. This project aimed to spearhead momentum among business lawyers to embrace the role of the commercial legal profession in advancing human rights as a matter of professional ethics and respect for the Rule of Law

UNITED NATIONS DEVELOPMENT PROGRAMME (UNDP) AND FORD FOUNDATION

A one day forum on the 2017 Presidential Election Petitions was held in Nairobi following a partnership with the UNDP and the Ford Foundation.

CAPITAL MARKETS AUTHORITY (CMA)

The Law Society of Kenya (LSK) through the CCPD in partnership with the Capital Markets Authority (CMA) jointly set up a Task Force to develop a curricular on legal audits training for lawyers towards accreditation as The Law Society of Kenya certified legal auditors

INTERNATIONAL BAR ASSOCIATION (IBA) - DEVELOPING BAR PROGRAMME FOR YOUNG LAWYERS

The Law Society of Kenya partnered with the IBA through the Developing Bar Programme for Young Lawyers to assist young lawyers to attend the IBA Annual Conference held in Rome, Italy on 6th -12th October 2018. The IBA offered scholarships to young lawyers (up to and including age of 35) from developing countries who could not attend the Conference due to financial constraints. Through this program 4 young advocates were supported and attended the Conference.

The advocates included: Doreen Areri, Cynthea Onyango, Ramadhan Abubakar and Humphrey Manyange advocates. In addition the scholarship was extended to the Chief Executive Officer who accompanied the young lawyers at the Conference. The scholarship availed the Young Advocates an opportunity to attend the international conference, network with lawyers across the world and attend Young Lawyers Training Course held on the 6th October 2018 among other activities planned through from 7th - 12th October 2018. The Chief Executive Officer was able to attend the Bar Executive Programme held on 9th October 2018.

DEUTSCHE GESELLSCHAFT FÜR INTERNATIONALE ZUSAMMENARBEIT (GIZ) GMBH

The Law Society of Kenya partnered with GIZ to undertake various projects in the year 2018;

- ✓ Development of Draft Guidelines on Anti-Money Laundering and Countering the Financing of Terrorism (AML/CFT)
- ✓ Access to Justice for Women, Vulnerable and Disadvantaged Groups Project Report

- **Development of Draft Guidelines on Anti-Money Laundering and Countering the Financing of Terrorism (AML/CFT)**

The Legal Profession as the key player in the Criminal Justice System and Administration of Justice plays a vital role in the Anti-Money Laundering Framework both locally and globally. The provision of legal services is based on good faith by advocates when serving their clients. However, due to the nature of their work, lawyers may become vulnerable to exposure to money laundering activity in the course of representing their clients; e.g. in the provision of client account and legal advisory services to clients, drafting of legal documents and acting as proxies for their clients etc.

Lawyers in the above situations may find themselves being prosecuted for various money laundering offences under the Proceeds of Crime and Anti-money laundering Act 2009 (POCAML), such as the acquisition and possession of proceeds of crime, or assisting another to retain the proceeds of crime, or being called as witnesses in such cases.

The Society with the support of GIZ Kenya has developed a draft Guidelines on Anti-Money Laundering and Countering the Financing of Terrorism (AML/CFT). The Council is in the process of undertaking stakeholder engagements with a view to finalizing the guidelines.

- **Access to Justice for Women, Vulnerable and Disadvantaged Groups Project Report**

The Law Society of Kenya with the support of the GIZ implemented Access to Justice for Women, Vulnerable and Disadvantaged Groups Project in the year 2018. This was a continuation of Access to Justice Projects implemented in the year 2016 and 2017. The mandate of the project was to provide pro bono legal services to women, vulnerable and disadvantaged groups especially those incarcerated. GIZ provided technical assistance to the Law Society of Kenya in support of the project which was based on taking up matters on land, succession, alternative dispute resolution (ADR) and plea bargain. The Project included the use of pro bono Advocates from different Counties who conducted prison visits in which they took up cases pro bono and conducted legal self-representation training forums at the Prisons. The project engaged other access to justice actors including Africa Prisons Project (APP) and Kenya Prisons Service. The Project was undertaken in the following counties: Mombasa, Kisumu, Eldoret, Nairobi, Machakos, Kakamega and Kitale.

PARTNERSHIP WITH UNITED NATIONS DEVELOPMENT PROGRAMME (UNDP) AND FORD

United Nations Development Programme (UNDP) and Ford Foundation supported the one day forum on the 2017

Presidential Election Petitions held in Nairobi. The objective of the Colloquium was to convene key stakeholders to analyze and discuss the Supreme Court's decisions, to draw lessons for future consideration and suggest policy and legal recommendations.

PARTNERSHIP WITH REGIONAL AND INTERNATIONAL BAR ASSOCIATIONS

The Society partnered with Regional and International Bar Associations to build capacity of advocates in various areas.

1. Pan African Lawyers Association
2. African Bar Association
3. East Africa Law Society
4. Commonwealth Lawyers Association
5. International Bar Association
6. Society of Blacks Lawyers
7. Law Society of England and Wales;
 - Delegation exchange program
 - Women in the Law Program

PARTNERSHIP WITH SOCIETY OF BLACKS LAWYERS

The Law Society of Kenya partnered with the Society of Blacks Lawyers through its Chairperson and UK immigration Judge Justice D. Peter Herbert O.B.E to host the Bandung Conference in Nairobi Kenya on the 22nd- 23rd November 2018. The Conference was held under the theme "Ethics, Anti-Extremism, Education, Human Rights, & The Rule of Law" and its aims were:

- 1) To promote the development of Pan African solutions to global problems linking Africans in the diaspora and on the continent;
- 2) To identify leadership skills that deliver identifiable benefits to diverse communities;
- 3) To address areas of real concern to progress the social cohesion and unity of Africa by helping to create a unified constructive approach to issues of security, human rights and the rule of law, empowering and uplifting all in society through creating real prosperity, and sustainable wealth through education and increased social mobility.

The Conference participants and speakers locally and internationally. The following were some of the topics discussed:

- Anti-Terrorism Justice and Freedom
- The Legacy, Reality and Vision of Bandung Revisited
- Are Human Rights an achievable goal or an NGO Dream?
- Can we counter terrorism without breeding extremism?

PARTNERSHIP WITH AFRICAN BAR ASSOCIATION (AFBA)

The African Bar Association (AFBA) was created as a federation

of national legal association, corporate and unincorporated legal entities and individual lawyers. The Association seeks amongst other objectives to foster exchange of opinions and experiences among members, formation of policies that would better reposition the continents socio-economic and political developments and breaking new legal frontiers. The Law Society of Kenya in collaboration with the African Bar Association hosted an Annual Conference held on 22nd - Friday 27th July, 2018 at the Kenyatta International Convention Centre (KICC) under the theme "*Africa's Socio-economic and political future, Africa's Union Agenda 2063 in Perspective*". The Conference drew participants from the African Continent and availed our members opportunity to contribute to the African development agenda through the deliberations held during the Conference.

Through the African Bar Association Kenyan Chapter Chair, Ms. Carolyn Kamende, a total of 80 Young advocates' from the Law Society of Kenya were granted scholarships to participate in the continental Conference.

Among the topics discussed during the conference was:

- The African Human Rights System as a Tool for Achieving Agenda 2063 Aspirations.
- Roundtable discussions on the Business that Africa Needs.
- Rule of Law Symposium: Harmonization of African Laws to Achieve Agenda 2063-Issues and Challenges.
- African Integration & Trade: Political Unity And Economic Integration Of Africa: Wishes, Visions & The Reality.
- African Women Lawyers' Forum/Child Rights Committee: Considerations for Women and Children in Agenda 2063.
- Mining & Extractive Industry law: Use of The Mining and Extractive Industry Resources for Development-Strategy, Know-How, Law and Policy in Africa.

PARTNERSHIP WITH PAN AFRICAN LAWYERS UNION (PALU)

The Law Society of Kenya participated in the 9th Pan African Lawyers Union (PALU) Annual Conference held from 27th - 29th September, 2018 in Tunis, Tunisia. The Conference organized by the leading platform for African lawyers, brought together over 300 distinguished lawyers and representatives of law firms, the leadership of Africa's Lawyers' Associations, service providers to the legal profession, Human Rights and Good Governance Professionals, and friends of Africa from all over the world, to discuss matters germane to the practice of law, as well as economic, political and social development of the continent. The Law Society of Kenya was represented at the Conference by the Ms. Aluso Ingati, Council member on behalf of the President. Members of the Law Society of Kenya participated in the conference held under the theme "Free Trade & Free Movement in Africa".

PARTNERSHIP WITH SAFARICOM TO HOST THE INAUGURAL IN HOUSE COUNSEL CAUCUS.

The Society through the In-house Committee, Chaired by Ms. Ndinda Kinyili organized and held the inaugural Law Society In-House Counsel Caucus at Safaricom's Michael Joseph Centre. The forum was held under the theme 'Governance as the Epitome of Successful Organizations - the Role of the 21st Century

PARTNERSHIP WITH THE NATIONAL COUNTER TERRORISM CENTER AND THE FINANCIAL REPORTING CENTER.

The Society through the In-house Committee organized and held an In-house Counsel Breakfast on 9th August, 2018 at the sidelines of the Annual Conference held in Leisure Lodge Beach and Golf Resort, Kwale. The event was under the theme "The Role of the In-house Counsel in Curbing Financial Crime and Terrorism." The event was supported by the National Counter Terrorism Center and the Financial Reporting Center.

PARTNERSHIP WITH MEDIATION TRAINING INSTITUTE KENYA

The Society partnered with the Mediation Training Institute through the Young Lawyers Committee and the In House Counsel Committee to hold mediation trainings to young lawyers and in house Counsel at a subsidized rate. The trainings were aimed at building capacity and equipping Young Lawyers and In House Counsel with mediation and conflict management skills. More than 290 young advocates have been trained under this partnership. In-house Counsel Mediation training was held on 15th – 19th October 2018 35 advocates were trained on mediation. The next training will held on 11th – 15th March, 2019.

PARTNERSHIP WITH SHERA MTAANI TO HOST LEGAL AID CLINIC

The Law Society of Kenya through its Public Interest Litigation Committee, Convened by Borniface Akusala supported Sheria Mtaani, a Community Based Organization aimed at sensitizing members of public on legal matters. Sheria Mtaani organised a 8 days long legal Aid Clinic in September 2018 at Lower Savanna (Soweto) Social Hall, Kayole, Nairobi. The Law Society of Kenya through the PIL Committee provided pro bono advocates who facilitated during the legal aid clinic.

PARTNERSHIP WITH THE INSTITUTE FOR SOCIAL ACCOUNTABILITY (TISA)

In partnership with The Institute for Social Accountability (TISA) organized a half day forum for advocates to deliberate on Devolution and Inter Governmental Relations and CDF Public Interest Litigation. The stakeholder forum was held on Friday 23rd November, 2018 at the Hilton Hotel –Nairobi.

The Institute for Social Accountability (TISA), the Centre for Enhancing Democracy and Good Governance filed a case in Court challenging the constitutionality of the Constituency Development Fund Act 2013. The matter has been litigated upon since 2015 to the appeal stage where the Court of Appeal held that the CDF Act does not violate the principles of good governance division of revenue, the principle of division of powers and functions. This has raised key issues on constitutional Law and devolution in Kenya, and requires stakeholder reflections on the CDF Public Interest Litigation.

The stakeholder forum provided a platform for learning and discussing the concept of devolution as articulated in the constitution; and intergovernmental relations in functional assignment between the National and county governments within the context of the constituency development fund.

MULTI-SECTORAL RED RIBBON CAMPAIGN

The Law Society of Kenya was part of Multi-Sectorial Red Ribbon Campaign organised on 22nd – 24th August 2018 in Nairobi Kenya. The campaign organised in partnership with the Kenya National Human Rights Commission and Civil Society Organisations as a result of the deteriorating human rights situation in Uganda at the point in time. The world had been treated to egregious acts of Human rights violations in the Arua region of northern Uganda following a clash between the ruling party and opposition supporters, during Arua Municipality by-election campaigns. In the clashes one of the presidential vehicles were also reported to have been damaged as crowds pelted stones on the motorcade. This led to Ugandan security authorities arresting five opposition lawmakers, two journalists and 28 other people. This was felt to be a threat to Security to the East Africa Region and hence the reason why Kenya decided to join the international clarion call to condemn the acts of authoritarianism in Uganda.

The Law Society of Kenya organized the following activities in conjunction with the Nairobi Branch, Kenya National Human Rights Commission and various Civil Society Organisations.

- a. A joint Press Conference on the morning of Wednesday 22nd August 2018 to condemn the atrocities committed by law enforcement in Arua including the unlawful detention of Robert Kyagulanyi (Bobby Wine).
- b. A week -long Red Ribbon Campaign in the week starting Wednesday 22nd August 2018 - Friday 24th August 2018
- c. A protest March held on Thursday 23rd August 2018 at 9.00am from Freedom Corner, Uhuru Park to the Ugandan High Commission.

AMNESTY INTERNATIONAL KENYA

The Law Society of Kenya and Amnesty International Kenya

(AIK) signed a three year Memorandum of Understanding (MoU) on 4th December 2018 at the LSK Secretariat.

Through the MoU the two institutions committed to collaborating and forging a working arrangement for the promotion and protection of human rights, the purpose of this MOU is to establish a framework for collaboration and coordination between AIK and LSK towards overseeing the implementation of jointly agreed activities that will cover the following areas;

1. Public Interest Litigation and Advocacy on Human Rights issues (Pro Bono/Public Interest Jurist Award and other incentives for advocates supporting access to justice, human rights and constitutionalism.
2. Advocacy, awareness creation and advertisement through each other's publications
3. Collaboration with LSK's human rights and law reform committees on mutually agreed advocacy and human rights education activities
4. Mentorship of students in High schools and Universities in human rights by LSK members
5. Facilitation of human rights forums initiated by either party in this MoU, on mutually agreed terms and conditions

PARTNERSHIP BETWEEN UNDP, AMKENI KENYA AND THE LAW SOCIETY OF KENYA

PROJECT TITLE: PROMOTING PRO-POOR ACCESS TO JUSTICE IN KENYA STRENGTHENING ACCESS TO LEGAL AID AND ASSISTANCE FOR POOR AND MARGINALIZED IN KENYA

Upon promulgation of the Legal Aid Act, it has become imperative to create a structured engagement scheme for organizations in the business of provision of legal aid. We note that there is no well laid out policy, regulation or institutional framework and this project will put in place a sustainable action plan enabling the society deliver this critical mandate. The Law Society of Kenya has partnered with UNDP to undertake a three year project aimed at improving provision of legal aid and awareness by the Law Society of Kenya.

Further the project will be informed by the following specific objectives:

1. To enhance institutional capacity of LSK in provision of legal aid for the poor and marginalized
2. To enhance legal aid provision for poor and marginalized
3. To enhance capacity of Advocates as legal aid providers
4. Enhance the legal framework for legal aid provision

The project will be implemented by the national office and the branches to promote and facilitate implementation of legal aid programs through the following activities:

1. Training of advocates to assist them in being well versed with the concept of legal aid, knowledge of the Legal Aid Act and provision of pro bono services.
2. Access to information and to legal aid services through in-depth research and production of IEC materials to enable or help provide informed decision making.
3. Advocates trained on trial advocacy during CPDs to sharpen their representation and litigation skills will provide them with appropriate knowledge, skills and attitudes.
4. Branch legal aid clinics managers trained and equipped with M&E and including project management skills will improve their knowledge and skills.
5. Improved pro bono lawyers data base management system and enhanced strategic referral process for cases will assist in mainstreaming the legal aid services offered. This will also help reach out more to the public.
6. Established and well managed and robust legal aid clinics at the branches to cater to the public at the county level.
7. Well-developed guidelines on how to engage advocates in legal aid work to strengthen legal, policy and institutional framework on provision of legal aid services.
8. Well trained advocates will improve the quality of legal aid services offered.
9. Consultative forums with Advocates Training Programme to promote the importance of legal aid to students.

The project is expected to be carried out in three phases within a period of three years and is aimed at assisting between 5,000 to 6,000 indigent persons annually including: Men, Women, Children in Conflict with the Law, People living with disabilities and the Marginalized groups

- ✓ The cost of the project is Kshs. 30,000,000/- with Kshs. 10,000,000/- allocated for each phase of 1 year.
- ✓ In line with the guidance and focus of the strategic plan the project has formulated a work plan with resulting outputs as summarized below:
 1. Better equipped legal aid providers with appropriate knowledge, skills and attitudes.
 2. Functional and dynamic legal aid provision.
 3. Improved legal framework for the provision of legal aid i.e. formulation and adoption of guidelines

SIRD Project Communications Workshop

The Canadian Bar Association (CBA) held a two day communications workshop for the Supporting Inclusive Resource Development (SIRD) project between 19th and 20th April 2018 in Dar E Salaam, Tanzania. The Team was led by Ms. Katya Hodge, Manager Media Relations, CBA and Mr. Hannington Amol, CEO EALS. The workshop brought together various communication officers from law societies of Kenya, Uganda and Tanzania where the project will be implemented.

The meeting broadly discussed the following areas within the communication strategy which included; Various communications platforms for use to share SIRD knowledge and information to various local and project stakeholders, development of a newsletter for the project, branding, broader messaging on raising visibility of the SIRD project, roles of the various communications officers and role of the CBA amongst other issues.

Other members present during the workshop included; Jennifer Johnson and Torwoli Dzuali from CBA, David Sigano and Eric Otieno from East Africa Law Society, Salima Saum from Tanzania Law Society, Agnetta Rodi from Law Society of Kenya and Herbert Byamukamu from Uganda Law Society.

The project is implemented from the support of Global Affairs Canada (GAC) through the Canadian Bar Association (CBA) and will be implemented over five years in the East Africa region with a particular focus on Kenya, Tanzania and Uganda. The Project's objective is to increase sustainable economic growth for East Africans, including women and vulnerable groups, affected by extractive industries. This will be achieved through education and training on laws and legal rights; empowerment of communities to increase their ability to engage in decisions that impact their rights; and enhanced collaboration among stakeholders on initiatives that contribute to improving the quality and administration of the regulatory frameworks supporting the extractive industry.

State Department of Mining and LSK-SIRD Project meet

The State Department of Mining headed by the Principal Secretary, Hon. John Omenge invited the Supporting Inclusive Resource Development in East Africa (LSK-SIRD) Project for its familiarization workshop on its mandate and functions held at the Diani Reef Hotel from 5th – 8th May 2018. In attendance were LSK CEO Ms. Mercy Wambua, council members Carolyn Kamende and Wafula Nyongesa and the SIRD East Africa Project Director, Jennifer Johnson.

The workshop focused on the following topics which were delivered through a series of presentations;-

- Overview of the mining Sector - presented by the State Department of Mining, which included presentations on the structure of the sector, physical location, mandate and functions; policy, legal and regulatory frameworks as well as institutional frameworks of directorates, state corporations and agencies and committees.
- A review of the professional affiliations in the mining sector which included Geologists Registration Board; Geologist Society of Kenya; Universities; as well as Private Sectors in Mining and Exploration Companies.
- Past and current support to the mining sector with presentations by the Kenya Conference of Catholic Bishops (KCCB) and LSK-SIRD.
- The LSK CEO Ms. Mercy Wambua and SIRD's Project Director Ms. Jennifer Johnson gave presentations on the purpose & objectives of the project, the findings of the projects' baseline survey conducted in April 2017 in Kwale County; the role of the LSK-SIRD in promoting transparency, accountability and gender equity in the extractives sector as well as on areas of potential collaboration between the Ministry of Petroleum & Mining and the LSK-SIRD project. The SIRD Project is a five-year project whose ultimate objective is to increase sustainable economic growth for East Africans, in particular women and vulnerable groups, affected by extractive industries.

LSK hosts a delegation from the Rwanda Law Reform Commission

The President, Mr. Allen Gichuhi hosted a delegation from the Republic of Rwanda comprising of representatives from the Ministry of Local Government, Rwanda Law Reform Commission, Rwanda Development Board, the Office of the Ombudsman and the Rwanda Professional Bailiff Association. The Delegation was led by the chairperson of the Rwanda Law Reform Commission (RLRC).

The Chairperson of RLRC proceeded to elaborate the aim of their visit as being to benchmark specifically on the execution of court judgments, administrative decisions and other matters touching on administration of justice. He stated further that Although Rwanda has made progress in the judicial sector since 2003 reforms, including training of lawyers and judges and establishing new laws, aiming at having an independent,

effective and efficient judicial system, there was still need for improvements in order to deal with the various challenges. It was noted that Kenya had a progressive judicial system hence the choice for benchmarking. The Law Society of Kenya was hailed for the role that it has played in the administration of justice including in the law reform sector.

The LSK president in welcoming the delegation upon giving an elaborate overview of the Kenyan Justice System as

well as rules of procedure governing the execution of court judgments pointed out on the need for an all-inclusive Regional Conference that will discuss challenges each countries face to enable practical recommendations. It was recommended that the East Africa Law Society should take up the matter and bring together the regional Bar Association for purposes of engaging in a discourse around the area of administration of justice and execution of court orders.

CONFERENCE AND EVENTS

THE LAW SOCIETY OF KENYA ANNUAL CONFERENCE

The Law Society of Kenya Annual conference was held between the 8th - 12th August 2018 at the Leisure Lodge Beach and Golf Resort, Diani, Kwale County under the main theme, ***“The Rule of Law and Contested Constitutionalism in Post- 2010 Kenya: Promises, Progress, Pitfall and Prospects”*** and a conference sub theme, ***“Enhancing the Legal Practice in the Private and Public sector”***. The conference brought about over 1000 advocates from Private and Public institutions, who were treated to a Welcome Reception on Wednesday 8th August 2018.

The opening ceremony was graced by the Chief Justice and President of Supreme Court, Hon. Justice David Maraga who was delighted with the theme that would review achievements, as well as challenges, in the implementation of the 2010 Constitution which challenges us directly to confront the question, is the current constitution working for us? The Chief Justice noted that any constitution is as good as its implementation, in abstract; a constitution is a dead document unless it achieves some measure of constitutionalism.

He went ahead to state that a constitution which provides for respect of human rights—including socio-economic rights, democracy, fair trials, but has no effective mechanism of

implementation and enforcement of those rights is a hollow constitution with no constitutionalism. He stated that Kenya is a great nation, However, unless “commitments, duties and obligations contained in the fundamental law of the land” are “scrupulously respected and enforced”, the “political stability and confidence required to attract investment” will be in jeopardy. Unless all Kenyans of good will rise up and say no to impunity and hold those of us in leadership to account, our economy will stagnate as those of our neighbours flourish and leave us behind. So, we either say no to impunity and prosper or keep quiet and perish, he further urged members to say no to impunity.

Prof. Yash Pal Ghai, Advocate of the High Court of Kenya, Founding Director- Katiba Institute & former Chairman of the Constitution of Kenya Review Commission (CKRC) intimated that Kenya reached this constitution after a long struggle, over 20 years, against autocratic regime in which people’s rights were denied and its adoption in 2010 was widely acknowledged as the best constitution and the best Kenya has ever had. It has been praised not only in Africa but other parts of the world, where various sections of it have been copied. It is the only constitution in Kenya to be the product essentially of the people.



Council Members pose for a group photo with the Chief Justice Hon. David Maraga during the LSK Annual Conference 2018.

The forum also saw three key documents launched which included the **LSK Law Firm Management Manual, Young Lawyers Mentorship Programme** and the **Bar- Bench Committee Practice Guidelines** which would assist advocates in practice.



2018 was a precedence setting year as there were a number of activities cut out for various advocates at different level of practice. The forums included In- House Lawyers' Breakfast held under the theme, "The role of the in- house counsel in curbing financial crimes and terrorism," whose speakers were Richard Barno, Secretary (Legal Affairs) office of the Deputy President, James Manyonge, Head of Policy, Financial Reporting Centre and Ms. Faith Basiye, Head of Forensics, KCB Bank. There was also a Young Lawyers' dinner whose theme was, "The Young Lawyer in the Future of Changing Legal Practice: Way Forward," and a Women in the Law Breakfast Forum held under the theme, "Breaking Barriers: Expanding your circle of influence" whose speakers were; Njeri Kariuki, Advocate and Chartered Arbitrator, Member, ICC/ICA, Ms. Florence Mwangangi, Speaker, Machakos County and Josephine Mongare, Chairperson, FIDA- Kenya.

The presentations were done in two concurrent streams, Stream A- The rule of Law and contested constitutionalism in post- 2010 Kenya: Promises, Progress, Pitfalls and Prospects and Stream B- Enhancing the Legal Practice in the Private and Public Sector. The following are the papers as were presented per stream;

Stream A

Anatomy of an incomplete transformation: How the legacy of the repealed constitution explains both the gaps in the 2010 constitution and its partial implementation by Wachira Maina, Constitutional Lawyer

Horizontality and the Bill of Rights: Eight years on by Prof. Kiarie Mwaura, Dean, School of Law, University of Nairobi

Decentralized system of government, trade & regional integration by Hon. Peter Munya, CS, Ministry of Industry, Trade and Cooperatives

Bringing it Home: Aligning Kenya with the international human rights norms. By Binaifer Nowrojee, Regional Director, Asia Pacific Open Society

The role of development partners in implementation of constitutions by Maurice Odhiambo Makoloo, Regional Director, Ford Foundation Office for Eastern Africa.

Stream B

The road not taken: Property rights in the age of e-conveyancing by Prof. Tom Ojienda, SC, Advocate of the High Court of Kenya & Commissioner- Judicial Service Commission.

Removing the rose tinted spectacles: The in- house counsel as a proficient practicing advocate by Ruth Kirwa, Advocate of the High Court of Kenya, Commissioner- Kenya Law Reform Commission & University Secretary- Technical University of Kenya.

Disintegrating legal delivery from legal practice: Are lawyers becoming obsolete? Change for change resistant profession by Jacqueline Wanjiku Waihenya, Advocate of the High Court of Kenya.

Commercial Mediation: What role does the advocate play? by James Mangerere, Advocate of the High Court of Kenya and President, Mediation Training Institute (MTI) East Africa.

The dynamics of ADR in family disputes by Hon Lady Justice Jacqueline Kamau, President, Kenya Magistrate and Judges Association.

The annual conference came to a close with a Gala Dinner where Chief Guest was Hon. Amina Mohamed, CS, Ministry of Education who thanked the Council of the Law Society of Kenya for the opportunity to share her views on the conference theme. She noted that consistent efforts and **dialogue** are required to nurture, correct and build firm structural and institutional foundations for constitutionalism where the legal fraternity will remain a significant part of the said process. She pledged to pursue the value of education in enhancing the rule of law and constitutionalism in Kenya.

23RD EAST AFRICA LAW SOCIETY CONFERENCE & ANNUAL GENERAL MEETING

The Law Society of Kenya hosted the 23rd **East Africa Annual Conference** and General Meeting from **Tuesday 27th November to Saturday 1st December, 2018** at the Pride Inn Paradise Beach in Mombasa. The Conference organized under the theme **“Continental Free Trade Area: Challenges and Opportunities for the Legal Profession”** drew participants from colleagues across the East Africa Region.

The event brought together over 500 delegates from across six member bar associations, including for the first time the Republic of South Sudan. The week-long event had a myriad of activities revolving around the Continental and Regional Trade, Rule of Law, Professional Development, Justice & Administration, Regional Integration, Gender & Youth Mainstreaming, Business & Human Rights, Law & Technology especially on the emerging areas like Artificial Intelligence, Data Protection and Transnational Crimes amongst others areas.

Built on lessons learnt from previous conferences and feedback from members the 23rd Annual Conference was interactive and memorable which brought together several activities, beginning with forums on Leading Law Firms and In-house on 28th November, Young Lawyers and Women Lawyers

on 29th, and the climax being the 30th November when it hosted the regional leadership in a thrilling opening ceremony, crowned with unrivalled Gala Night.

During the Annual General Meeting held on the 1st December 2018, Members approved by a resolution to have the South Sudan Bar Association admitted to the East Africa Law Society. In addition members passed a resolution appreciating the Council of the EALS led by President Richard Mugisha for the exemplary performance during their tenure. Members appreciated the Council and the Conference Organizing Committee Chaired by **Ms. Maria Mbeneka, (EALS Vice President)** for organizing a very successful Conference and Annual General Meeting.

The following are the members who were elected during the elections;

- Mr. Willy Rubeya President (Burundi)
- Ms. Sarah Mhamilawa Vice President (Tanzania)
- Ms. Barbara Malowa Young Lawyers Representative (Kenya)
- Ms. Maggie Baingana Deputy Treasurer/Women Representative (Rwanda)
- Ms. Asmahaney Saad Secretary General (Uganda)



LSK President Allen Gichuhi addressing members during the 23rd EALS conference.



A section of the newly elected members of the EALS Council.

The elected members will join the Presidents/Bar leaders of the Bar Associations in the EALS Council.

Members passed several key resolutions affecting the East Africa Law Society

- A. In accordance with Article 4(2) of the Articles of Association of the East Africa Law Society, the South Sudan Bar Association be and is hereby admitted into membership of the East Africa Law Society and granted full benefits of membership.
- B. In accordance with Article 14(10 and (2) of the Articles of the East Africa Law Society, beginning 1st January 2019;
 1. Institutional subscription is hereby reviewed to require that each institutional member remits to the East Africa Law Society annually at the beginning of every calendar year, in addition to the current amount of \$3,000, an additional amount equivalent to \$10 per subscribed member of the institution.
 2. Individual annual subscription to the East Africa Law Society is hereby reviewed and determined to be voluntary and accordingly set as follows:
 - i. For members under two(2) years post-qualification, \$10
 - ii. For members between 2 and 5 years post –

- iii. For members above 5 years post-qualification \$40

The Law Society of Kenya actively participated in the organization and execution of the Conference through the Secretariat and representatives of the EALS. LSK was represented by the Council as well as individual members who participated in both the Conference and Annual General Meeting.

THE LAW SOCIETY OF KENYA ANNUAL JUSTICE CUP TOURNAMENT

The Law Society of Kenya held its Annual Justice Cup Tournament under the theme **“Kicking out Corruption”** at the Parklands Sport Club in Nairobi which attracted over 40 teams drawn from various Law Firms, Regional Bar Associations, Corporates and State Agencies involved in administration of justice. The tournament received support from various partners including the Ethics and Anti-Corruption Commission (EACC), Helinas Safaris, Stanbic Bank and Training & Consulting Associates (TCA).

The LSK President, Mr. Allen Gichuhi was elated with the turn out and reiterated the fact LSK will partner with EACC in the war against money laundering and develop guidelines to assist

members comply with financial regulations. The Chief Guest Archbishop (Rtd) Eliud Wabukala, Chairman Ethics and Anti-Corruption Commission (EACC) in his opening speech called on all Kenyans to remember that the fight against corruption does not belong to EACC alone.

Every Kenyan must play their rightful role. We all should “Kick Corruption out of Kenya” at all levels including our offices, at home, in our professions, in industry, in our social places, in our communities and everywhere. He further urged Advocates to take note of the various laws that have been enacted by the Government to tackle corruption in public and private institutions, with the most recent being the Bribery Act. The Bribery Act has widened the scope in the fight against corruption and it obligates private institutions/firms to put in place procedures to prevent corruption.

After a day's long tough matches pitting 42 team against each other, the following teams emerged victorious;

- Justice Cup 2018 Winner - LSK Sacco
- Mwadumbo Advocates- 2nd place (1st runner up)
- McKay Advocates -3rd place (2nd runner up)
- Muiru Muigai Advocates - Justice Plate winner

Other awards included;

- Best Player Male award - Geoffrey Adero of Bank of Africa,
- Best Player Female - Elizabeth Wambui of McKay Advocates,
- Fairplay Trophy - LSK Mt. Kenya Branch and the
- Referees awards went to MacDonald and other referees.



LSK Sacco with their trophy pose for a photo with the LSK President Allen Gichuhi during the LSK Justice Cup tournament 2018.

LSK LEGAL AWARENESS WEEK

The Law Society of Kenya launched its legal awareness week at the Milimani Law Courts under the theme **“Corruption: a crime against justice, democracy, development and prosperity”**. The launch was graced by Mr. Nicholas Mutuku, Deputy Director of Public Prosecutions at the Office of the Director of Public Prosecutions who represented Mr. Noordin Haji, Director of Public Prosecutions speech was flanked Mr. David Too, Director Legal Services Ethics and Anti-Corruption Commission (EACC), Ms. Rosaline Aganya, Deputy Registrar, Anti-corruption and Economic Crimes Division and Mr. Allen Gichuhi, LSK President.

The Chief Guest noted that the theme was both timely and appropriate given the societal mood since corruption had been rightly likened to a malignant cancer; it mutates and eats into the core and the fabric of society. He continued by stating that the fight against corruption required a holistic, multi-faceted and integrated approach with the primary focus being on detection, prevention and punishment of the vice. He urged the Advocates to continue engaging in capacity expansion through joint trainings, sensitization of stakeholders, legislative/policy reforms and forums such as the legal awareness week which is key to helping them achieve the successful and sustained fight against this vice called corruption. He concluded by reiterating the DPP’s commitment to faithfully play their role in combating corruption, at National and County level, without fear or favoritism.

Prison visits were conducted in liaison with Kenya Prison’s Services and held as activities aimed at advancing access to Justice and availing Legal Aid to the incarcerated. The prison visits took place concurrently with the Legal Aid Week at Milimani Law Courts parking yard. During the week over 200 incarcerated persons received free legal advice from Advocates during the prison visit. The prisons visited included Kamiti YCTC, Industrial Area Remand & Allocation prison, Lang’ata Women Maximum and the Nairobi Children Remand Home while Advocates offered pro-bono legal services to over 1,000 members of the public who visited the LSK Stand, sponsors and partners stands dealing in the administration of justice at the Milimani High Court.

The week also saw LSK in collaboration with the Kenya Police Service Band undertake an Anti-Corruption themed march dubbed #MulikaMalizaUfisiadi together with key players in the war against corruption.

The LSK Branches also organized activities and observed the Legal Awareness Week countrywide. The LSK leadership wishes to appreciate all the leadership of all the branches and chapters for organising the Legal Awareness Week. The Society endeavors to provide free Legal Aid and promote access to justice to the general public, with particular emphasis on the underprivileged, vulnerable and incarcerated groups.



Members march during the Legal Awareness week 2018.

LSK ANNUAL COCKTAIL

The Law Society of Kenya held its 2018 annual cocktail at the Intercontinental Hotel Mara Board room. The event's Chief Guest was Mr. Wafula Chebukati, Chairman of the Independent Electoral and Boundaries Commission (IEBC) flanked by the LSK President Mr. Allen Gichuhi, Vice President Harriette Chiggai, CEO Mercy Wambua and Council Members.

The President appreciated the members for honoring their request by showing up in large numbers and informed members that during the coming year his council will focus and spearhead some matters which included amendment of the Law Society of Kenya Act, development of Anti-money laundering guidelines, the Public Interest Litigation Code and pursue the issue of amendment of the Advocates Act to have the practicing certificates signed at the Secretariat and Social media code amongst others. He called upon the members to offer their support when called upon.

The Chief Guest Mr. Wafula Chebukati appreciated the LSK leadership for organizing the event and inviting him as a guest. He noted that the Commission will be undertaking some reforms and requested that the LSK to offer their support and further told members that the commission is working on ensuring that payment of advocates who assisted the commission in the petitions is made.

More than 1,000 advocates attended the annual event where they bonded and networked through the evening.

1ST BIENNIAL NATIONAL FORUM ON GENDER AND EXTRACTIVES

The Law Society of Kenya in conjunction with the Canadian Bar Association (CBA) through Global Affairs Canada (GAC) held its 1st biennial national forum on Gender and Extractives at the Panari Resort, Nyahururu, Kenya from 26th- 28th April 2018 under the theme, "Towards transparency, Gender Sensitivity and accountability: Extractive industry developments in Kenya. The forum brought together over 40 delegates from different background within the extractives industries including CBA officials, Kenyan Government (Ministry of Petroleum and Mining officials), Academia, Private Sector and Local Community.

Invited guests who made their opening remarks included Ms. Elisabeth Wilson from CBA and Mrs. Hellen Oriaro from Global Affairs Canada while Ms. Mercy Wambua, CEO/Secretary LSK made her welcoming remarks and Ms. Maria Mbeneka, Council Member delivered the key note address on behalf of Mr. Allen Gichuhi, LSK President. Present also was Mr. Kipkoeh Ngetich, Council Member. The guests recognized the importance of extractive industries as a driver of economic growth, the potential of social development and the reduction

of poverty while also recognizing the importance of good governance; responsible, sustainable resource development; transparency and accountability of the extractive sector. They also appreciated the Government of Canada who through Global Affairs Canada are funding the SIRD (Supporting Inclusive Resource Development) Project and the CBA who are implementers of the project in the East Africa Countries of Kenya, Uganda and Tanzania who are working in tandem with the law societies of these countries together strive to achieve the ultimate project goal of increasing sustainable economic growth for East Africans in particular, women.

H.E Hon. Murithi Ndiritu, Governor, Laikipia County and Hon. Patrick Mariru, Member of Parliament for Laikipia West were also present during the forum and urged delegates to explore ways on how to legally and positively look at the resources available within various counties amongst other issues.

The two day forum was officially opened by the Hon. John Omenge, PS Mining, Ministry of Petroleum and Mining, who noted that Kenya's government efforts to address gender equality and women's empowerment in the extractives sector is clearly illustrated in the various national legal and policy frameworks and national development programs which include vision 2030 under the economic and social pillars, the constitution of Kenya 2010 (on bill of rights and chapter 5 on land). He further stated that the Mining Act and policy on Mining and Minerals was to enable the Country reap maximum benefits from the sector, the policy noted that women and children are increasingly getting involved in the extractive industry especially in artisanal and small scale mining (ASM).

The forum looked at various areas within the extractives industries which were presented by various speakers from within and from Canada were lawyers who are experts on extractives. The topics included;

- Overview of the extractives sector in Kenya- strides, hurdles and expectations,
- Land rights in the extractives sector- fair and just community relocation and compensation, Environment-environmental impacts of extractive industries,
- Community engagement,
- Natural resources revenue sharing,
- Natural resources- conflict and conflict resolution mechanisms
- The role of law societies in natural resources management.

The forum saw discussions that would advise policy and legislative reforms, various recommendations and proposals generated to counteract the challenges in the extractives industry and government through the ministry of petroleum and mining were informed on the gaps in the extractives industry.

The SIRD Project is a five-year project whose ultimate objective is to increase sustainable economic growth for East Africans, in particular women and vulnerable groups, affected by extractive industries. The activities will be supported by Canadian technical assistance, drawn from CBA members across Canada who will provide training, mentorship, and technical advice on initiatives aimed at increasing:

- Engagement (e.g. advocacy, negotiation, drafting agreements, etc.) of the legal profession to support the participation of civil society and domestic private sector in the extractive industries.
- Advocacy by the legal profession to reform laws to reflect the principles of transparency and accountability in the extractive industries.
- Community participation in consultations, dialogue, negotiations, advocacy and other initiatives to advance their rights related to the extractive industries.

YELLOW RIBBON CAMPAIGN- PROTEST AGAINST IMPUNITY

The Law Society of Kenya organized a week long peaceful protest dubbed “Yellow Ribbon Campaign” a protest against impunity held as from 12th February 2018. The campaign had the following components;

- Wearing of yellow ribbon until there is respect for the rule of law
- Demonstrations by way of peaceful protest marches
- Undertaking of strategic litigation with a view to seeking in addition to appropriate orders and declarations, personal liability against the state and public officers who are acting or have acted with impunity.
- Preparation of yellow ribbon memorandum, on court orders willfully disobeyed and rights violated by state and public officers.

The then President Mr. Isaac Okero noted that there is a palpable feeling of outrage and dismay at this display of contempt for the laws and the constitution. There is genuine fear of what this portends for our constitutional democracy. It should always be the government that demonstrates to the citizens, by its example and conduct, the importance of strictly adhering to and respecting the law for the preservation of a free society as a constitutional democracy.

YELLOW RIBBON MEMORANDUM

As part of the Yellow Ribbon Campaign, the Council in 2017 established a Yellow Ribbon Campaign Committee. The Committee chaired by Mr. Christopher Gitari was tasked with the responsibility of undertaking a study on the status of non-compliance of Court Orders by the Government and Government Officials and to compile a report with recommendations. The Committee undertook its assignment, consulted advocates the judiciary and other stakeholders before preparing the Yellow Ribbon Campaign report which

was submitted to the Council in November 2018. The report contains several recommendations including:

- Review and amendment of the Contempt of Court Act**
- Pursue orders of **declaration of unsuitability to hold public office under the Leadership Integrity Act by officers willfully disobeying Court Orders**
- The Ethics and Anti-Corruption Commission** do issue further guidelines to public entities to immediately update their Specific Leadership and Integrity Codes to the effect that conviction of contempt of court should be a ground of removal from office as per sections 41(1) and (2) of the Leadership and Integrity Act. These updated codes should be signed by every officer on assuming office or upon review of the Code.
- Imprisonment of public officials who habitually and willfully ignore court orders**
- Constant engagement through the Court Users Committee:** Willful disobedience of court orders should be a question of discussion and engagement within Court Users Committees in order to enable grave concerns with other stakeholders including those drawn from watch dog bodies.
- Inclusion of Willful disobedience of Court Orders as a Standing agenda at NCAJ:** NCAJ is an appropriate organ where concerns around disobedience of court orders should be monitored and appropriate policy and other interventions undertaken to ensure strict compliance. The Law Society of Kenya is a member of NCAJ.

PAN AFRICAN LAWYERS UNION CONFERENCE

The 9th Pan African Lawyers Union (Palu) Annual Conference was held on 27th – 29th September, 2018 In Tunis, Tunisia. The Conference, the leading platform for African lawyers, brought together over 300 distinguished lawyers and representatives of law firms, the leadership of Africa’s Lawyers’ Associations, service providers to the legal profession, Human Rights and Good Governance Professionals, and friends of Africa from all over the world, to discuss matters germane to the practice of law, as well as economic, political and social development of the continent.

In addition to our own member lawyers’ associations and several PALU partners including the Raoul Wallenberg Institute, ECOWAS Court of Justice, East African Court of Justice, East African Law Society, Society of Black Lawyers, Financial Transparency Coalition and the Institute of Human Rights and Development in Africa. The program involved a wide variety of quality presentations, in-depth analyses and robust discussions, in two simultaneous streams, aligned to the PALU Members’ Sections: i.e.,

- Section on Business Law (SBL)
- Section on Legal Practice (SLP)

The conference held under the theme **“One Continent, One People, One Economy: Developing Africa through continental free trade and free movement.”**

PALU made commitments to support the ratification and implementation of the African Continental Free Trade Area, the Freedom of Movement Protocol and the Agreement for a Single African Air Transport Market (SAATAM).

One of the main activities held was the PALU Women Lawyers Forum which undertook discussions on the place of women in the African Continental Free Trade Area (AfCFTA) with support from UN Women.

Elections for a new Executive Committee were conducted during the Annual General Meeting. Mr. Emeka Jude Phillipe Obegolu (Nigeria) was elected as President replacing Zambian lawyer, Mr. Elijah Banda SC.

Other elected members included:

Vice President – Central Africa Mr. Coco KAYUDI (Democratic Republic of Congo)

Vice President – Eastern Africa Mr. Paul Revocatus KAUNDA (Tanzania)

Vice President – Northern Africa Ms. Fathia HENHILY (Tunisia)

Vice President – Southern Africa Dr. (Mr.) Gilberto Caldeira CORREIA (Mozambique)

Vice President – Western Africa Mr. Yayé MOUNKAILA (Niger)

Secretary General Mr. Kari ABDOUL BAGUI (Cameroon)

Deputy Secretary General Mr. Koffi Sylvain ATTOH-MENSAH (Togo)

Treasurer Ms. Gigi REID-MILES (Swaziland)

President of the Host Bar Association Ms. Fatma Amani KARUME (Tanzania)

Chief Executive Officer (Ex Officio) Mr. Donald Omondi DEYA (Kenya)

It is expected that the new Executive Committee will meet its members' aspirations for a more effective and member-centered organization, amend the PALU Constitution to open it up more to its members, and to contribute more assertively to the political, economic, social and cultural development of the continent, based on a just rule of law.

The Law Society of Kenya was represented at the Conference by the Aluso Ingati, Council Member and Mary Kitonga Program Officer Compliance and Ethics. Several members of the Law Society of Kenya attended the Conference.

INTERNATIONAL BAR ASSOCIATION (IBA) CONFERENCE

The International Bar Association held its Annual Conference between 7th – 12 October 2018 in Rome, Italy. The Law Society of Kenya is an Institutional Member of the IBA which avails members greater opportunity to participate in the activities of the IBA. The Law Society of Kenya was represented at the Conference by the LSK President who is one of the LSK representatives to the International Bar Issues Commission and serves in the IBA Council. In addition and with the support of the IBA Developing Bar Program, the Chief Executive Officer attended the Conference together with 4 young advocates. Several Council members attended the Conference at their own costs as well as other members of the Law Society of Kenya.

The Conference availed members the opportunity to:

- a. Gain up to date knowledge of the key developments in area of practice.
- b. Access the world's best networking and business development event for lawyers and law firms- attracting over 6,000 individuals representing over 2,700 law firms, corporations, governments and regulators over 130 jurisdictions.
- c. Build invaluable international connections with leading practitioners worldwide.
- d. Hear from leading international figures, including officials from the government and multi institutions, general counsel and experts across all practice areas and continents.
- e. Be a part of the debate on the future of the law.
- f. Acquire greater knowledge of the role of law in Society through rule of law and human rights.

The President and the Chief Executive Officer of the Law Society of Kenya attended the IBA Council Meeting, Bar Issues Leaders Forum, Legal Practice Division General Meeting all held at the sidelines of the Annual Conference.

PUBLICATIONS OF THE LAW SOCIETY OF KENYA

Newsletters

The Weekly Electronic Newsletters were circulated to the membership with assorted information that include (but not limited to) Council decisions, landmark court rulings, CPD seminars briefs, trainings, vacancies and legislations.

The Advocate Magazine

Two editions of the Advocate magazine were published in the year 2018; the 1st edition published and distributed during the Annual General Meeting and a 2nd edition during the Annual Conference under the theme;

- The main **Conference Theme: “The Rule of Law and Contested Constitutionalism in Post - 2010 Kenya: Promises, Progress, Pitfalls and Prospects”**
- Conference Sub Theme: **“Enhancing the Legal Practice in the Private and Public Sector.”**

Soft copies of the copies of the publication were circulated via link on the LSK weekly electronic newsletter.

Law Society of Kenya Journal

The Law Society of Kenya’s Editorial Committee’s Convener is Prof. Ben Sihanya while the Co-Convener is Prof. Attiya Waris. The Committees mandate includes;

1. To consider, edit and recommend for publication, articles for the Journal and the Advocate Magazine.
2. In consultation with the Committee on Continuing Legal Education, consider papers delivered at the CLE seminar for publications in Journal and Advocates Magazine.
3. To advise on the strategies of improving the reading and legal writing culture among members.
4. Consider and advise on measures for income generating activities for the Law Society publication.

The Committee published one journal issue (Volume 14 (1) 2018). The papers published in the said Journal included;

- **Failed Anti- Corruption Law Reforms: What options for the Developing World** by Michael Nyongesa Wabwile
- **Democracy and Current Global Wave Of Terror: Who Will Blink First?** by Rosalind N. Macharia, PHD, Law
- **What can Small Claims Courts in Kenya Learn from Kadhi Courts** by Njeru Thuku.
- **What is your Gain? Intricacies Of Capital Gains Tax In Property Transactions in Kenya by** Gatuyu Thurairia Justice
- **Slum Upgrading In Kenya: A Double Edged Sword for the Right to Adequate Housing by** Edward Kahuthia Murimi.

- **Adequacy of Kenya’s Legal Frameworks on Large Scale Extractives Industry in Addressing Interests of Local Community by** Eric Mutua.

Because of the need to review the Editorial Policy and operations, there has been a backlog of a huge number of papers from the previous committee. After a series of meetings and back and forth between the author and reviewers, the committee members are publishing this issue of the LSK Journal Volume 15 (1) 2019.

The Committee developed Draft Editorial policies for internal operations and external relations with stakeholders.

The Committee meets every last Friday of the month and when necessary. The following seven are the highlights of the activities and resolutions;

1. The Council has appointed Mr Boniface Akusala to be the liaison Council Member to the Editorial Committee.
2. The Committee is exploring possibilities of having the LSK Journal in an electronic format, which is LSK e-journal.
3. The Committee will be in charge of the production of the Advocate magazine as agreed with LSK and there is a further proposal to have a monthly e-magazine with a hard copy published at the end of the year consisting of the articles featured in the e-magazine.
4. The Committee is finalizing the review of articles for a 2018/2019 journal and to pave way for a new call of articles for at least two journals in 2019.
5. The Committee has finalized the Editorial Policy and regulations to facilitate the process of having the LSK Journal accredited by the Ministry of Education, the Commission for University Education (CUE) and individual universities.
6. The Committee is exploring ways of placing the LSK Journal on an online database.
7. It is expected that the LSK Journal and the Advocate (e-) magazine will be the main reference point regarding the administration of justice in Kenya as well as on related functions and roles of the LSK under the Constitution, the LSK Act, the Advocates Act and relevant laws.

CORPORATE SOCIAL RESPONSIBILITY

The Council undertook its CSR activity during the LSK Annual Conference 2018 at the Born Again Children's home which has faced challenge of accessing clean water for over 10 years now. The President accompanied by a section of Council and members were accorded a warm reception for the launch of the water project. The society drilled a borehole and provided 2 (5000lrts) water tanks to the home while Davis and Shirtliff provided a pump.

The home has offered moral and educational support to over 20 children in university and colleges who are now in different careers including politics, government, media, teaching and one as a manager in the children's home. Currently, the home is having 38 children; 2 in university, 15 in high school and 21 in primary school. During the launch, the Manager of the Home, Mr. Andrew Mwafusi appreciated LSK for make their dream come true and further requested members to make donations to the home to enable them construct a water tower that

would hold the two tanks for ease of supply of water.

Mr. Gichuhi noted that of all CSR activities, this has touched lives, it is unexcelled, he further called upon members to share proposals for various CSR activities that the society can engage in, as way of giving back to the community and changing the societies that we live in. He heeded to the request for donation to enable the home constructs a water tower. The impromptu funds drive collected over Kshs. 160,000 and later the business community within the Diani region including Leisure Lodge Resort made cash donation that was sufficient for the construction of the water tower to the Home.

The management of the Born again children's home led by Pastor. Geoffrey Mwarigha and Mr. Andrew Mwafusi noted that they would be forever indebted to the LSK and its membership for making their dream of having running water in the home come true.





LSK President Allen Gichuhi flanked by LSK CEO Mercy Wambua unveiling the plaque for the LSK CSR project of drilling a borehole at the Born Again Children's Home in Ukunda during the LSK Annual Conference.



The LSK CEO fetching piped water from the borehole drilled at the home.

LAW SOCIETY OF KENYA AWARDS

Roll of Honour

The Law Society of Kenya feted Mr. Rautta Athiambo, Advocate, the Chief Justice Hon. David K. Maraga, EGH and Mathare Social Justice Centre (MSJC).

The awards were presented during a colourful LSK Dinner & Dance held at the Intercontinental Hotel, Nairobi on 24th March 2018.

The event was presided over by the Former Chief Justice, Hon. Willy Mutunga, Mr. Macharis Njeru who represented the Chief Justice and Justice Mohamed Ibrahim amongst other invited guests.

1. Mr. Rautta Athiambo, Advocate

Mr. Rautta Athiambo, Advocate was inducted into the LSK Roll of Honour. According to the Citation, Mr. Rautta Athiambo achieved many remarkable professional feats, accomplishments and socio-economic and political advancements of Kenya.

As a young man, Mr. Rautta Athiambo started his career as a civil servant in the office of the Attorney General as a state counsel and gradually rose to become Assistant Registrar General and Senior Assistant Registrar General between 1975 and 1981 undertaking at different times criminal law prosecution, registration of companies and business names, copyright, administration of estates at the Public Trustees Department, registration of births and deaths and solemnization of marriages among other duties.

Between 1983 and 1993, he worked at the Lake Basin Authority on secondment and in various capacities including Secretary to the Authority/Personal Assistant to the Managing Director, Authority Secretary and Deputy Managing Director, Finance and Administration before returning to the office of the Attorney General in 1993 and serving there until 2002 as Chief State Counsel/Secretary to the Advocates Complaints Commission.

While at AG's offices, Mr. Athiambo: Supervised Advocates' Conduct and Services, Prosecuted errant Advocates, Introduced Stakeholder workshops across the country on the theme of "Honesty and Excellence in the Provision of Legal Services", that included LSK, Police, Judiciary, Prisons Departments and other consumers of services offered by advocates, Introduced a quarterly bulletin by the department through which members of the public and other stakeholders were regularly informed of developments relating complaints against advocates and developed and institutionalized the file registry system in the companies registry that is still in use to

date, such as the now famous "CR12"

On the development of Legal Education, he was a lecturer at the Kenya School of Law, (Company Law & Partnership) between 1975 - 1980, (Commercial Law and Transactions) and 1996 - to date; Lecturer, Kenya Polytechnic, (Company Law & Partnership) 1980/81; Examiner, Council of Legal Education, 1975 1986, 1996 - 2016; Lecturer, Kenya Institute of Management (The Law of Business Associations) 2005-6; Convener/Chairman, Committee on Continuing Legal Education/Committee on Continuing Professional Development, LSK (2004 to date); and a member and former Convener, Child Law Practitioners' Committee, LSK;

Mr. Athiambo has also published the following publications: Court Records: The Unfinished Business in the "Radical Surgery", March 2004; A Toothless Bulldog: Restore the Self-Regulation Powers of the LSK, July 2004; Advocate-Client Privilege Put on Trial, September, 2004; Ringera Report: Anatomy of Corruption or a Chronicle of Rumours? November 2004; Public Affairs and Protection of Human Rights. What is the Advocate's Role? December 2004; More Questions than Answers in Goldenberg Ejection of Counsel? January 2005; and Unqualified Advocate: Punishing the Victim, and Uncertificated: Did Your Lawyer Carry the Ticket to the Hall of Justice? both in April 2006;

Indeed Mr. Athiambo has led a distinguished and impeccable life as a Lawyer; law teacher; civil servant; human rights advocate; ethicist; disciplinarian; writer, publisher and a good citizen of Kenya.

2. Hon. Chief Justice Davis K. Maraga, EGH.

The Hon. David K. Maraga, Chief Justice and President of the Supreme Court of Kenya was feted for his Distinguished Service in the Administration of Justice.

The Chief Justice, before joining the Judiciary, was a legal practitioner for twenty-five years in conveyancing, civil and criminal litigation. Justice Maraga exhibited leadership early on when he served as the Chairman of the Rift Valley Law Society for five years and as a member of the Constitutional Review Task Force of the Seventh-day Adventist Church, East African Union.

He continuously provided clear leadership and hope as described by Daisaku Ikeda 'a person, who no matter how desperate the situation, gives others hope, is a true leader.' The Judge has contributed to jurisprudence and the development of the law. These instances are found in the areas of electoral law and international piracy. While at the High Court in Mombasa, he set the precedent for standard of proof in the

Hassan Joho vs Hotham Nyange Election Petition of 2005. At the Court of Appeal, he issued another precedent-setting decision that nullified an election on the grounds of bribery in the Wetang'ula vs Kombo & Other Election Petition Appeal of 2013. Sandra Day O'Connor, Supreme Court Justice said "Commitment to the rule of law provides a basic assurance that people can know what to expect whether what they do is popular or unpopular at the time." These precedents highlight the Judge's commitment to the rule of Law.'

In 2012, as part of a five-judge bench in the matter of Attorney General v. Mohamud Mohammed Harshi & Others, he overturned a High Court decision that declared that Kenya did not have powers to try piracy cases. The decision had constrained Kenya's ability to deal with pirates operating along the Somali Coastline. Applying the principle of universal jurisdiction, the decision paved the way for Kenya to deal with pirates in the Indian Ocean and is cited widely as an authority in international criminal law.

Apart from electoral and international piracy law, Justice Maraga has made other important contributions to the development of the law in a number of historic decisions he has made in his career on the Bench. At the High Court in Nakuru, he declared section 12 of the Valuation of Rating Act unconstitutional, paving way for law reform that resulted in local authorities becoming not only parties to the valuation for ratings but also having power to appoint arbiters to the valuation courts. Ruling in the Simon O Kamau & Others vs TSC case of 2006 he held that the pension of retired teachers was entitled to salary increment as was granted by government in 1997, which decision was upheld by the Court of Appeal and the Supreme Court. In the Royal Media Services Ltd & Others v. Attorney General & Others, he was on the three-judge bench that revoked a single digital broadcast license, which had been issued by the Government to the Pan-African Network Group and the national broadcaster subsidiary, Signet. The decision laid the foundation for the settlement of public interest questions in the broadcast sphere at the Supreme Court.

In December 2016, the President of the Republic of Kenya honoured CJ Maraga with the award of Elder of the Golden Heart (EGH) for distinguished service to the people of Kenya. CJ Maraga has also received several awards for his contribution to the strengthening of the rule of law, constitutionalism and distinguished service to the country. In December 2017, he was awarded the 5th C B Madan Award, a joint initiative of the Strathmore University Law School and The Platform Magazine. The award is named after Kenya's highly respected Retired Chief Justice, Chunilal Bhagwandas Madan, popularly known as C.B Madan, who battled to entrench integrity and independence of the Judiciary. The Madan Award paid tribute to CJ Maraga for the way the Supreme Court of Kenya, under

his leadership, presided over two presidential election petitions in 2017.

CJ Maraga was also awarded the International Commission of Jurists (ICJ) – Kenya Section 2017 Jurist of the Year Award. The award recognizes and acknowledges the outstanding contributions of an individual towards the promotion and protection of human rights, justice and the rule of law in Kenya. It honours distinguished service to humanity sometimes in difficult and challenging circumstances. ICJ recognized CJ Maraga's 'courage, boldness and determination' in the handling of the two presidential petitions

Further, the highly regarded and renowned pan-African monthly magazine, New African, in 2017 recognized Justice Maraga as the sixth (6) most influential person in Politics and Public Service after the King of Morocco, Mohammed VI, and just before Ghanaian President Nana Akufo-Addo. His work has had a transformative effect outside his calling as a jurist and his actions provide hope and inspiration to millions of Kenya and Africans.

CJ Maraga is an authority and a sought-after speaker in many legal forums. He has been the Key Speaker in numerous functions and has presented various papers at conferences in Kenya, Africa and abroad. As an accomplished trainer, he has facilitated in many capacity-building workshops locally and internationally. In the book *Balancing the Scales of Justice: Resolving Disputes from the 2013 Elections in Kenya and the Emerging Jurisprudence* Justice Maraga contributed a highly referenced and cited Chapter titled *Scrutiny in Electoral Disputes: A Kenyan Judicial Perspective*.

3. Mathare Social Justice Centre (MSJC)

The Mathare Social Justice was awarded the Father John Anthony Kaiser Human Rights Award mainly for its achievements for being at the forefront in promoting human rights.

Early 2015, young residents from Mathare united in creating a groundbreaking space to promote social justice. Growing up amidst abject poverty, police brutality, government neglect, land grabbing and political impunity, led these young people to take charge in documenting, addressing and preventing such injustices in this and other urban settlements. Without any financial resources, MSJC members started to meet every Saturday to discuss, plan and evaluate different social justice actions.

This resulted in the following ongoing campaigns:

1. Art for Social Justice Campaign
2. Youth and Reproductive Justice Campaign
3. Participatory Action Research

4. Campaign against Arbitrary Arrests, Enforced Disappearance and Extrajudicial Killing
5. Political Accountability Campaign
6. The Mathare Green Movement Campaign
7. The MSJC Kids Social Club

MSJC is built on local dynamics, practices and resources, such as local strategies, knowledge and experiences, and through sharing office spaces and other material resources. Pooling all that Mathare has to offer together and reaching out to more and more community residents, MSJC gradually grew into a focal point of hope and change; emboldening the belief among residents that something could be done to disrupt and dismantle systemic oppression. Crucial in their work with residents is expanding knowledge about the constitution and develop collective ways to hold duty bearers accountable to the inalienable civic rights enshrined in it.

A few examples of their exceptional work include frequent Community Dialogues in each Ward on the constitution and consistent documentation of human rights violations. Hundreds of residents participated in community forums on extra-judicial execution by police (EJE's), which has led to unprecedented documentation and research on such killings by police, both in terms of scope and depth. Documented cases have been shared with Independent Police Oversight Authority (IPOA) and the Kenya National Commission on Human Rights (KNCHR), and MSJC relentlessly insists that these organizations do follow-up on these cases despite few results. As part of their effort to help residents pursue justice, MSJC also accompanies and supports residents to frequently visit these organizations and attend court to push for justice, as well as to various police stations in order to report violations as they emerge.

All this work culminated in the first ever report on EJE's by a grassroots organization. On May 31st 2017, MSJC launched a report dubbed 'Who Is Next? A Participatory Action Research Report against the Normalization of Extrajudicial Executions in Mathare', which describes their years of work in collecting and documenting experiences of extrajudicial killings through participatory action research. MSJC's work of evidence-based action extends beyond Mathare, as they engage with local and national activist networks and organizations to strengthen and amplify the work of grassroots activists in other localities. Above all this, MSJC has been instrumental in building support networks for grassroots activism among established organizations such as the Society for International Development, The National Coalition of Human Rights Defenders, The Law society of Kenya, International

Centre for Transitional Justice, Katiba Institute, Amnesty International and the Peace Brigades International.

Pro Bono/ Public Interest Jurists feted

The Law Society of Kenya (LSK) in collaboration with Amnesty International Kenya (AI Kenya), the East African Centre for Human Rights (EACHRights), and Office of the High Commissioner for Human Rights (OHCHR) held its' 6th Award Ceremony for the 2018 Pro Bono/Public Interest Jurist Award at the Laico Regency Hotel, Nairobi.

The Chief Guest was Dr. Willy Mutunga, the former Chief Justice represented by Mr. Macharia Njeru the founding Chairman of the Independent Policing Authority (IPOA) while guests in attendance were LSK President, Mr. Allen Gichuhi, LSK CEO Ms Mercy Wambua, AI Kenya Executive Director, Mr. Irungu Houghton, UN Human Rights Officer, Ms. Marcella Favretto amongst other invited guests.

In 2018, the overall award was issued to John Dudley Ochiel, Advocate for his tremendous work done in a number of landmark public cases that touch on the rights of arrested persons, freedom of expression and socio-economic rights amongst others. The cases included; a case highlighting the right of arrested persons to be informed of the reasons for their arrest, the right to remain silent, and the consequences of not remaining silent, a case against the Cyber Crimes Act where he argued for conservatory orders which enabled the film Rafiki to be shown to consenting adult audiences for seven (7) days.

The orders also allowed the film to enter the competition for the prestigious Oscars Awards. The awardee has also argued a case on the constitutionality of the offence of publishing obscene information under section 84D of the Kenya Information and Communications Act and he argued for conservatory orders in a threatened forced eviction of thousands of city residents and is assisting counsel in two eviction cases pending at the Supreme Court.

The 1st and 2nd runners up pro bono/ PIL Jurist of the Year were awarded to Ms. Jemimah Keli, Advocate and Mr. Duncan Anzala, Advocate respectively while the Public Sector Access to Justice was awarded to Ms. Caroline Amondi, Advocate. The awards came a few days after celebrating 70 years since the adoption of the Universal Declaration on Human Rights on the Human Rights day. The award is a build up from the previous awards and recognized jurists who have excelled in pro bono, public interest and strategic litigation.

REPORTS OF REPRESENTATIVES OF THE LAW SOCIETY OF KENYA TO COMMITTEES AND VARIOUS INSTITUTIONS

1. SENIOR COUNSEL COMMITTEE

The Law Society of Kenya is represented in the Committee by **Mr. Nicholas Bichanga**, Advocate and **Ms. Lilian Renee Omondi**, Advocate. The other members of the Committee include:

- a. Hon. Justice Dr. Smoking Wanjala – Nominated by the Supreme Court
- b. Hon. Lady Justice Martha Koome – Nominated by the Court of Appeal
- c. Hon. Justice Fred Ochieng – Nominated by the High Court
- d. Hon. Justice (Rtd) Paul Kihara – The Attorney General
- e. Mr. Fred Ojiambo, SC – Senior Bar
- f. Mr. Ahmednasir Abdullahi, SC – Senior Bar
- g. Ms. Joyce Majiwa, SC – Senior Bar
- h. Mr. Allen Waiyaki Gichuhi, C.Arb – LSK President

The Committee is established under Section 17(3) of the Advocates Act. Its mandate is to consider applications made for conferment on a person the rank of Senior Counsel, make recommendations to the President for conferment and consider any application for removal of a person from the Roll of Senior Counsel and make recommendations to the President.

The Committee published a Notice in the *Daily Nation* dated Wednesday 10th January 2018 inviting applications from persons who qualify for conferment of the rank of Senior Counsel (SC). Approximately 75 members submitted their applications for consideration within the set deadline of Wednesday 31st January 2018.

The Committee on Senior Counsel could not proceed to vet the applications following the filing on *Petition Number 36 of 2018* challenging the constitutionality of the process. High Court Judge Justice E.C Mwita dismissed the Petition in a Judgment dated 3rd August 2018 enabling the Committee to proceed with its mandate.

2. AUCTIONEERS LICENSING BOARD

The Law Society of Kenya is represented at the Board by Dan Joshua Kasina and Belinda Kamar as provided for under the Auctioneers Act, who are the Vice-Chair and alternate Secretary respectively. The LSK representatives are mandated to provide legal advice and guidance to Board as well as act as the Chairperson and Secretary whenever the need arises.

The Board holds sessions bimonthly for 5 consecutive days continuously when disciplinary cases are heard and

determined; approval of applications and issuance of licenses for both class A and B Auctioneers; conducts training through workshops and seminars on emerging trends in auctioneering trade; administers pre licensing and enhancement examinations as well as oral interviews for both classes of auctioneers. The board also encourages mediation between parties and adopts consents which are within the law.

Highlights of the year

- a. In 2018, the Board vide an executive order number 1 of 2018 was moved from being a Board under the Judiciary to the Office of the Attorney General, but with the same mandate and membership.
- b. The Board interacted with Kabete Technical Training Institute to develop a curriculum for auctioneers training. The reason the Board had discussions with the institute was to help streamline the practice and enhance knowledge considering that this is a purely apprentice trade. This will also help the board to have a proper training framework for future auctioneers.
- c. The Board adopted a new system of issuing dates during the sitting. This was to avoid adjournments which were rampant on the account that the letters were not being received on time. In keep with technology, the board is in the process of developing an online licensing system.
- d. In 2018, the Board carried out four workshops, as part of its training program which is a mandatory requirement as provided for under Section 4 (c) the Auctioneers Act Cap 526. An Auctioneer is required to attend a Minimum of 2 workshops in a license year, that one in their region and any other. The workshops were held in Mombasa, Nyeri, Kisumu and Eldoret. The Highlights of the presentations were:
 - a. ii. Winding up of an Auctioneering firm.
 - b. iii. Curriculum development and advertising.
 - c. iv. Nutrition.
- f. The Board has just completed considering applications for license for the year 2019 and while majority have been licensed a few have failed to avail requisite documents and have not been licensed until such time as they shall comply. The Comprehensive list will be available from the Board Secretariat. The Board has endeavored to continue to ensure that data pertaining to Auctioneers is up to date by compiling and publishing in the print media particulars of the persons who have been licensed to carry on the practice of Auctioneering.
- g. The Board is presently undertaking curriculum development in collaboration with Kabete Technical

Training Institute. A review of Auctioneers Act is also underway and the board shall in the next year request for view from stakeholders including the Law Society of Kenya.

3. KENYA NATIONAL HIGHWAY AUTHORITY (KENHA)

The LSK is represented by Ms. Mary Karen Kigen-Sorobit. The mandate of the Kenya National Highways Authority (KeNHA) as provided for under Section 3 of the Kenya Roads Act 2007, is inter alia, to be responsible for the management, development, rehabilitation and maintenance of primary national trunk roads; A, B and C as specified under Part A of the First Schedule of the Kenya Roads Act. The Authority is also in charge of class "S" roads as provided under the Transition to Devolved Governments Act, 2012 (1 of 2012).

In achieving its mandate, the Authority has to draw experience and leadership from various backgrounds given the technical and unique nature of its mandate and function. The Board of KeNHA and the Board Committees, provides strategic and policy direction to the Authority in its operations and ensures that the mission and vision of the Authority as well as its strategic plan, is implemented throughout the Authority. The Board is comprised of representatives from the following institutions;

- Institution of Engineers of Kenya.
- Institution of Surveyors of Kenya.
- Law Society of Kenya
- Institution of Certified Public Accountants of Kenya.
- Institution of Higher Learning.
- Kenya Association of Manufacturers.
- Cabinet Secretary, the National Treasury or his Alternate.
- Principal Secretary, Infrastructure or his Alternate.
- Principal Secretary, Transport or his Alternate.

The inclusion of members with the requisite knowledge, skill, background and expertise (in the areas affecting the Authority) is considered an issue of paramount importance in enabling the Authority achieves its mandate.

Highlights of the year

- a. The representative served as the Chairperson of the Audit, Risk and Governance Committee of the Board and have been at the helm of ensuring that the Audit, Risk and Governance Committee oversees the operations of the Internal Audit function in the Authority in terms of conducting timely audits, implementation of the Committee's directives and ensuring that followup audits are conducted timeously. In addition, as the Chairperson of the Committee I ensure that the Authority implements all recommendations of the Auditor General.
- b. Aided the Authority in analyzing the Kenya Roads Bill 2017, with a view to ensuring the Bill puts KeNHA on the

best possible footing to enable it carry out its mandate efficiently. In particular, I accompanied the Board Chairman and members of Management before the Parliamentary Committee on Transport, Public Works and Housing on 30th January, 2018. The said Bill has since progressed and is currently pending before Senate, having undergone the Second Reading. It awaits tabling before the Committee of the whole house in early 2019.

- c. The Law Society of Kenya has been allocated two more slots in the road agencies namely Kenya Urban Roads Authority (KURA) and Kenya Rural Roads Authority (KeRRA) besides KeNHA, the only slot currently held by Law Society of Kenya in the Road Sector as per the Roads Act, 2007.
- d. In July 2018, the Board attended meeting of Permanent Secretaries/ Chairmen/ Chief Executive Officers of State Corporations.
- e. The Board held a Consultative Meeting between the Authorities's Board of Directors and the Surveyors in July, 2018 specifically to address the issue of road encroachment.
- f. The representative attended and participated in full Board and Board Committee meetings and advised on matters of Good Corporate governance in line with the Mwongozo Code of Governance for State Corporations.
- g. Negotiated KeNHA Performance Management Contract for the 2018/2019 with the performance Contracting Department, Ministry of Devolution and Planning and attended the Authority annual vetting of its performance.
- h. The Board continues with its oversight role of the Authority.

4. KENYA CONSUMER PROTECTION ADVISORY COMMITTEE (KECOPAC)

The LSK is represented by Ms. Elizabeth Wangari Odhiambo. Kenya Consumer Protection Advisory Committee (KECOPAC) is established under section 89 of the Consumer Protection Act no 46/2012. The mandate of the advisory committee can be confined to five broad areas namely to provide and promote information, education and advice to consumers; support, strengthen and accredit consumer rights bodies to effectively protect consumers; to review consumer protection laws, directives, standards and monitor trade and business practices to ensure consumer protection; monitor the effectiveness of regulatory bodies, Courts and establish dispute resolution mechanisms at County and National Level; issue advisories to the government on the state of consumer protection at all times.

KECOPAC which is a committee within the ministry of industrialization comprises of representative professional bodies like the Law Society of Kenya and Kenya Medical Association, representatives of the Kenya

Manufacturers association and financial and insurance sectors, representatives from consumer organizations and representatives from government agencies like the office of the Attorney General and Kenya Bureau of Standards. The first term of KECOPAC ran from 2013 to 2016, and the second committee began its tenure in April 2018 up to 2021.

To date the KECOPAC have had four meetings of the full committee and several subcommittee meetings with the following important outcomes which are of interest to the Law Society of Kenya.

- a. A draft consumer protection amendment bill introducing amendments to the structure of the KECOPAC to that of an authority with a Tribunal which have power to enforce the consumer protection law and resolve disputes. The draft bill is to be presented to the Cabinet Secretary, consumer organizations and regulatory bodies including LSK disciplinary committee for comments, approval before submitting the same to parliament.
- b. Commissioning a state of consumer protection research and report, to further understand sectors/ industry where consumer rights to goods and services are absent or limited. This report will then inform which areas the committee will prioritize during its three year tenure.
- c. Draft strategic plan and work plan and annual plans, based on the Ministry of Industrialization plans to enable the committee to contribute towards the objectives of the ministry, which contribute towards the government agenda (Agenda 4, MDG, SDG, Vision 2030, Vision 2050). These government agenda prioritize consumer rights to quality goods and services, as a driver to both local and international business.
- d. Conduct consumer education to educate and sensitize consumers on their rights and responsibilities as set out in the UN Charter, Constitution of Kenya, and Consumer Protection Act.
- e. Collaboration with the County Governments and Attorney General to ensure secretariat is in place to receive and process consumer complaints.

Recommendation to the Council of the Law Society of Kenya

a. LSK as a regulatory body;

The Law Society of Kenya is a society of Advocates offering legal services to the consumer and this service should conform to the standards set out in the Consumer Protection Act namely fair accessible, efficient, sustainable and responsible and not unfair, unconscionable, unreasonable, unjust, improper, deceptive misleading, and fraudulent conduct.

The Society self regulates the provision of legal services to the consumer, and has provided channels of

complaint to the committee, should endeavor to ensure satisfactory redress.

KECOPAC is to monitor, train, empower the LSK disciplinary committee together with other regulatory and the society should encourage cooperation with KECOPAC.

b. LSK as Advocate of the people

The Consumer Protection Act raises the bar on quality of goods and services to inter a lia reasonable merchantable quality, price (not exceed 10% of estimate), allowing consumers to rescind agreements, recover damages, and protect against unsolicited goods and repossession after payment of 2/3. The purpose of the Act is to promote the welfare of consumers from unfair, unconscionable, unreasonable, unjust, improper, deceptive, misleading, fraudulent conduct.

Consumers can address their grievances through the regulatory bodies, Courts and dispute resolution mechanisms yet to be set up. LSK members should play their role in pursuing the rights of their clients under the Consumer Protection Act as Advocates, Rights Defenders or as judicial officers.

c. LSK as Advisors, Consultants, Trainers

The Consumer Protection Act is relatively new and both consumers and providers of goods and services need to be educated, sensitized and advised on the provisions of the Act. In particular the Act prescribes standards for specific sectors and members should play roles of advisors, consultant to these sectors namely the Motor vehicle repair industry, Aircrafts services; providers of credit services by banks, insurance, credit card and leases.

5. KENYA LAW REFORM COMMISSION (KLRC) FOR THE FINANCIAL YEAR 2017/18

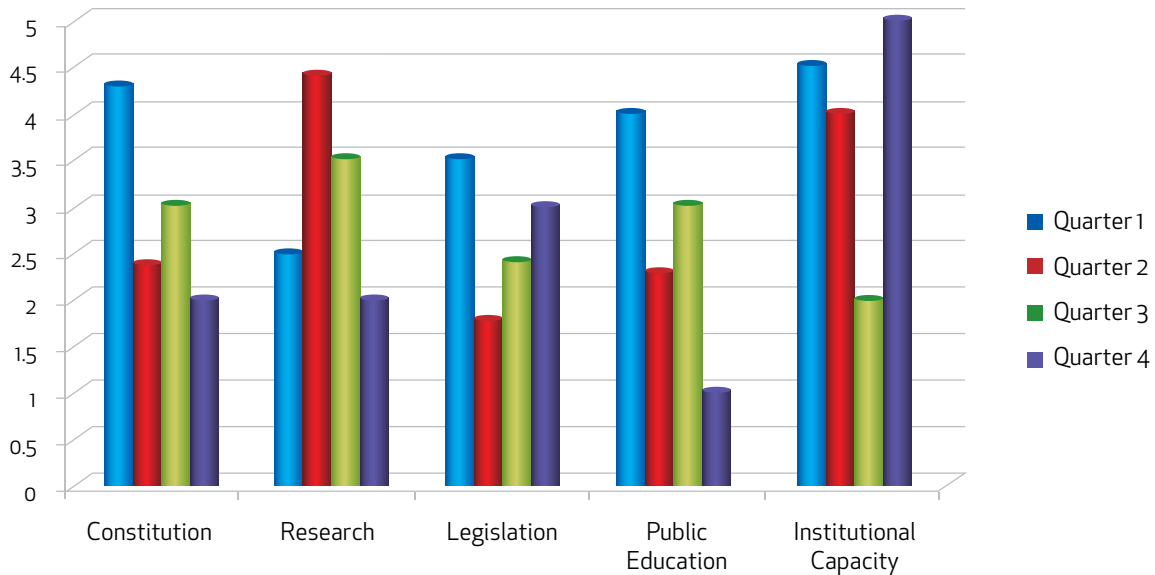
This report is the last in the just concluded Commission's life-span 2013-2018 and summarises KLRC's key result areas, targets and achievements for the financial year 2017/18. During the period, Apollo Mboya, HSC was the LSK representative. In the reporting period; the Commission worked tirelessly towards the realization of the strategic goals and objectives. The specific objectives of the Commission were to:

1. To facilitate preparation of legislation required to implement the Constitution;
2. To facilitate development and review of legislation required for the successful implementation of the Medium Term Plan;
3. To facilitate reform of the Law, Policies, Regulations and Administrative Procedures to conform to the

- Constitution and the Medium Term Plan; and
4. To enhance requisite institutional capacities for effective delivery of the Commission's mandate.

The result areas are drawn from the Strategic Plan, Performance Contract and Annual Work Plan adopted in the reporting period. The targets were developed taking into

consideration the Medium Term Plans and the Kenya Vision 2030. These have been captured in key strategic and performance areas among them: Constitutional Implementation; Technical Assistance to County Governments; Research and Development; Public Education, Review of Legislation and Enhanced Institutional Capacity.



Key Achievements and Milestones

The key achievements and milestones of the Commission for the period 2013-2018.

1.1 Effective Implementation of CoK, 2010

To fully implement the Constitution, the Commission worked with the Attorney General and the defunct Commission for Implementation of the Constitution to prepare bills for tabling in Parliament. All these pieces of legislation were required to be enacted within the transition period 2010-2015. Besides the enactment of bills, a number of institutional and policy frameworks were established or reviewed together with the progressive realization of values and principles of governance as contained in Article 10 of the Constitution. The following are key highlights:

1.1.1 Development of Required Legislation

The Commission fully prepared for tabling in Parliament legislation that was required to implement the Constitution under the Fifth Schedule. However, some contentious bills were

drafted, tabled in Parliament but not finally enacted (e.g. the 2/3rd gender Bill). In some instances, such as the one above, opinion and interpretation of courts was sought.

1.1.2 Setting of Institutional Mechanisms

The Commission supported the preparation of necessary legislative, policy, institutional and regulatory frameworks to establish and operationalize offices enshrined in the Constitution. Such legislation included: the Commission for the Implementation of the Constitution, the Teachers Service Commission, Public Service Commission, Commission on Revenue Allocation, Judicial Service Commission, Salaries and Remuneration Commission, The Ethics and Anti-Corruption Commission (formerly KACA), the National Equality and Gender Commission, the National Commission on Human Rights, The National Land Commission, and the Commission on Administration of Justice among others. These institutions were established and entrenched to discharge specific mandates in constitutional implementation.

1.1.3 Operationalization of Devolution and Devolved Governance

To operationalize the system of devolved governance, the Commission assisted in the preparation of a number of bills such as the Urban Areas and Cities Bill, 2011, County Governments Bill, 2011, the Inter-Governmental Relations Bill, 2011, the Transition to Devolved Government Bill, 2011, and the Public Finance Management Bill, 2011. All are now enacted into law.

1.1.4 Alignment of Existing Legislation to the Constitution

In enhancing law reform, KLRC through the Commission reviewed existing laws to ensure conformity to the letter and the spirit of CoK, 2010. Among key laws reviewed included the Advocates Act, the Societies Act, and the National Crime Research Centre Act among others. The Commission further audited existing laws for alignment with the Constitution.

1.2 Technical Assistance to National and County Governments

KLRC assisted various Ministries, Departments and Agencies in both National and County Governments to review and develop legislation. The Commission also undertook various Projects/ Programmes in line with the Second Medium Term Plan of the Kenya Vision 2030. These efforts were in line with its mandate, functions and goals and the support was in form of:

1.2.1 Review and Drafting of Legislation

Specifically the Commission participated in the development of over 70 bills and the formulation of regulations. Key among of them include: the Marriage Bill, 2014, Movable Property Security Rights Bill, Tribunals Bill, Associations Bill, , Insolvency Bill, Partnerships Bill, Computer and Cyber Crime Bill and the Land Value Index Laws (Amendment) Bill. These bills were finalized and forwarded to the Office of the Attorney General for onward transmission to the Cabinet and Parliament.

1.2.2 Public Education and Training

The Commission adopted myriad of strategies to conduct public education, training and capacity building. For instance it conducted a nationwide training of Trainers of Trainers (TToTs) on the Legislative Process in Kenya. The Guide to the Legislative Process in Kenya was developed, published and disseminated in the 47 counties by the TToTs under 12 clusters (see appendix iv). The Commission also developed and launched over 50 County Model laws in October 2016. In addition, the

Commission conducted several tailor made trainings to various stakeholders: County Assembly; County Executives, National Government. Sensitization fora on the Constitution and Law Reform were also conducted using online media, public barazas and stakeholder meetings. Particularly, these trainings were on policy initiation, development and translation into bills. Overall, there has been increased knowledge of law reform among stakeholders.

1.2.3 Development and Dissemination of County Model Laws

The Commission recognized that the birth of devolution was one such milestone that required a quality legislative, policy and administrative environment. KLRC further appreciated the need to have a model legislative framework for optimum realization of the gains of devolution in the 14 County Government functions listed under the 4th Schedule to the Constitution. The Commission thus developed County model laws with an aim of providing standard legislation which would be adapted and customized to suit county specific needs. Consequently, through a comprehensive stakeholder consultation process, the "Model Laws" were subjected to a multi-stakeholder introspection and review in 2015. The Commission in collaboration with the Ministry of Devolution and Planning did launch County Model Laws in November 2016.

1.2.4 Provision of Advisory Opinions

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

- (i) Implementation of the Supreme Court Advisory on the respective roles of the Ministry of Land, Housing and Urban Development and the National Land Commission;
- (ii) Coffee Licensing regime-Roles of the Director AFFA and Governors in the coffee sector;
- (iii) Proposed amendment to the Transition to Devolved Government Act, 2012;
- (iv) The Prevention of Torture Act;
- (v) The Kenya Institute of Curriculum Development (Amendment) Bill, 2016;
- (vi) The National Government Constituencies Development (Amendment) Bill, 2016;
- (vii) Removal of the Members of County Public Service Board; and
- (viii) Appointment of County Chief Officers.

1.3 Enhancing Public Participation Tenets in Legislative Development

Public participation principle under Article 10 of the Constitution encourages transparent debates and participation by various stakeholders. The Commission actively participated in supporting county governments develop Public Participation Bills as well as developing the National Public Participation Policy in Kenya. The Commission also promoted public participation in policy, law making and as well as other governance and reform processes.

1.4 Promotion of Good Governance and Fight against Corruption

The letter and spirit of Constitution of Kenya requires good governance, transparency and accountability in all tenets of public service. In this respect, the Commission contributed by way of drafting a number of far-reaching legislations which have since been enacted. These include: the Anti-corruption (Amendment) Bill 2016, the Whistle-blowers Protection Bill, 2016 and the Bribery Bill, 2015. The Commission also implemented the Presidential directives on corruption by developing the National Anti-Corruption Campaign Steering Committee Bill, 2016. The on-going implementation of these pieces of legislation has impacted positively in the dispensation of justice and in the war against corruption.

1.5 Support for Kenya's Electoral Reforms

Chapter Seven (7) of the Constitution of Kenya 2010 provides for representation of the people. It broadly stipulates the general principles (Article 81) for the electoral system and specifically requires Parliament to enact legislation (Article 82) for effective management of the electoral process in Kenya. The Commission participated in the development of several bills electoral regulations and administrative procedures. Some of the bills have since been enacted into law and operationalized. Key among them include: the Elections Offences Bill, 2016 (now enacted), Elections (Amendment) Bill, 2016 and the Political Parties (Amendment) Bill, 2016.

The Commission further supported the Review of the Elections Act, Review of IEBC Act, Election Regulations and the Review of Election Offences Act. These efforts were made in collaboration with other stakeholders so as to consolidate and strengthen the electoral system in Kenya in accordance with the Constitution. More specifically, the reforms facilitated the conduct of the General Elections in the year 2017.

1.6 Enhanced Institutional Capacities

1.6.1 Enhanced Staff Establishment and Capacity

The Commission was faced with inadequate technical staff owing to the need to serve 47 County and the National Governments and their MDAs. To address this challenge; the Commission recruited additional staff while some were seconded/embedded. To meet the expanding staff compliment, the Commission equally increased its infrastructural capacity and the acquisition of additional office space. Further, the Commission trained the existing and new officers. The trainings were tailored to address the knowledge gaps and to enhance staff performance and productivity and the needs of the Commission.

The Commission correspondingly finalized the preparation and revision of the necessary HR and Administrative Documents such as the Career Progression Guidelines and Code of Conduct. These were further aligned to those in the mainstream Public Service. These have assisted the Commission to facilitate proper HR practices, attract and retain skilled and qualified staff for effective implementation of the Commission's mandate.

1.6.2 Promotion of Integrity in Public Service

Internally, the Commission also made significant contributions to combat and prevent corruption, unethical practices and promote standards and best practices in governance in line with the Ethics and Anti-Corruption Commission Act No. 22 of 2011 and the Leadership and Integrity Act of 2012. This was achieved by carrying out a Risk Assessment and development of Risk Mitigation Plan, submission of Procurement Plans to EACC, establishment of a Gift Register; and capacity building for heads of departments and staff. The Commission has also established a Corruption Prevention Committee (CPC) whose members were trained on corruption eradication. Similarly, staff were trained on risk management. To further provide leadership on anti-corruption and integrity; Commissioners signed the Mwongozo Code of Governance in the year 2016.

1.7 Notable Milestones

Partnership and Collaboration

1. Collaboration with key partners such as Parliament, defunct CIC, AG's Office, CoG especially to prepare for tabling in Parliament the law and as required by CoK, 2010;
2. Collaboration with CSOs and Development partners e.g. AHADI and IDLO, and their effect on Commission capacity and outcomes;
3. Enhanced engagement with County legislative Assemblies and with County Executives;

4. Built long term capacity building initiatives for Counties in collaboration with the County Assemblies Forum (CAF) and Development partners such as AHADI and IDLO;
5. Law reform work was conducted in the context of regional integration through the East African Community (EAC). This included legislative drafting and partnership with EAC to harmonize Kenyan laws with those of the EAC Parliament;
6. Partnered with FIDA Kenya to train County Women MCAs on legislative review for gender sensitivity;
7. Publication and dissemination of the Guide to the Legislative Process in Kenya and County Model laws being the first of their kind in Kenya;
8. Ongoing audit of national policy and legislation on various thematic areas e.g. health and education, which could help improve reforms; and
9. All 47 County Counsel trained on legislative drafting, especially on child-friendly legislation and others on gender policy and legislation.

Institutional Capacities

1. Growth in technical capacity by training over 8 technical staff in legislative drafting and other relevant courses;
2. Additional 12 legal officers were recruited in the reporting period: 4 in the 2015-2016 and 8 in the 2016-2017 financial years;
3. The Commission established and recruited staff for 3 new departments namely: Legal Research, Public Education and Corporate Affairs and Communications;
4. Digitalization of KLRC functions and services, leading to more effective and efficient service delivery;
5. Computers were procured for the technical and support staff to an optimum ratio of 1:1;
6. The Commission automated departmental systems and implemented the financial management system (ERP) linking the Accounts and Procurement units and established a Pension and Medical Scheme;
7. To facilitate knowledge exchange and learning, the Commission subscribed to e-newspapers and e-publications;
8. The Commission increased its infrastructural capacity through the acquisition of additional office space on 4th and 8th floor of Reinsurance Plaza;
9. The Commission developed a fleet management system which is awaiting its operationalization and implementation;
10. The Commission also purchased 3 Fortune vehicles and repaired 2 Prados to enhance its fleet; and
11. The Commission realized its 2013-2017 Strategic Plan goals and objectives;

Challenges and Recommendations

1.1 Challenges

1.1.1 Operational Challenges

KLRC has a wide mandate which would not programmatically fully be met by the GoK funding. This occasioned gaps in several fronts such as: legal research and public education. It also led to inadequate implementation of the job evaluation results with regards to staff salaries thus occasioning unnecessary staff turnover.

Recommendations

- a) KLRC to pro-actively engage with Parliament and other development partners for additional funding in the underfunded programmatic areas;
- b) KLRC to enhance its staff motivation, reward and retention strategies;
- c) KLRC to continuously develop and strengthen partnerships with development partners and like minded institutions who may offer support to the Commission in carrying out its mandate, programmes and functions;
- d) KLRC to align its activities and programs to the National agenda like the Big Four, Vision 2030 and SDGs so as to attract additional funding from GoK that is set aside for projects under these agenda;
- e) KLRC to develop a resource mobilization policy and strategy; and
- f) KLRC to explore to possibility of increasing its Appropriation in Aid.

1.1.2 Functional Challenges

i) Effect of Omnibus legislation

In the reporting period there were instances where substantive clauses were introduced in some legislation without the knowledge of the Commission. The effect of this could be a potential inconsistency in the Statute Book and with the spirit and letter of the Constitution.

Recommendations

- a) KLRC to lobby to be included in the consultation processes by Parliament on any relevant amendments;
 - b) KLRC to be proactive in exercising its mandate;
 - c) KLRC to set out guidelines of reviewing omnibus legislation in conjunction with the Office of the Attorney General and other institutions mandated to carry out the law reform function.
- ii) Supremacy Battles among various institutions**
During the initial stages of the transition period of constitutional implementation, there were power

and functional conflicts in the key institutions and organs charged with implementation such as Senate vs. National Assembly; County Assembly vs. Governors; National Assembly vs. Governors and the converse was true. This delayed implementation of devolution and even subsequent development of relevant legislation.

Recommendations

- a) Relevant agencies to be sensitized on their various roles in law reform so as to forestall duplicity of processes; and
- b) KLRC to proactively engage MDAs and other stakeholders so as to receive advance notice of upcoming legislative work.

iii) Inadequate Legislative Drafting Capacity in Kenya

There was the need to support all the 47 county governments in the development and review of bills and policy frameworks. However, this required specialized drafting skill was inadequate owing to the huge demand for this service. KLRC was thus overstretched and had to consider offering short training courses to relevant officers. This also later proved inadequate as these officers were sometimes transferred or re-employed elsewhere.

Recommendations

- a) KLRC to proactively engage with stakeholders such as County Assemblies, County Executives and so as to develop the needed capacity; and
- b) KLRC to develop and disseminate a legislative drafting manual that will aid in training of legislative drafters.

iv) Unrealistic Stakeholders' and Public Expectations

KLRC faced unrealistic stakeholders' and public expectations on the outcomes and impact of its work especially with regards to the realization of justice and eradication of corruption due to its misunderstood mandate and low visibility.

Recommendations:

- a) KLRC to facilitate effective stakeholder engagement and public education for an understanding of its mandate and appreciation of the principles of law reform in the context of the Constitution;
- b) KLRC to update stakeholders on the

existence of its feedback mechanisms and a complaints referral mechanism for quick resolutions; and

- c) KLRC to enhance its corporate image and visibility to its stakeholders and communicate its vision and mandate using appropriate channels and fora.

v) Attempts to amend the KLRC Act No. 19 of 2013

There were attempts to amend the KLRC Act. The amendments were twice tabled in the National Assembly without the knowledge of the Commission. Had they sailed through, they would have threatened the independence and functional autonomy of the Commission.

Recommendations:

Relevant agencies to support KLRC in its work and statute amendments be accommodated only in enhancement of law reform;

vi) Inadequate Law Reform Capacity

The promulgation of the Constitution in 2010 occasioned the need for heightened law reform in several fronts: policy, legislative, administrative and constitutional reforms. However, capacity both human and technical in the area has not correlated effectively to match this demand. Further, those tasked with legislative and law reform work both in the National and County Governments keep changing with every electoral cycle.

Recommendations:

- a) Parliament to consider allocation of additional resources for improving the technical and human capacity of the agencies tasked with law reform; and
- b) Relevant development partners be approached so as to help in building the capacity of relevant law reform players;

6. NATIONAL LEGAL AID SERVICES

The National Legal Aid Service is a successor to the National Steering Committee (NSC) for the National Legal Aid and Awareness Programme (NALEAP) which was established vide a Gazette Notice No. 11589 of 2007 with the mandate to among other things facilitate access to justice for all and provide policy direction for the establishment of a national legal aid scheme for Kenya. Since 2009 the programme piloted on key six thematic projects in Nairobi, Mombasa, Kisumu, Nakuru and Eldoret facilitated by civil societies, university law

clinics and the judiciary among others under the then Ministry of Justice National Cohesion and Constitutional Affairs.

With the merger of State Law Office and the then Ministry of Justice National Cohesion and Constitutional Affairs, and pursuant to Legal No.2/2013 on the organization of Government, the programme and Legal Aid became the mandate of the Office of the Attorney General. The Hon. Attorney General championed the approval by Cabinet and enactment into law, the National Legal Aid and Awareness Policy, 2015 and the Legal Aid Act, 2016 respectively.

The Legal Aid Act establishes a legal and institutional framework for legal aid in Kenya by giving effect to Articles 19 (2), 48, 50 (2) (g) and (h) of the Constitution, establishing the National Legal Aid Service with the following mandate;

- (a) Establish and administer a national legal aid scheme that is affordable, accessible, sustainable, credible and accountable;
- (b) Advise the Cabinet Secretary on matters relating to legal aid in Kenya;
- (c) Encourage and facilitate the settlement of disputes through alternative dispute resolution;
- (d) Undertake and promote research in the field of legal aid, and access to justice with special reference to the need for legal aid services among indigent persons and marginalized groups;
- (e) Take necessary steps to promote public interest litigation with regard to consumer protection, environmental protection and any other matter of special concern to the marginalized groups;
- (f) Provide grants in aid for specific schemes to various voluntary social service institutions, for the implementation of legal aid services under this Act;
- (g) Develop and issue guidelines and standards for the establishment of legal aid schemes by Non-Governmental Agencies;
- (h) In consultation with the Council of Legal Education, develop programs for legal aid education and the training and certification of paralegals;
- (i) Promote, and supervise the establishment and

working of legal aid services in universities, colleges and other institutions;

- (j) Promote the use of alternative dispute resolution methods;
- (k) Take appropriate measures to promote legal literacy and legal awareness among the public and in particular, educate vulnerable sections of the society on their rights and duties under the Constitution and other laws;
- (l) Facilitate the representation of persons granted legal aid under this Act;
- (m) Assign legal aid providers to persons granted legal aid under this Act;
- (n) Establish, coordinate, monitor and evaluate justice advisory centers;
- (o) Coordinate, monitor and evaluate paralegals and other legal service providers and give general directions for the proper implementation
- (p) Administer and manage the Legal Aid Fund; and
- (q) Perform such other functions as may be assigned to it under this Act or any other written law.

(2) Issue guidelines specifying matters or classes of matters relating to the provision of legal aid.

The Legal Aid Act also establishes a Board of NLAS comprising representatives from Governmental and non-governmental institutions, chaired by Ms. Nazima Malik.

ACTIVITIES

During the period under review, the NLAS undertook the following activities;

1. DEVELOPMENT OF KEY POLICY DOCUMENTS

a) Human Resource Policy Documents

In 2016, the Honorable Attorney General engaged the Director of Public Service Management (DPSM) as consultancy to develop the following key human resource documents for the National Legal Aid and Awareness Programme to facilitate its transition to the National Legal Aid Service and the Implementation of the Legal Aid Act 2016;

- i. Organizational structure;
- ii. Human resource Manual;

- iii. Career Progression guidelines;
- iv. Staff Establishment; and
- v. Grading and Salary Structure.

The draft documents have since been subjected to review and approval by the Board and are awaiting onward transmission to Salaries and Remuneration Commission and State Corporations Advisory Committee for finalization and endorsement.

With the aforementioned documents in place, the service will not only be able to employ qualified staff at all levels but also decentralize its services in all the 47 counties.

b) Legal Aid Regulations

NLAS has, through broad consultation with stakeholders in the justice sector, developed draft Legal Aid Regulations (Eligibility and Accreditation) and a code of conduct for legal aid providers. The objective of the regulations are to guide the service in determining persons who are eligible for legal aid as well as what to look into while accrediting legal aid providers. The regulations have been subjected to stakeholder validation and are currently in the process of parliamentary approval and gazettelement.

c) Strategic Plan

NLAS has developed draft National Legal Aid Service Strategic Plan 2018-2023. The strategic plan provides the road map on how to realize NLAS vision. The SP is currently awaiting stakeholder validation and Launch.

2. INAUGURAL EAST AFRICAN REGIONAL LEGAL AID NETWORKS CONFERENCE.

NLAS with the support of, Internal Development Law Organization (through its Africa Initiative Program) in collaboration with the Paralegal Support Network (PASUNE), the East African Committee on Judicial Education (EAJEC) under the auspices of the East Africa Community (EAC) Secretariat supported the inaugural East African legal aid regional conference that was held in Nairobi, Kenya, from the 5th to the 8th of November, 2018.

The conference theme was

Understanding approaches to Legal Aid in enhancing access to Justice and harnessing the engagement with formal and informal justice systems in dispensing justice.

The conference brought together more than 100 participants drawn from a pool of policy makers, legal aid practitioners including representatives of the respective Ministries of Justice, the Judiciary, Training Institutes in the region, the secretariat of the EAC, regional Bar Associations, Offices of Public Prosecution, Pro bono Lawyers, the East Africa Law Society, relevant UN agencies and other development partners, Paralegal support networks, members of the Civil Society, law schools in Universities that operate legal aid clinics, Faith Based Organizations and Community Based Organizations from Kenya, Uganda, Tanzania, Rwanda, Burundi and South Sudan. Also in attendance were experts experienced in the establishment and administration of legal aid schemes from Southern Africa, West Africa, the Middle East and the North African regions to share their experiences.

The objective of the conference was to;

- a) Identify challenges, gaps and capacity needs of African States that require intervention to establish effective state-funded legal aid schemes;
- b) Stimulate renewed commitment by African States to undertake policy review and development, legislative and regulatory measures to facilitate the establishment and administration of effective state-funded legal aid schemes;
- c) Share experiences, lessons learned and international best practices, in the establishment and administration of state-funded legal aid schemes and the development of frameworks for peer support, including mechanisms for implementing inter-country reviews to track progress;
- d) Explore ways of enhancing collaboration and cooperation between Member States and non-state agencies engaged in legal aid services within the region;
- e) Facilitate knowledge transfer and the sharing of information among stakeholders in the justice sector on the interface between the rule of law, judicial training and legal aid and explore the various institutional frameworks for the creation of linkages between the formal and informal justice systems.

At the end of the conference, the members from the various countries adopted a resolution that would see the enhancement of access to justice all over Africa and beyond.

3. PROVISION OF LEGAL AID

The Service continues to offer free legal aid services to the poor, vulnerable and marginalized communities in Kenya in 5 regions (Nairobi, Mombasa, Kisumu, Nakuru and Eldoret). Since the inauguration of the Board, a total of 63,583 persons (with 6,150 being for the period July 2018-December 2018) have received legal aid services which include; legal advice, legal representation, self-representation training, awareness creation, mediation services, psycho-social support and drafting of court pleadings. The nature of the cases range from children cases, criminal cases and cases by internally displaced persons.

4. SELF-REPRESENTATION TRAINING

With the support of its pro bono lawyers NLAS has offered self-representation training to over 1,500 indigent, vulnerable and marginalized people in Kenya who have matters in court. The objective of the training is to build the capacity of the self-representing clients on the court processes in order for them to represent themselves in court.

5. INTERNSHIP/MENTORSHIP/VOLUNTEER PROGRAMME

During the period July 2018 to December 2018 NLAS took 60 law graduates and students through its internship/mentorship/volunteer programme.

7. NATIONAL ENVIRONMENTAL COMPLAINTS COMMITTEE

The Law Society of Kenya is represented by Ms. Caroline Khasoa. The National Environmental Complaints Committee (NECC) is established under Sections 31 to 36 of the Environmental Management and Co-ordination Act (EMCA) of 1999. This Act was amended in 2015 where the Committee's name was changed from the previous Public Complaints Committee to NECC. The Committee is charged with the mandate of investigating allegations and/or complaints regarding the condition of the environment in Kenya made against any person or the National Environment Management Authority (NEMA). NECC can also investigate suspected cases of environmental degradation on its own motion. It can also perform such other functions as may be assigned to it by the Cabinet Secretary (CS) in charge of the environment.

EMCA also requires the Committee to make periodic reports of its findings together with its recommendations thereon and submit them to the

Cabinet Secretary to facilitate environmental policy formulation. It also prepares periodic reports which form part of the State of the Environment (SoE) report prepared by NEMA, which is submitted to Parliament. Additionally, NECC also has the added mandate of undertaking public interest litigation on behalf of the citizens in environmental matters. This is an avenue for it to promote environmental justice.

The Committee has been in operation since July 2001 when it was gazetted by the then Minister for Environment and Natural Resources and inaugurated in August 2001. The Committee Members serve a three-year term, which may be renewed once. The current Committee is the fifth one, whose members have been appointed on diverse dates since 7th January 2014.

Vision:

Our vision is to be the leading environmental ombudsman in Africa.

Mission:

Our mission is to facilitate access to environmental justice to the public by providing a forum for expeditious and affordable environmental conflict resolution and contributing to environmental policy development.

A. INVESTIGATION OF CASES

The Committee regulates its own procedure. It conducts informal proceedings and ensures that the process is flexible and the language is simple so that the common person may easily understand the proceedings during its hearings and investigations. Since its services are free of charge, NECC offers the public a cheap and a more participatory avenue of addressing environmental concerns, and places great emphasis on the creation of public awareness and voluntary conduct in environmental conservation. EMCA empowers the Committee to investigate cases of environmental degradation against all including Government ministries, departments, agencies and other institutions. This makes it the first of its kind in the East African region.

Since its inception, NECC has investigated close to 1,000 environmental complaints from across the country. The categories of complaints received and investigated by the committee range from waste management, water pollution, EIA and licensing, air pollution, land use as well as deforestation. The bulk of the complaints investigated fall under the category of waste management. However there are cross cutting environmental issues, such as poor disposal of sewage, noise pollution, quarrying and poor physical planning and zoning practices.

In its investigations, the Committee has managed, in some cases to reverse the ill-effects of environmental degradation. For example in the area of air pollution, the Committee has managed to investigate and intervene where factories have been accused of causing air pollution due to their emissions. As a result, such factories have put in place emission control measures which have significantly improved the level of air quality in those areas. They have also been dealing in cases of deforestation in Yala swamp, Ondiri swamp, Kibiri and Mau forest, sand harvesting in Eastern region, illegal quarrying and gold mining using cyanide in Migori, Kakamega and Nandi, air pollution in Kitengela and use of potentially hazardous chemicals at flower farms in Naivasha. The issue of solid waste management has been of grave concern and NECC played a role in highlighting the problem, leading to the ban on plastic bags in Kenya, closure of Goldox donkey abattoir in Baringo County, Kibos Sugar Company and the relocation of the kibarani dumpsite in Mombasa County.

Other major attainments include;

- a) Enjoined in the Solai dam case for the PIL mandate
- b) Finalization of NECC's PIL manual
- c) Finalized and validated NECC's Strategic Plan 2018-2022.
- d) Participation in national and international environmental conferences and event e.g. the 7th Conference of Parties of the United Nations Convention to Combat Desertification (UNCCD COP 7), UNEA 3, the 12th session of the United Nation Framework on Climate Change (UNFCCC COP12), the 8th session of the Basel Convention, World Wetlands Day, World Environment Day, World Day to Combat Desertification and The Nairobi International Trade Fair.
- e) Participation in review of the E.I.A Regulations, 2018
- f) Participated in the Forest taskforce and our recommendations formed the base of the report

B. ROLLING OUT PIL

Public interest litigation (PIL) on environment is a tool used by individuals, groups or communities to challenge activities of government or private individuals in a court of law on environmental matters, for public interest. PIL is an important tool for the following reasons:

1. Promotes improvement of environmental regulations that directly affect the public
2. Ensures that anyone seeking to protect the environment has access to judicial or administrative procedures on environmental matters.

3. Ensures environmental justice is implemented in the Improvement of environmental law

Since it's a new mandate, NECC is in the process of finalizing the development of an operationalization framework that defines the scope of PIL. The operation manual will involve the following:

- a) Public interest strategies for legal redress on environment matters -
- b) Procedures and processes for social justice investigation
- c) How to provide PIL advisory on environment matters
- d) Procedure for conducting public interest litigation on environmental matters
- e) Sensitization, coordination, and creating awareness of PIL mechanisms to the general public

The Committee has worked in partnership with environmental organizations, government departments and other stakeholders, especially the National Environment Management Authority (NEMA) in the preparation of the state of environment and annual reports, as well as participating in national events, e.g. the World Environment Day and international environmental events and conferences. As an environmental ombudsman, the Committee intends to intensify its operations nationwide and enhance the public's sense of environmental justice through the operationalization of PIL.

Proposed Areas of Partnership

Due to its lack of an establishment, NECC faces a major challenge in delivering on its mandate in Kenya. It only has offices in Nairobi and hardly spends enough time in the regions for a greater impact. Thus, NECC is proposing some areas of collaboration with institutions like the Law Society of Kenya which promotes access to environmental justice.

Some of the areas where such partnership would work include;

1. Awareness creation through the established branches and mechanisms by LSK to reach many Kenyans on matters environmental justice
2. Capacity building of staff in areas of investigations, research, case management system, court case litigation and public interest litigation
3. NECC is willing to share with LSK its findings of 2018 on environmental matters
4. NECC welcomes an invitation from LSK to give a presentation on environmental matters

While these form the primary areas of collaboration, NECC remains open to other suggestions to enrich its knowledge base and ensure that there is enhanced service delivery to the members of the public.

8. NATIONAL CONSTRUCTION AUTHORITY

In line with Section 7 of the National Construction Authority Act ('NCA Act') No. 41 of 2011, I Ms. Elizabeth Mvoi was appointed to the Board of the Authority by the Cabinet Secretary of the Ministry of Transport, Infrastructure, Housing, Urban Development and Public Works, Mr. James Macharia EGH, on the 1st July 2018 vide Kenya Gazette Vol. CXX-76 Notice No. 6271 dated 29th June 2018.

My appointment is for a term of three (3) years and I represents the Law Society of Kenya on the Board.

I was officially inaugurated as a Board Member on Tuesday, 25th September 2018 at Crowne Plaza, Nairobi which was officiated by the Principal Secretary (PS) of the State Department of Public Works, Prof. Paul M. Maringa CBS.

I participated in the Authority's internal Board induction held on 2nd to 5th October 2018 at Pride Inn Hotel, Mombasa County.

As a Board Member, I have been involved in the following activities;

1.0 Board Committees

I was appointed to serve in Committees of the Board in October 2018. Currently I am a member and The Chairperson of the Human Resource Committee and Board Audit Risk & Governance Committee (BARGC) of the Board.

2.0 Appointment to Subcommittee of the Board

Pursuant to Section 22 of the NCA Act, I was appointed, as one of four Board members, to an Ad Hoc Committee to undertake an inquiry into the collapse of an eight (8) floor building on Plot No.1670 in Malindi Town, Kilifi County in November 2018. The recommendations of the report were tabled and approved by the Board in their 45th Board Meeting held on 5th December 2018.

3.0 Business Development Meetings

I was also nominated and subsequently attended a business meeting to provide greater insight into the development of Affordable Housing Projects from 11th to 21st December 2018 in Istanbul, Turkey. The benchmarking trip included presentations by Turkish Developers on experiences on affordable

housing opportunities for the Turkish construction sector and site visits to affordable housing projects around Turkey.

3.0 Board Retreats

I have also attended and participated in a Board retreat held on 11th to 12th February 2019 for presentations on the following agendas relating to the Authority:

1. Presentation of the Revised Evaluation Criteria for Contractors;
2. Draft Construction Industry Policy;
3. Review of the Code of Conduct for the Construction Industry;
4. Status update on the development of the National Construction Institute in Konza City;
5. Overview of the Procurement Law.

4.0. Board Trainings

In line with capacity building activities, I successfully attended the 188th Corporate Governance training in Mombasa facilitated by the Centre of Corporate Governance from 21st to 25th January 2019.

The intense training provides an overview of Board matters including corporate governance practices, finance reporting, human resource leadership, corporate social responsibility, ethical leadership, integrity and business practices among others.

I have also successfully attended a training organized by the State Corporations Advisory Committee (SCAC) in partnership with the Institute of Certified Public Secretaries of Kenya (ICPSK) on the Mwongozo Code of Governance for State Corporations from 21st to 23rd of February 2019 in Naivasha County.

9. TASKFORCE ON DECISION TO CHARGE

Ms. Kabita is a member of the Taskforce on Decision to Charge, which taskforce was appointed by the Director of Public Prosecution. Members of the taskforce are : the Secretary of Public Prosecution, all deputy directors of Public Prosecution, a representative of the National Police Service, a representative of the Directorate of Criminal Investigation, a representative of Ethics and Anti-Corruption Commission, a representative of the Attorney General ,a representative from Independent Policing Oversight Authority and a representative from Kenya National Commission on Human Rights.

The setting up of the Taskforce was informed by the need to have a guide for prosecutors in the way they should exercise their powers, carry out their duties and perform

their functions in deciding whether or not to prosecute and in the selection of charges to prefer.

The Taskforce held its first meeting on 12th September, 2018 and came up with a workplan to complete its Terms of Service. The tasks are : developing guidelines on the minimum standard on the decision to charge, developing guidelines on alternative alternatives to prosecution and developing guidelines on review of prosecutorial decisions.

The taskforce is in the process of compiling its final report to share the same with membership.

10. KENYA SCHOOL OF LAW BOARD

PART I: BACKGROUND INFORMATION

The LSK representative to the board is Mrs. Jacqueline A. O. Manani, Advocate. The School was established in 1963, following the recommendations of the Denning Commission on Legal Education in Africa to the effect that the Country needed practical and professional legal training for legal practitioners in addition to the basic academic content being offered by various Universities and Colleges.

The School was re-established in 1995 is a public institution – a Semi-Autonomous Government Agency (SAGA) - mandated under the Council of Legal Education Act 16A of the Laws of Kenya to dispense practical legal training for and on behalf of the Government of Kenya. The School's first programme was the Advocates Training Programme (ATP) undertaken to train lawyers for admission as advocates of the High Court of Kenya and this remains the School's flagship programme.

The School was further mandated to provide Continuing Professional Development (CPD) training (Section 6 of the Council of Legal Education Act Cap 16A). The training was practice-oriented and intended to enhance legal competencies and skills in the delivery of legal services in the Country. The CPD programmes targets legal professionals engaged in the administration of justice, legal practitioners in the public and private sectors, as well as other professionals whose duties involve interpretation, administration and enforcement of law.

The mandate of the School was further reinforced by the report of the Ministerial Task Force on the Development of a Policy and Legal Framework for Legal Education and Training (2005), which recommended inter alia, the "setting up of an independent and autonomous public training institution with the sole responsibility of training in various aspects of law as well as training for the private sector and collaborating with

international agencies to discharge their mandate".

The School's training portfolio has been enlarged further, in view of the promulgation of two Acts separating the functions of the Council of Legal Education (CLE) from those of the School. The Legal Education Act No. 27 of 2012 tasks CLE with policy, oversight and regulation responsibilities; while the Kenya School of Law Act No. 26 of 2012 makes the School responsible for legal training at all levels, including Advocates and Para-legal training and Continuing Professional Development service delivery in the areas of training and continuing legal education. The two Acts were assented on 21st September, 2012 and commenced on 28th September, 2012 and 15th January, 2013 respectively.

PART II: THE SCHOOL

1. **The Core functions of the School**
The core function of the School are provided in section 4 of the Kenya School of Law Act, which are:
 - i. Training of advocates for entry into the legal profession,
 - ii. Continuing professional legal development,
 - iii. Provision of Para-legal training,
 - iv. Provision of specialized and customized legal training in the public service, and
 - v. Offering consultancy and research services
2. **Key Activities**
The key activities of the School during the year 2018 involved academic services entailing the Advocates Training Programme, Diploma in Law (Paralegal Studies) and Continuous Professional Development, Hospitality services and Finance, Human Resources and Administration activities.

a) Academic Services

During the Academic Year 2018/19 ATP academic program registered 1865 students compared to 2048 students admitted in the Academic Year 2017/2018. This indicates a 9% decline in the number of students who enrolled for the ATP programme in the in the two successive years. The decline in enrolment is significantly attributed to the low numbers of students completing Bachelor of Laws (LLB) from our Universities. The School registered 198 students in its Diploma in Law (Paralegal Studies) programme for the academic year 2018/20, this was a 61.6% increase from the academic year 2017/19.

However, a number of students for various reasons mainly financial constraint did defer their studies after registration.

The Pre-Bar Information Booklet was developed since the School is moving to the admission criteria under the Second Schedule of the Kenya School of Law Act which requires all applicants with foreign qualifications to sit and pass Pre-Bar examinations. The School carried out a sensitization exercise in Strathmore, Jomo Kenyatta University of Agriculture and Technology, Kisii, and Riara Universities.

The School continued to offer legal aid to the prisons. The following legal aid prison visits were undertaken: Busia Prison, Kajiado Prison, Kericho Prison, Kakamega Prison, Mwingi Prison, Bungoma Prison, and Nanyuki Prison.

The School's students in the Advocates Training Programme participated in three international moot court competitions during the reporting period. These were: the International Criminal Court Moot Court Competition; the ELSA Moot Court Competition and the Phillip C. Jessup Moot Court Competition.

b) Continuous Professional Development

The School successfully mounted a number of Continuous Professional Development courses during the year. These included: Legal Audit & Compliance for Public Institutions, Legislative Drafting, Fundamentals of Public Prosecutions, Public Private Partnership Policy, Law and Implementation, Procurement Law, Practice & Policies, Trial Advocacy for NEMA, Legal Audit & Compliance for Public Institutions, Prosecution Skills Course for KEBS, Corporate Governance for Corporation Secretaries, Kenyatta National Hospital (KNH), National Industrial Training Authority (NITA), Retirement Benefits Authority (RBA), Kenya Deposit Insurance Corporation (KDIC), Kenya Bureau of Standards (KEBS), Industrial and Commercial Development Corporation (ICDC), The Kenya Ports Authority (KPA), Kenya National Bureau of Statistics (KNBS), Geothermal Development Co. Ltd (GDC), Privatization Commission (PC) and Commodities Fund.

c) Hospitality Activities

A number of institutions held workshops in the School. These included Kenya Revenue Authority, Office of Director of Public Prosecution, Office of the Attorney General, African Regional Org for Standardization, African Wildlife Foundation, Nairobi City Water & Sewerage Co. Ltd, Kenya Police, Kenya Bureau of Standards, MMC Africa Law, CEMASTE, Kaimosi Friends University College, Egerton University, Commission for University Education, African Youth Forum Conference, National Environmental Authority-NEMA, Mediation Training Institute, Co-Operative University among others

d) Finance, Human Resources and Administration

In an effort to ensure reliable, secure, economical and safe drinking water, the School drilled a second borehole during the year, which was equipped and operationalized. However the water yield from the new borehole did not meet the expected threshold and the School continues to buy water to meet the water deficit.

During the report period the Board developed and approved a new organisational structure, staff establishment, career progression guidelines, and Human Resource Manual. The documents are aligned to the strategic plan to ensure its successful implementation.

3. Financial Performance for the FY ended 30th June, 2018

a) Revenue

During the year the School received Kshs 290.7 Million against Kshs 290 Million in 2016/2017 financial year as Government recurrent subvention. This amount was in line with approved budget allocation. The School managed to raise Kshs 332.1 Million from its internal operations against Kshs 377.3 Million in 2016/2017 financial year. This represented a decrease of 12% and resulted mainly from reduced number of students admitted during the period. Student's fees income of Kshs 281 Million contributed the highest portion of this internally generated revenue representing 84%. Combined Hospitality and CPD activities generated Kshs 43.4 Million – 13% of total against Kshs 67 Million in 2016/2017 financial year representing a decrease of 35%.

b) Expenditure

The School expended Kshs 544 Million in recurrent expenses against budget of Kshs 543 Million. An amount of Kshs 32, Million was spent on capital nature items against a budget of Kshs 124 Million. The variance resulting from budgeted amounts for the Ultra-modern library which were not realized from the Government.

c) Results

The Schools net assets grew from Kshs 2.226 billion in 2016/2017 financial year to Kshs 2.256 billion in 2017/2018 financial year. During the year the School realised a deficit of Kshs 33 Million.

4. Key Achievements

During the year under review the School continued to discharge her mandate of provision of quality and practical training in law and other related disciplines for the professional development of lawyers and other

actors in legal sector. The following were key activities during the year:

- i) The Board of Director exercised general control and management of the School by:
 - a) Providing strategic advice and direction to the School;
 - b) Approving study programmes;
 - c) Approving Schedule for examinations;
 - d) Monitoring performance of the School and make policy decisions that enhance the performance of the School;
 - e) Monitoring and evaluating the impact of the School programmes on the legal sector;
 - f) Administered the property and funds of the School in a transparent and accountable manner; and
 - g) Approving financial statements through Cabinet Secretary for consideration by Treasury.
- ii) The student numbers in the Advocates Training Programme academic year 2018/19 reduced to 1865 from 2048 in 2017/18, while in the Diploma in Law (Paralegal studies) the School registered 198 students in the academic year 2018/20 compared to 122 in 2017/2019 academic year.
- iii) An Information Booklet on Pre-Bar Examinations was developed and the School sensitized a number of Universities.
- iv) The ATP students participated in four international moot court competitions.
- v) The School continued to publish its Justice Newsletter, and Africa Journal of Comparative Constitutional Law.
- vi) The number of institutions who utilized the Schools conference facilities increased during the year.
- vii) CPD courses attracted more participants. During the year, 9 short courses were offered and 11 legal audit consultancies were conducted. In addition, 10 other consultancies offered by CPD.
- viii) During the year, the policies below were developed and were approved by the board for implementation.
 - a) Corporate Communication Policy
 - b) Corporate Social Responsibility Policy
 - c) Business Continuity Plan

d) Procurement Manual

- ix) The School commenced transition from ISO 9001-2008 to ISO 9001-2015.
- x) The School finalized the 2018-22 Strategic Plan.

PART III: THE STRATEGIC PLAN 2018-22

The School had been operating on a Strategic Plan 2015-2018, whose period expired on 30th June, 2018. The Board of Directors who are responsible for the general policy and strategic direction chartered a path towards developing a new strategic direction for the School which has resulted in the Strategic Plan 2018-22.

The Strategic Plan redefined the vision, mission, core values, strategic issues and strategies of the School which now are:

Vision

A preferred centre of excellence in professional legal training, research and consultancy in the East African region and beyond.

Mission

To offer quality practical training in law and other related disciplines for the professional development of lawyers and other actors in the legal sector, and to undertake research, consultancies and projects.

Core values

- (i) Integrity
- (ii) Excellence
- (iii) Client Oriented
- (iv) Team-work and partnership
- (v) Competence and professionalism
- (vi) Transparency and accountability
- (vii) Inclusivity

Strategic Issues

The School has identified strategic issues to enhance its quality service delivery to both its internal and external customers. The following six (6) strategic issues form the basis for the strategic objectives adopted in this Plan:

- (i) Legal training;
- (ii) Continuing Professional Development(CPD);
- (iii) Research, consultancies & projects;
- (iv) Financial sustainability and cost cutting;
- (v) Institutional capacity/operational excellence; and
- (vi) Customer focus.

Strategic Objectives & Strategies

The strategic objectives and strategies in the table below were formulated to achieve the strategic direction of the School for the next four years.

No.	Strategic Objectives	Strategies
1.	To provide quality professional legal training for ATP&PTP.	<ul style="list-style-type: none"> (i) Deliver legal training; (ii) Develop and deliver curricula; (iii) Enhance capacity for academic staff; (iv) Obtain accreditation for ATP&PTP; (v) Implement a student management system; (vi) Develop legal clinics programmes; (vii) Develop mentorship programmes; (viii) Diversify mode of delivery of training; (ix) Expand and improve learning facilities; (x) Establish linkages towards adding value to the School programmes; (xi) Improve library services; and (xii) Enhance quality assurance.
2.	To provide practical training for Continuing Professional Development (CPD)	<ul style="list-style-type: none"> (i) Review CPD Courses to determine their suitability for market; (ii) Market and deliver existing CPD courses; (iii) Develop and deliver new CPD Courses; (iv) Develop capacity for conducting CPD Programmes; (v) Create and establish strategic alliances and linkages with key stakeholders; and (vi) Enhance quality assurance.
3.	To undertake Research, Consultancies and Projects	<ul style="list-style-type: none"> (i) Diversify research, consultancies and projects portfolio; (ii) Develop capacity for conducting research, consultancies & projects; (iii) Establish a centre for research and training; and (iv) Improve quality of hospitality and conferencing services.
4.	To enhance and broaden revenue streams and cut costs to achieve financial sustainability	<ul style="list-style-type: none"> (i) Mobilize financial resources; (ii) Increase annual revenue streams by 5%; (iii) Strengthen the procurement function; (iv) Strengthen internal audit function; (v) Enhance financial security; and (vi) Cut operational costs.
5.	To strengthen institutional capacity for operational excellence	<ul style="list-style-type: none"> (i) Attract and retain competent staff; (ii) Invest in training and continuous staff development; (iii) Improve organizational culture; (iv) Improve performance management; (v) Leverage on ICT for School's processes; (vi) Improve physical infrastructure; (vii) Improve transport services; (viii) Ensure legal compliance; (ix) Ensure compliance with corporate governance requirements; and (x) Institutionalize Monitoring, Evaluation and Reporting
6.	To enhance customer satisfaction	<ul style="list-style-type: none"> (i) Enhance brand awareness; (ii) Enhance customer centred service delivery; (iii) Develop and improve communication channels with customers; and (iv) Ensure compliance with ISO procedures.

PART IV: CHALLENGES

Three challenges experienced by the School during the year under review were: First reduction in exchequer funding especially the development grants as there was no disbursement during the year. This slowed the pace of implementation of development budget especially completion of Ultra-Modern Library. Secondly, operationally the School has monopoly of offering the Advocates Training Program and this is the main source of revenue contributing 80% of total internally generated income. This might not be sustained in the foreseeable future if other institutions of higher learning are allowed to offer this programme. To mitigate this risk, the School is in the process of developing a Capital Development Plan so as to diversify the revenue base and hence stabilise the finance base. Thirdly, despite a steady enrolment of students, quite a number are financially challenged making the School not to collect all the fees.

PART V: WAY FORWARD

The School looks forward to continued execution of its mandate with a view to delivering quality legal training services to its customers, stakeholders and the public. Both Management and Board will continue to diversify sources of revenue with a view to achieving self-financial sustainability. Also the School will continue to adhere to laid down policies and procedures in management of its affairs and particularly ensure prudent use of allocated resources. Implementation of austerity measures and compliance with Government circulars will result to continual funding from the Government. Due to the increased number of needy students the School has embarked on strengthening the Endowment Foundation, and requests all advocates to partner with the School through the Endowment Foundation or direct support of students to alleviate their plight. However, we believe with the clear strategic issues, objectives and initiatives being undertaken, the future of the School looks bright.

PART IV: CALL TO ACTION-REQUEST FOR SPONSORSHIP FOR THE KENYA SCHOOL OF LAW ENDOWMENT FOUNDATION

The Foundation is a non-profit Trust, it relies on well-wishing donors.

The Foundation has designed the following categories of sponsorship:

S/NO	CATEGORY	AMOUNT
1.	Platinum	500,001-1,000,000
2.	Gold	250,001-500,000
3.	Silver	150,001-250,000
4.	Bronze	100,001-150,000
5.	Wood	1-100,000

Any contribution is appreciated. Contributions can be made all year round. Names of sponsors shall be placed on our Endowment Foundation Wall at the School in perpetuity.

Contributions can be made to:
A/c name: Kenya School of Law
Bank: Equity Bank
Branch: Karen Supreme Branch
A/c no: 1630263144477
Swift code: EQBLKENA

11. ADOPTION COMMITTEE

The Adoption Committee is represented by Mr. Andrew Makundi, Advocate and is established under section under section 155(1) & (2) & (3) of the Children's Act, 2001.

The present committee came into being vide Kenya Gazette Notice No. 18 of 26th February 2016 with a three year mandate, with effect from 26th February 2016 and which ended on 26.2.2019 and this therefore is the final report.

Since its inception in February 2016 the committee has been holding monthly meetings on the third Thursday of every month to deliberate on matters around adoption in Kenya as mandated under the Children Act, 2001, that is,

- Formulating the governing policy in matters of adoption
- Effecting liaison between adoption Societies, the Government and non-Governmental Organizations
- Considering and proposing names of officers who may serve as guardian ad litem
- Monitoring of adoption activities in the Country, and
- Such other functions as are conferred on the committee by the Act.

Other functions conferred to the committee as stipulated in the Children Adoption Regulation, 2005 includes;

- Regulating fees for registration of adoption societies
- Considering, reviewing, approving or rejecting application for registration for both international and local adoption societies.
- Vetting international adoption applications before applicants can be placed with a Kenyan child
- The Central Authority for international adoption and reasonable for approving foreign agencies wishing to conduct adoption in Kenya.

Effecting liaison between adoption societies, the government and non-governmental organizations

The committee had a consultative meeting with the Inspector General police and to discuss on the areas of collaborations with the Police Department as it was stated.

The meeting also discussed the need to coopt the Police in the Adoption committee since they play a very crucial role when it comes to tracing of abandoned children.

The AC held two consultative meetings with the adoption Societies to discuss matters on adoption, the challenges faced and the possible solutions.

Formulating the governing policy in matters of adoption

The adoption committee forwarded valuable contributions to the Children's Bill 2018.

Considering and proposing names of officers who may serve as guardians ad litem

This activity was not undertaken since the guidelines are yet to be developed.

Monitoring of adoption activities in the country

The AC developed a tool/checklist for guiding on the process and type of information to be collected during renewal of registration for the adoption societies.

The committee had a consultative meeting with the Child Welfare of Kenya to understand the working structure of the organization. The meeting also discussed the process of initiating the receiving of reports and returns on the adoptions undertaken by the Child welfare society of Kenya.

The committee held 32 monthly meetings over the period to deliberate on various matters on adoption in Kenya.

The committee carried out inspection of six registered Adoption Societies. The essence of the inspection was to ensure that the societies adhere to the set operation standards. The societies that were found to be compliant to the minimum set standard were approved and consequently issued with operating licenses. Recommendations on the specific areas of improvement for those that were not compliant were given before resubmission to the adoption committee for consideration of renewal registration.

Such other functions as are conferred on the committee by the Children's Act 2001

The Adoption Committee participated in the planning and executing the celebrations of the Adoption month held in Kiambu (2016) and Kisumu County (2018)

The committee participated in the National Awareness creation on alternative family care services in Vihiga County in 2018.

The AC representatives participated in talk shows on local T.V stations (KTN and CITIZEN) in November 2018.

The AC spearheaded the production of documentaries on Adoption and other forms of alternative family care e.g. Kiambu Adoption month celebrations and Vihiga documentary on awareness creation on AFC which highlighted the effects of the so called "taboo children"

Regulating fees for registration of Adoption Societies

The committee held a meeting with all the Adoption Societies to discuss the adoption processing fee charged to prospective adoptive parents which the societies recommended for a review upwards from the current Ksh 12, 500/= which was set in 2009 to proposed Ksh 45,00/=. The AC recommended that the processing fee charged to prospective adoptive parents remains at Ksh 12,500 as was set out in 2009. Increasing it would mean making it expensive and hence beyond the reach of many which will go along way in reinforcing the myths that adoption is expensive.

Considering, reviewing, and either approving or rejecting application for registration for both international and local adoption societies.

Renewal of registration of five Adoption Societies in Nairobi County some of whom have branches in other parts of the country.

The registration of one new Adoption Society based in Meru County (Ripples International Adoption Society)

Maintaining an updated register of approved local and foreign adoption societies.

Timely submission of monthly returns by Adoption Societies through the secretariat.

Children with medical condition/special condition

Categories of children with medical conditions e.g. those with disabilities and those who are HIV positive cannot be easily adopted locally. The committee felt there was need to create awareness to the public to embrace these children and probably come forward and give them families.

Dual citizenship

The constitution of Kenya 2010 guarantees citizen the right to dual citizenship, thus Kenyans who have dual citizenry are being advised to apply for adoption under local provision yet they are habitual residence of another country and not Kenya. This poses a risk to the child being adopted for there is no supervision once a child moves to the receiving country.

Government Grants to Adoption

There is need for resumption support from the government to the adoption societies through issuance of grants to promote local adoption. The government has not issued the grants for the last three financial years (2015/16 & 2016/17) and 2017/18.

Need for sensation of Adoption

There is need to do massive sensitization campaigns on Adoption to the public. All stakeholders in adoption e.g. immigration department, police, judiciary etc should be sensitized.

There is need for resumption of funding by GOK to promote awareness creation on alternative care to the public. The government to allocate resources to the DCS as per the work plan presented to ensure adoption matters and Alternatively Family Care services are rendered effectively to members of the public.

Link Alternatively Care to the Social Protection program

There is need to link alternative care to the special protection program to enhance promotion of local adoptions as opposed to having children adopted in foreign countries. A good example is where foster care parents are given support in developed countries.

However by the introduction of Statute Law (Miscellaneous Amendment) Act 2018 No.18 of 2018 which became law on 18th January 2019, fundamental changes were introduced in adoption inter alia by amending section 2 and inserting in Child Welfare Society and the "National Adoption Committee". The note of the National Adoption Committee is left unclear.

Most of the amendments introduced this miscellaneous legislation run counter to the proposed Children's Bill 2018 whose fate is unclear. Members are advised to familiarize themselves with the new law to appreciate the changes.

12. NAIROBI CENTRE FOR INTERNATIONAL ARBITRATION

Introduction

Mr. James Kihara, Advocate is the representative of the Law Society of Kenya at the Nairobi Centre for International Arbitration, also known by the acronym NCIA which is a statutory body established by the Nairobi Centre for International Arbitration Act, No 26 of 2013 as a Centre for promotion and administration of international commercial arbitration and other forms of dispute resolution mechanism. The Centre offers a neutral venue for the conduct of international arbitration with commitment to providing institutional support to the arbitral process.

During the period ending December 2018, the NCIA has made certain strides in achievements of its statutory mandate. The following areas are of interest to the Law Society of Kenya.

Administration of Disputes

- During the period under consideration, the NCIA

administered six (6) disputes with a dispute value of over Kshs. 100 Million.

- NCIA developed and published Practice Notes for Parties and Arbitrators, NCIA Peer Review Model and NCIA – UNCITRAL administered Arbitration Rules, 2015 for effective management of cases. The NCIA has together with a network of China-Africa Joint Arbitration Centers' developed rules for arbitration disputes of Sino-Africa origin within the five member centres.

Talent Development

It is important for the Society to note that the NCIA conducted young-talent development through the 2018 Annual Arbitration Moot Competition held in June 2018, and the 1st National Alternative Dispute Resolution Conference and launch of the China Africa Joint Arbitration Centre – Nairobi.

Partnerships

The NCIA developed Memorandum of Understanding with strategic partners to enhance strategic collaboration including the China Africa Joint Arbitration Centre framework. The Statute Law (Miscellaneous Amendments) Act 2018

The Statute Law (Miscellaneous Amendments) Act, 2018 ('The Act') was assented into Law on 31st December 2018 and commenced operation on 18th January 2019. The commencement of the Act brings into force amendments to the Nairobi Centre for International Amendment Act No 26 of 2013 in respect to,

- Composition of the Board.
- Tenure of office of the Chairperson of the Board and Registrar/Chief Executive Officer.
- Jurisdiction and Composition of the Arbitral Court.
- Powers of the Board to make rules.

Appointing Authority

The Statute Law (Miscellaneous Amendments) Act further designates the Centre as an Appointing Authority under:

- Section 62(1) of the Kenya Ports Authority Act,
- Section 33 (1) of the Kenya Airports Authority Act, and
- Section 14 of the Kenya Post Office Savings Bank Act.

This brings to (4) four the number of statutory arbitration appointment mandate for the Centre with the fourth one being the Nairobi International Financial Centre Authority Act.

Inclusion in Contracts and Guidelines

The NCIA and in particular the NCIA Arbitration and Mediation Rules have been included in the proposed LSK guidelines on the practice of ADR. The NCIA has also been included in the proposed Joint Building and Construction Council (JBCC) standard contract document on appointment of Arbitrators and Adjudicators.

Development of a National Alternative Dispute Resolution (ADR) Policy

The NCIA commenced the process of development of a National ADR Policy in conjunction with the Judiciary and IDLO. To this end, a baseline survey and assessment of ADR use in Kenya and the process of drafting a policy document has commenced.

RECOMMENDATIONS TO THE COUNCIL

The NCIA makes the following recommendations to the LSK Council

- (1) The LSK partners with the NCIA to train its membership in international investment and commercial arbitration and mediation practice under the NCIA curriculum for counsel.
- (2) The LSK membership be encouraged to enlist on the growing list of NCIA panel of domestic and international Arbitrators and Mediators. This will provide visibility and opportunity for appointment in NCIA appointed arbitrations and mediations as well as across the network of cross-listing institutions.
- (3) The LSK should consider inclusion of the NCIA Arbitration and Mediation Clauses in the 'LSK Standard Agreements'. This will lead to an increase in case load and subsequently work for its panel members, most of whom are members of the Society.
- (4) The LSK partners with NCIA to provide periodic updates on emerging ADR trends domestic and international, arbitration jurisprudence, enactment and amendment to ADR laws and regulations for circulation to members through the LSK membership network, social media platforms and newsletters. This will enhance awareness creation amongst the LSK members and encourage adoption of ADR as a viable means of client dispute settlement.
- (5) The LSK Council collaborate with the NCIA, in the process for formulation and development of a National ADR Policy and consequential legislation. This will result in synergy towards a harmonized ADR Practice.

13. TASKFORCE ON ALTERNATIVE DISPUTE RESOLUTION MECHANISMS- COURT ANNEXED MEDIATION

A. INTRODUCTION

Mr. Paul Wanga, Advocate and Ms. Josephine A. Oyombe, Advocate are the representatives of the Lwa Society of Kenya in the taskforce.

Part of the transformation process that our Judiciary has embarked on is to address the age old problem of increasing pending caseloads in the courts. The other

measures include recruitment of more judicial officers and staff, building and refurbishment of courts and adoption of modern management practices. **Article 159(2) (c) of the Constitution** now mandates courts and judicial officers to promote other dispute resolution mechanisms including arbitration, mediation, arbitration and traditional dispute resolution mechanisms. The implementation of this constitutional provision may provide part of the solution to the increasing caseloads.

B. COURT ANNEXED MEDIATION IN THE HIGH COURT (FAMILY AND COMMERCIAL DIVISIONS) AT THE MILIMANI COURTS, NAIROBI

The judiciary has taken key strides to institutionalize mediation, being one of the ADR mechanisms as a way of fast-tracking the resolution of civil cases already filed in court. Court Annexed Mediation as it is called is simply mediation under the umbrella of courts. Cases already filed and responded to in court are assessed by specially assigned Deputy Registrars (Mediation Deputy Registrars) and if found fit, the cases are referred to accredited mediators to assist parties in arriving at their own solutions.

Where parties agree on how to resolve their dispute, a mediator with the input of the advocates (where parties have such representation), reduces the agreement into a written mediation settlement agreement. The settlement is forwarded by the mediator to the court for adoption as an order of the court which then brings the court case to a closure. Conversely, where parties fail to agree, a mediator files a report with the court to that effect and the case resumes hearing through the normal court processes.

Court Annexed Mediation was first tried by the Judiciary on a pilot basis in Nairobi's Mililani Commercial and Family Divisions of the High Court from April, 2016 to May, 2017. The outcome of mediation in the Family and Commercial Divisions, showed that the settlement rates were 55.7% and 53.% respectively, with approximately Kshs.1.4 Billion released to the economy. The results of the Court Annexed Mediation Pilot project demonstrated that mediation is an important and essential tool in resolving disputes and reducing caseloads.

C. APPOINTMENT OF THE TASKFORCE BY THE CHIEF JUSTICE

After the pilot phase and a comprehensive assessment, a Mediation Taskforce was gazette in July 2017 (through a Gazette Notice No. 6869) with membership drawn from various institutions within the justice sector. The 19-members' Taskforce is chaired by High Court

Judge, Honourable Fred Ochieng' and has membership comprising other judges from the Court of Appeal, High Court Family Division, and the Judicial Training Institute. The Law Society of Kenya (LSK), the Office of the Attorney General, the Chartered Institute of Arbitrators and Law Reform Commission and FIDA are among the important organisations also represented in the taskforce.

Mr. Paul Noberts Wanga and **Ms. Josephine Achunga Oyombe** who are members of *Alternative Dispute Resolution (ADR) Committee* to serve in the taskforce. Mr John Ohaga also sits in the taskforce but through a nomination by the *Mediation Accreditation Committee (MAC)*. Although the Terms of Reference of the Taskforce are captured in Gazette Notice No.6869, the major objective is to look into how the project can be rolled out throughout other court stations in the country.

D. MEDIATION SETTLEMENT WEEK HELD ON 4TH TO 8TH DECEMBER, 2017

The Taskforce oversaw a Mediation Settlement Week which was held from 4th to 8th December, 2017 in Nairobi Commercial Courts. The LSK and its membership were notified and indeed participated in this initiative both as accredited mediators and as party representatives. That was an important week for the public, the judiciary and advocates. It not only provide an opportunity to litigants to have their disputes tabled before mediators, but also an open day for the court in providing a form of interaction between judges, advocates, litigants and mediators. It is reported that out of the 97 matters that were referred for mediation within the settlement week 37 were successfully settled. The Mediation Settlement Week provided a launching pad for mediation into other civil courts in Nairobi namely, Environment and Land Court, Employment and Labour Relations Court, High Court Civil Division, and the busy Milimani Chief Magistrate Commercial Court.

E. CONTINUED STAKEHOLDER ENGAGEMENTS

Since its appointment, the taskforce has continued to engage Stakeholders not just in Nairobi but all over the country. Part of the stakeholders which the taskforce has continued to engage include Mediators, Advocates, Judges, Magistrates, Court Users Committees in order to create more awareness on court annexed mediation and to try address some of the challenges that were documented in the pilot project . For instance on the 22nd February, 2018, Hon. Justice Ochieng'(Chair of the Taskforce) and Hon. Caroline Kendagor (one of the two joint Secretaries to the Taskforce) had an opportunity to share issues on Court Annexed mediation with members

of the Law Society of Kenya in their Continuous Professional Development Seminar on ADR at the Panari Hotel, Nairobi. The taskforce has in collaboration with the judiciary also previously visited Mombasa, Kisumu, Kakamega, Machakos, Nyeri and Nakuru Law Courts as part of its stakeholder engagement plan. Members of the Law Society of Kenya are highly encouraged to participate on such for a so as to address some of the challenges encountered in court annexed mediation.

Members of the LSK are encouraged to take up training opportunities as mediators and to seek accreditation with MAC so as to maximize the potential benefits of the court annexed mediation to them as mediators and practitioners. So far there have been commendable initiatives by the ADR Committee convened by Mr. David Njoroge in organizing ADR Stakeholder fora where advocates and other key stakeholders in the justice sector have had occasions to understand more about CAM. The Young Lawyers Committee convened by Ms. Aluso Ingati has also been instrumental in securing partnerships with some institutions notably Mediation Training Institute (MTI) to train young lawyers as mediators at fairly subsidized rates.

F. ONGOING ROLL-OUT OF COURT ANNEXED MEDIATION TO OTHER COURT STATIONS IN THE COUNTRY

The Taskforce is currently overseeing a rollout of Court Annexed Mediation in ten(10) counties namely, Mombasa, Eldoret, Kisumu, Nakuru, Nyeri, Machakos, Garissa, Embu, Kakamega and Kisii. The implementation of the roll out to other has also been enabled by Chief Justice Hon. David Maraga through Gazette Notice Number 7263, Practice Directions on Court Annexed Mediation 2018. Effectively, the practice directions now mandates Court Annexed Mediation to apply to all civil actions filed in the High Court, the Environment and Land Court, Employment and Labour Relations Court, Magistrates Courts and Tribunals not just in Nairobi but to other Court Stations to be designated by the Chief Justice. In overseeing the roll out to those stations, the Mediation Taskforce in collaboration with the judiciary has been engaging the judicial officers, advocates, mediators, Court Users Committees (CUCs), members of the public and the relevant leaders of the County Governments. Out of the ten counties identified above 8 have already been covered and the taskforce is about to do the roll out in the remaining two-Embu and Machakos.

The Taskforce is also currently in the process of organizing a meeting with the Chief Justice with a view to giving a progress report on the roll out to the ten counties.

The Taskforce appreciates the views of the Law Society of Kenya and will continue to engage the membership on the ongoing roll out of Court Annexed Mediation.

14. COUNCIL OF LEGAL EDUCATION

The Law Society of Kenya is represented in the Council of Legal Education (CLE) by Dr. Njaramba Gichuki and Mrs. Diana S. Tanui. The two Advocates were competitively nominated by the Council of the LSK and have been serving from February 2018 and July 2018, respectively. The CLE is a state agency established under the Legal Education Act with the mandate of:

1. Regulating legal education and training in Kenya offered by legal education providers;
2. Licensing legal education providers;
3. Supervising legal education providers;
4. Advising the Government on matters relating to legal education and training;
5. Recognising and approving qualifications obtained outside Kenya for purposes of admission to the Roll; and
6. Administering such professional examinations as may be prescribed under the Advocates Act.

With respect to legal education providers the CLE is responsible for setting and enforcing standards relating to the accreditation of legal education providers for the purposes of licensing, curricula and mode of instruction, mode and quality of examinations, harmonization of legal education programmes, and monitoring and evaluation of legal education providers and programmes.

Our representatives joined Cle at a time it was going

through reorganization and have played their role in that endeavour.

15. THE DISCIPLINARY TRIBUNAL

The Disciplinary Tribunal is chaired by Mr. Ezekiel Wanjama on behalf of the Attorney General, and continues to adjudicate over complaints of professional misconduct against advocates. The Tribunal members include Mr. Assa Nyakundi, Ms. Goretti Nyariki, Mr. Ambrose Weda, Ms. Gladys Wamaitha, Ms. Grace Okumu, Prof. Michael Wabwile, Ms. Anna Konuche and Ms. Florence Muturi (LSK Deputy Secretary) acting as the Secretary to the Tribunal.

The Law Society of Kenya is committed to ensuring the image of the legal profession is preserved and protected and has continued to serve its statutory role in the Disciplinary Process.

The year 2018 witnessed a slight decrease in the number of new cases filed as compared to cases filed in 2017. A total of 54 new cases were filed in year 2018 as compared to 187 complaints filed in year 2017. The reduction of the new cases can be attributed to majority of the advocates taking advantage of the in-house dispute resolution mechanisms offered at the Law Society of Kenya and Advocates Complaints Commission respectively.

The Tribunal finalized a total of 5 cases out of the 54 opened in the year 2018. Matters outstanding as at December 2018 stand at 501 cases which are matters occurring in the Tribunal cause list.

TABLE 1: Status of Disciplinary Causes: Statistics
STATUS OF DISCIPLINARY CAUSES: STATISTICS

YEAR	CAUSES OPENED	CAUSES CONCLUDED PREVIOUSLY	CAUSES CONCLUDED IN 2018	OUTSTANDING
2009	211	187	0	24
2010	209	188	2	19
2011	207	184	4	19
2012	186	131	3	52
2013	232	172	10	50
2014	158	107	4	47
2015	191	111	25	55
2016	132	47	27	58
2017	187	12	53	128
2018	54	-	5	49
TOTALS	1,767	1,139	133	501

Matters outstanding are 501.

Matters concluded as at December 2018 are 1,272.

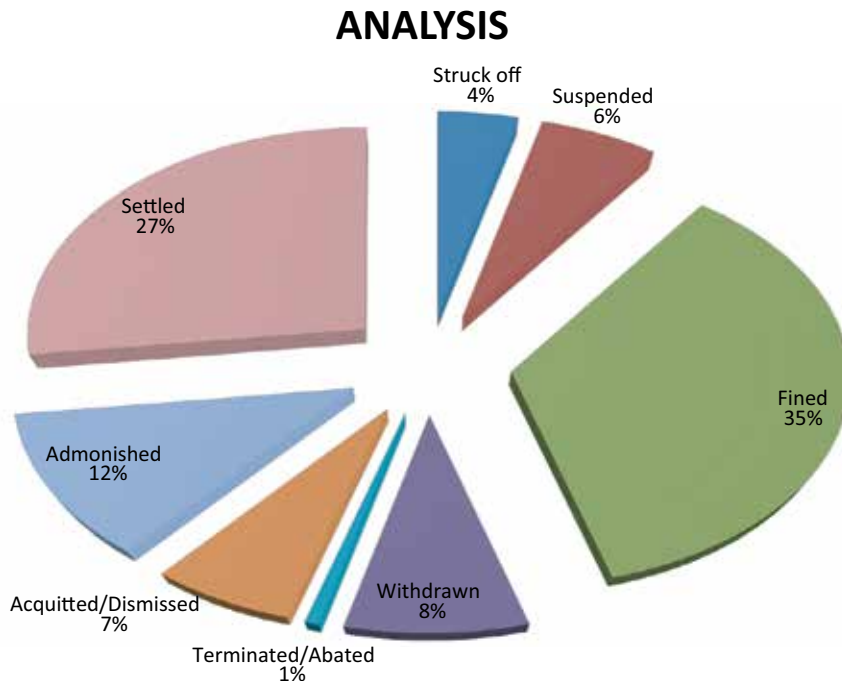
N.B: A matter is considered to be concluded after sentencing has been done.

The Tribunal upon hearing a matter before it may under section 60 of the Advocates Act order the complaint be dismissed or if of the opinion that the case of professional misconduct on the part of the advocate has been made out, the Tribunal may order;

1. That such advocate be admonished.

2. That such advocate be suspended from practice for a specified period not exceeding five years.
3. That the name of such advocate be struck off from the Roll of Advocates.
4. That such Advocate to pay a fine not exceeding one million shillings.
5. That such advocate pays to the aggrieved person compensation or reimbursement not exceeding five million shillings.

The figure below represents the manner in which cases were finalized in 2018 (Sanctions)



A closer analysis of the cases reveals that out of the 54 new matters filed in the year 2018; 68.52% of the matters are against advocates practicing as sole proprietors, 11.11% against advocates practicing in partnerships, 16.67% against advocates employed as associates while 3.70% are cases filed against advocates who have not specified their nature of engagement. The Council does encourage Advocates to form partnerships.

The analysis also revealed that 72.22% are cases filed as private prosecution, 21.48% revealed cases filed by the Advocates Complaints Commission while 6.30% are filed by the Society.

A further analysis revealed that 93.1% of the new cases are against male advocates while 6.9% were as against female advocates.

Induction Seminar

Following the council and tribunal elections held in the month of February 2018, an induction Seminar for the newly elected members of the Tribunal was held in June 2018.

The main objective of the induction Seminar was to acquaint the newly elected Tribunal members on the Disciplinary Tribunal processes, challenges facing the disciplinary process and explore possible recommendations on how to handle the challenges.

Capacity building of advocates on professional Ethics

The Disciplinary Tribunal members facilitated in Continuous Professional Development trainings on professional Ethics topics throughout the year.

Debriefing Session

Stakeholders debriefing session was held on the 3rd

December 2018 at the Intercontinental Hotel. The forum was well attended by the tribunal members, the Secretariat and the Advocates Complaints Commission. Tribunal got to an opportunity to recap on the activities of the Tribunal, acknowledge successes and challenges that faced the Tribunal during the year 2018.

16. NATIONAL COUNCIL FOR LAW REPORTING

The representatives of the Law Society of Kenya (LSK) in the National Council for Law Reporting are Mr. Michael Muchemi, Advocate and Ms. Janet Kimeu, Advocate.

The National Council for Law Reporting (Kenya Law) is a state corporation established under the National Council for Law Reporting Act. Kenya Law was established with a three-fold mandate:

1. To monitor and report on the development of Kenya's jurisprudence through the publication of the Kenya Law Reports;
2. To revise, consolidate and publish the Laws of Kenya; and
3. To undertake such other related publications and perform such other functions as may be conferred by law.

The source of Kenya Law's mandate is the National Council for Law Reporting Act (No. 11 of 1994) and Legal Notice No. 29 of 2009. Governance of the Council is vested in the Members of the Council and the office of the Chief Executive Officer/ Editor, supported by the Management Team.

1.1 POLICY STATEMENTS

Access to information

As a member of the Free Access to Law Movement, at Kenya Law we believe that:

- Public legal information is part of the common heritage of humanity and maximizing access to this information promotes Justice and the Rule of Law;
- Public legal information is common property and should be accessible to all;
- As an organization that has the public mandate to publish public legal information, we should not impose unfair restrictions on the use and re-use of that information by other persons."

2.0 HIGHLIGHT OF KENYA LAW ACTIVITIES IN THE YEAR 2018

Below is a highlight of the activities undertaken by the organization in the period under review:

2.1 MONITORING AND REPORTING ON THE DEVELOPMENT OF KENYA'S JURISPRUDENCE.

Electronic Publication of Judicial Decisions

Kenya Law collects, processes and uploads judicial decisions from all the Courts of Record of Kenya on a daily basis. These decisions are uploaded on a daily basis thus ensuring that the legal fraternity and the general public can have access to the full text of these decisions within 72 hours of their receipt at Kenya Law.

In the year 2018 Kenya Law collected, processed and uploaded unto www.kenyalaw.org a total of 18,266 judicial decisions. These are available for free, and may be downloaded, as part of Kenya Law's objective of ensuring access to legal information.

In addition to this Kenya Law has also began the process of preparation of the Kenya Law Reports for this year by reviewing, analyzing and determining that 325 cases from the year 2018 are jurisprudential enough to be reported.

Publication of the Kenya Law Reports

Kenya Law's mandate is to prepare the Kenya Law Reports, which contains judgements, rulings and decisions of the superior courts of record of the Republic.

In the year under review Kenya Law published the following:

- i. Kenya Law Reports 2014 vol. 2,
- ii. Kenya Law Reports 2014 vol. 3,
- iii. Kenya Law Reports 2014 vol. 4
- iv. Kenya Law Reports 1997
- v. Presidential Election Petition vol. 1
- vi. Presidential Election Petition vol. 2

The following law reports were finalized in the year and scheduled for print:

- i. Kenya Law Reports: 2013 vol. 1
- ii. Kenya Law Reports: 2013 vol. 2
- iii. Kenya Law Reports: 2013 vol. 3
- iv. Kenya Law Reports: 2015 vol. 1
- v. Kenya Law Reports: Devolution vol. 1
- vi. Kenya Law Reports: 1995
- vii. Kenya Law Reports: 1996
- viii. Kenya Law Reports: EP 6

Kenya Law has also commenced the preparation of the following law reports, which are currently at various stages of preparation:

- i. Kenya Law Reports: Employment and Labour
- ii. Kenya Law Reports: Environment and Land
- iii. Kenya Law Reports: 2016 vol. 1
- iv. Kenya Law Reports: 1998
- v. Kenya Law Reports: 2016 vol. 2
- vi. Kenya Law Reports: 2015 vol. 2
- vii. Kenya Law Reports: Commercial

- viii. Kenya Law Reports: Family and Gender
- ix. Supreme court case digest 2015
- x. Kenya Law Reports: 2017 vol. 1
- xi. Kenya Law Reports: 2017 vol. 2
- xii. Kenya Law Reports: 2018 vol. 1

The preparation of law reports is a process that takes time by the very nature of the fact that decisions have to be summarized and presented in a particular format in print. This process is complimented by the online publication of judicial decisions which ensures that there is constant access to Kenya's judicial decisions as soon as they are issued by Judicial officers.

Electronic Newsletter

Kenya Law prepares a weekly newsletter which highlights significant judicial decisions from the previous week. This newsletter also highlights any legislative actions that may have been taken by the National Assembly or the executive and serves as an alert service to all of Kenya Law's subscribers on current issues taking place in the legal field. In the year 2018 Kenya Law prepared and disseminated 46 weekly newsletters.

2.2 REVISION, UPDATE AND CONSOLIDATION OF THE LAWS OF KENYA

Electronic Publication of the Laws of Kenya

Kenya Law maintains the official database of the all the laws of Kenya. These statutes which consist of over 500 chapters comprising of over 35,000 pages of legal text are reviewed on a regular basis and updated to reflect their current status.

The online database of the laws of Kenya consists of national legislation, county legislation, treaties and agreements, East African community legislation amongst other categories of laws. In the year 2018 Kenya Law was able to consistently update, revise and consolidate National legislation thus ensuring that these statutes were 90% updated at all times. In addition to this Kenya Law maintains and tracks subsidiary legislation which has come into force and publishes them in the Legal Notices section of the laws of Kenya database. A total of 224 legal notices were received and published in the year 2018.

Kenya Law also continues to maintain dedicated database containing legislation from all the 47 County Assemblies of Kenya. In this period this database was regularly updated so that the general public has access to over 2,000 pieces of legislative text from the various County Assemblies.

Publication of the Laws of Kenya

Kenya Law prepared and printed the following Volumes of the Laws of Kenya in 2018:

1. Grey Book Revised Edition 2017: a compilation of 15 Procedural Acts of Parliament referred to in the Courts in the dispensation of justice.
2. Commercial Laws Volume 1, Revised Edition 2017: Compilation of 12 selected statutes regulating Commercial Transactions in Kenya.
3. Public Finance Volume, Revised Edition 2017: compilation of 12 selected statutes that provide for the framework and regulation of the public finance sector in Kenya.
4. Land Laws Volume, Revised Edition 2017: compilation of 24 selected statutes relating to the environment and land regime in Kenya.

2.3 RESEARCH AND DEVELOPMENT

Kenya Law continuously monitors and reports on emerging legal issues in Kenyan and international jurisprudence so as to provide an enabling environment for the development and growth of legal principles.

Monitoring Local and International Jurisprudence

Kenya Law monitors and report on international jurisprudence from various international and regional courts (East Africa Court of Justice, United Kingdom Supreme Court, South African Constitutional Court, Supreme Court of India) and these decisions are summarized and posted on a weekly basis on the Kenya Law Blog Wakilishare.

Judicial Decisions Raising Difference in Judicial Reasoning

Kenya Law seeks to provide universal access to public legal information by monitoring and reporting on the development of jurisprudence for the promotion of the rule of law. This it does by virtue of the doctrine of precedent, which is a juridical command to the courts to respect decision already made in a given area of the law. In doing so, Kenya Law usually comes across areas of difference in jurisprudential thought and analysis, which needs to be brought to the specific attention of the Judges of the Superior Courts of record. Kenya Law prepared and forwarded to all judicial officers a compilation of cases highlighting areas of the law where courts of concurrent jurisdiction have had a difference in judicial reasoning. This report highlights these differences, for purposes of drawing the attention of the superior courts on areas of development that would require further attention for the benefit of the growth and transformation of Kenya's jurisprudence.

Kenya Law Review Journal

The Kenya Law Review Journal is an annual publication that provides a forum for the scholarly analysis of Kenyan law and interdisciplinary academic research on the law. These publications feature articles from both the Bar and the Bench. Kenya Law prepared the Kenya Law Review Journal 2017 and continues to receive papers on a rolling basis for the next editions of this publication.

Compendium of Rulings on Bail and Bond

Kenya Law, with the assistance and support of the Bail and Bond Committee of the Judiciary, compiled and published a Compendium of rulings on Bail and Bond under the Constitution 2010. The Digest tracks decisions on the implementation of the Bail and Bond Policy Guidelines which are intended to guide police and judicial officers in the application of laws that provide for bail and bond.

Case Digest of Decisions on Capital Markets

Kenya Law developed and published a case digest on Jurisprudence in the area of Capital Markets in order to aid the legal fraternity and other interested persons in identifying the current developments in litigation affecting capital markets. Kenya Law collaborated with the Capital Markets Authority (CMA) to crystallize the developing jurisprudence in the area of capital markets. The digest was printed and distributed to stakeholders during the period under review.

Annual Report on Kenya's Emerging Jurisprudence

Kenya Law submitted to the Office of the Chief Justice, a compilation cases highlighting emerging jurisprudence arising from the courts in 2018. The brief was published within the State of the Judiciary Address (SOJAR) for the year 2018. Highlighted in the report in the year under review include cases on devolution, decisions from the Employment and Labour Relations Court and cases touching on the social and economic rights of the citizens.

Monitoring Law Reform Issues emerging from the Superior Courts of Record

Kenya Law contributes to legal and administrative reforms by tracking and reporting to law reform institutions judicial opinions containing pertinent pronouncements to legal and administrative reforms. Kenya Law prepared a compilation of law reform issues raised by the courts in the judgments for each quarter of the year and forwarded the same to the Hon. Attorney General for consideration for further action.

Bench Bulletin

Kenya Law publishes the Bench Bulletin, which is a quarterly publication that highlights jurisprudential cases that have been issued by judicial officers. This publication serves as a quick reference the legal fraternity for cases that have been selected for reporting in the Kenya Law Reports – which are only published at the end of the year. In the period under review Kenya Law published and disseminated four issues of the Bench Bulletin.

Providing Access to Public Legal Information through Digitization

Kenya Law seeks to enrich the collection, processing

and access to legal information by providing public legal information in a digital format. In the year 2018 Kenya Law was able to scan, archive and upload the Reports from Parliamentary Committees, Votes Petitions and Proceedings and Reports from Commissions of Inquiry. These are 230,000 pages of legal data that were not available except in hard copy. Kenya Law also continually acquired and kept up to date all the relevant public legal information including the Kenya Gazette, Legal Notices, Acts of Parliament, Bills and Hansards. The table below indicates this data:

Digitized Legal Information - Statistics for The Year 2018

No.	Title	Total No. Collected, Digitized & Uploaded
1	Kenya Gazette	149
2	Kenya Gazette Supplement	129
3	Hansards <ul style="list-style-type: none">• National Assembly - 130• Senate - 92	222
5	Committee Reports	95

2.4 KNOWLEDGE SHARING

Kenya Law is passionate about dissemination of legal information and has been able to support various other institutes to benchmark with its standards. The following knowledge sharing events were undertaken in the period under review:

South Sudan – The Judiciary of South Sudan is setting up a directorate to handle their law reporting function that will be headed by Hon Justice James Alala, Justice of the Supreme Court of South Sudan. The Judge paid a working visit to Kenya Law where he was taken through a comprehensive training session on law reporting, law revision and legal publishing.

Ghana - Mr Eric Apeadu, the Coordinator for Ghana LII (Legal Information Institute) visited and benchmarked with Kenya Law between 27th and 29th June. He was taken through all the technical departments as part of his knowledge sharing experience. Ghana LII is an NGO that undertakes the compilation of the Ghana's public legal information.

Tanzania – Kenya Law together with African LII participated in a training session for Tanzania's judiciary on law reporting and the compilation of legislative databases. This was undertaken between 3rd and 5th June 2018 in Dares salaam.

2.5 ORGANISATIONAL SUSTAINABILITY

Kenya Law recognizes the various facets of organizational development that are pertinent to ensuring an effective and efficient organization that is able to discharge its mandate and has taken the following steps to ensure this:

Human Resource Management

Kenya Law is committed to creating and maintaining appropriate conditions for efficient operation of its activities. In the period under review the following was the staff compliment at Kenya Law:

- o There are 71 employees vis-à-vis a staff compliment of 163
- o The gender ratios were 61% female and 39% male

Kenya Law undertook recruitment for 1 Senior Assistant Editor/Deputy Chief Executive Officer and 6 Legal Assistants in the period under review.

Kenya Law recognizes that its employees are its biggest resource and therefore appropriately lays emphasis on employee engagement. Some of the activities undertaken in this regard include:

- o Staff retreats and departmental team buildings
- o Corporate social responsibility events
- o Welfare visits to individual members

Organizational Marketing and Branding

Kenya Law continues to build and expand its brand name with the legal fraternity and the public at large. In this regard Kenya Law participated in various legal expositions. The trade fairs and conferences served to increase awareness and elevate the Kenya Law brand. They also assisted Kenya Law to conduct a market survey and strategize on production and sale of new products.

Kenya Law effectively integrated and coordinated various marketing initiatives in order to elevate the Kenya Law brand and to promote the sales of its products. Some of the events attended in this year include;

- The judges' colloquium,
- The LSK legal aid week,
- The LSK annual conference
- LSK CPD (various) in Nairobi

Kenya Law Website Analytics

Kenya Law disseminates most of the legal information it generates through the Kenya Law website (www.kenyalaw.org) and it is therefore imperative to ensure that this website is current and available all the time. In the period under review the website achieved a 98% uptime and the following statistics were captured:

Case Law Database – Contains rulings and judgments from the Superior Courts of record. 595,140 users viewed an average of 5,300,246 pages. This represents a 10% increase in Case Law Database users.

Laws of Kenya Database – Contains all the acts of Parliament

and corresponding subsidiary legislation. 331,865 users viewed an average of 1,616,564 pages. This represents a 40% increase in users for the Laws of Kenya Database.

Kenya Law Blog – Contains various reading materials such as case summaries from Kenya and other Commonwealth countries, conference papers, speeches and Kenya Law News. 111,537 users viewed an average of 213,019 pages. This represented a 13% increase in users to the blog.

Rest of Kenya Law Website – Contains assorted material such as Cause Lists, Kenya Gazettes, Judicial Profiles, among others. 189,352 users viewed an average of 926,529 pages. This represents a 5% increase in users.

Resource Allocation & Utilization

Kenya Law continues to work in a financial resource scarce environment that requires that it prioritizes its activities to fit into allocated resources. The Government of Kenya through the National Treasury undertakes the bulk of financing for Kenya Law activities. The following table indicates Kenya Law's resource basket for the financial year 2017/2018:

Kenya Law Funding FY 2017/2018

Source	Amounts
Government of Kenya	313,600,000/-
JPIP	18,890,376/-
Sales	4,398,800/-
Other Income	6,537,583
Totals	343,426,759/-

In the year under review Kenya Law also participated in the resource allocation meeting for the next financial year. This was done in conjunction with the Office of the Attorney General and brought together all directorates, departments and agencies under the OAG for the purpose of:

- Presenting achievements from the previous financial Year; and
- Forecasting future activities that are to be carried out in the financial years 2018/2019 as per the Medium Term Expenditure Framework guidelines.

Kenya Law undertakes the sales of its publications to recoup the cost of production and print of these publications. This finances compliment the resource allocation from the National Treasury. Kenya Law was able to make sales and raise funds to the tune of **Ksh 4,398,800.00** for the FY 2017/2018.

Financial Audits

Kenya Law is a semi autonomous government agency that is subject to external audits by the Auditor General of Kenya. Kenya Law submitted itself to this external audit process

for the year 2017/2018 and the Auditor General issued an unqualified report for this period indicating that the organization had utilized its exchequer allocations in a lawful and efficient manner.

2.6 GOVERNANCE AT KENYA LAW

Council Meetings

The Council is the overall governance organ at Kenya Law that provides policy direction to the secretariat. The Council is established under section 4 of the National Council for Law Reporting Act and consists of:

- o The Chief Justice;
- o The Attorney-General or his representative;
- o A judge of the Court of Appeal nominated by the Chief Justice;
- o A judge of the High Court nominated by the Chief Justice;
- o A public officer being an advocate nominated by the Attorney-General;
- o Two advocates of not less than seven years' standing nominated by the Law Society of Kenya;
- o The Dean of the Faculty of Law, University of Nairobi or his representative;
- o The Government Printer or his representative not below the rank of Deputy Government Printer; and
- o The Editor, Kenya Law.

The Council held meetings for every quarter of the year to deliberate on the policy direction and overall performance of Kenya Law. The Council was also able to review the Income and Expenditure Report for the organization for the FY 2017/2018 and determine that this had been expended as planned and in compliance with all laws and regulations.

Committee Meetings

The Council has established Committees of the Council to assist it deliver on its mandate. The Committees in operation are:

- o Technical Committee
- o Human Resources Committee
- o Finance and General Purposes Committee
- o Audit and Risk Committee

These Committees have been instrumental in deliberating on and advising the Council on all issues that are pertinent to the management of Kenya Law.

Board Training

Kenya Law is committed to developing and broadening the skill sets of its board members so as to ensure that they are able to discharge their mandate for the benefit of the organization. Kenya Law therefore arranged for and facilitated Council Members to attend the State Corporations Advisory Committee good corporate governance training for State Corporations.

Performance Contracting

Kenya Law has embraced a system for measuring performance and effectiveness of each employee and the organization in general. Kenya Law committed to its Performance Management and Measurement Understanding with the Judiciary for the FY 2017/2018. The organization was assessed for its performance in the year 2018 and it was determined that the organization had 'exemplary and outstanding' performance in the discharge of its mandate and the organization was duly awarded for this performance.

Kenya Law subsequently signed and agreed to performance targets for the FY 2018/2019 and these targets have been cascaded to members of staff and their implementation is ongoing.

2.7 CONCLUSION

Kenya Law continues to achieve its mandate of making legal information public knowledge by the use of technology and collaborative agreements and understandings. The Kenya Law database has consistently grown over the years as a demonstration of the increased data that is continually being digitized and made freely available to the public. Kenya Law has received special recognition for being the only government run legal information institute that has accumulated and made available the largest amount of public legal information in Africa thus ensuring the realization of the access to information rights as enshrined in the Constitution of Kenya.

JUDICIAL SERVICE COMMISSION

INTRODUCTION

Prof. Tom Ojienda, SC and Ms. Mercy Deche are representatives of the Law Society of Kenya at the Judicial Service Commission (JSC). This report is submitted to the Law Society of Kenya as part of the feedback mechanism by its representatives in the Judicial Service Commission (JSC). The report is divided into four (4) main sections:-

- Section 1 is the introduction which gives an overview of mandate and functions the Judicial Service Commission (JSC).
- Section 2 provides the highlights and milestones achieved by the Commission in the period under review.
- Sections 3 and 4 give the challenges faced by the Commission during the year and the proposed way forward respectively.

1. OVERVIEW OF THE JUDICIAL SERVICE COMMISSION

Establishment of Judicial Service Commission

The Judicial Service Commission (JSC) is a Constitutional body established under **Article 171 (1) of the Constitution of Kenya**. Its operational procedures are secured by legislation in the Judicial Service Act, 2011.

Mandate

The JSC mandate as espoused in **Article 172 (1) of the Constitution of Kenya** is to promote and facilitate the independence and accountability of the judiciary and the efficient, effective and transparent administration of justice.

Functions of JSC

The JSC functions under Article 172 are as follows:

- a. Recommend to the President persons for appointment as judges;
- b. Review and make recommendations on the conditions of service of –
 - (i) Judges and judicial officers, other than their remuneration; and
 - (ii) The staff of the judiciary;
- c. Appoint, receive complaints against, investigate and remove from office or otherwise discipline registrars, magistrates, other judicial officers and other staff of the judiciary, in the manner prescribed in an Act of Parliament;
- d. Prepare and implement programs for the continuing education and training of judges and judicial officers; and
- e. Advise the national government on improving the efficiency of the administration of justice.

2. HIGHLIGHTS AND MILESTONES MADE IN THE PERIOD UNDER REVIEW

A. A fully constituted Commission

Article 173 of the Constitution establishes a Commission of eleven members. The Commission had however been functioning with less than eleven members since 2016 with their numbers depleting gradually to as low as six members for most part of the period under review. This begun with the expiry of the term of the Supreme Court representative in 2016. The position remained unfilled for one year. This was followed by the resignation of Ms Winnie Guchu in March 2017. Prof Margaret Kobia and the then Hon Attorney General Professor Githu Muigai exited in January 2018 for other assignments while Commissioner Kipng'etich Bett was de-gazetted during the same period. Their vacancies remained vacant until November 2018. The position of the Court of Appeal representative also remained vacant for close to one year pending the hearing and determination of the issues raised on its nominee. It was only filled in January 2019.

Following court intervention, through the effort of LSK and other stakeholders, the Commission became fully constituted for the first time in January 2019. The full composition has made it possible for the Commission to execute its mandate more effectively. The Commission is grateful to the Law Society of Kenya for their unrelenting effort in ensuring that the Commission is fully constituted.

The current membership is as follows:

1. **Hon. Justice David Kenani Maraga** - Chief Justice of the Republic of Kenya / Chairperson;
2. **Hon. Mrs. Mercy Deche** - Vice Chair, LSK representative;
3. **Hon. Prof. Tom Ojienda, SC** - member, LSK representative;
4. **Hon. Justice Philomena Mbete Mwilu** - Deputy Chief Justice / Member, Supreme Court representative;
5. **Hon Justice Mohammed Warsame** - Court of Appeal judge/ member, representing CoA;
6. **Hon. Justice Aggrey Otsyula Muchelule** - High court Judge / Member; KMJA representative;
7. **Hon. Patrick G. Gichohi, CBS** – Member, Public Service Commission
8. **Hon. Justice Rtd Paul K. Kariuki** – Member/ Attorney General.
9. **Hon. Prof. Olive M. Mugenda, CBS** – Member;

representing the public

10. **Hon. Felix K. Koskei** – Member; representing the public

B. Removal of Capping on the number of Sittings

Since December 2015, SRC had capped the number of sittings JSC could hold in a month to eight. Any additional meeting was only allowable with prior consent of the SRC. This directive greatly hindered the smooth operation of the Commission as it had to prioritize what issues it could or could not attend to in eight sittings. In 2016, the Commission challenged the constitutionality of the directive. The decision of the court was rendered during the period under review in July 2018. The court declared that SRC's capping on the number of sittings was an infringement on the independence of the judiciary.

The court's decision has eased the work of the Commission as it has made it schedule meetings on a need basis without prior approval. This has translated into quicker disposal of complaints and faster recruitments.

C. Review of the Organization Structure

Following an audit commissioned by JSC, certain structural and functional misalignments and deficiencies in the administrative wing of the judiciary and in the JSC were identified. These create a serious hindrance to the support of the core function of the judiciary and ultimately to effective service delivery to court users. It is for this reason that in August 2018, the Judicial Service Commission approved a new Organization Structure for the Judiciary and the Judicial Service Commission secretariat. The Organization Review will take a period of two years to implement. It has already commenced with the overhaul of the top management of the directorates. The Commission has recruited a new HR Director and two deputies. The recruitment of the top management of the Finance Directorate is underway.

The Organization Review has classified courts for ease of staffing and resource allocation. A skills audit is also underway to facilitate more accurate matching of skills for more efficient service delivery. It is expected that the new structure will strengthen the institution's capacity to deliver services in a more effective, transparent and accountable manner. Legal practitioners will directly benefit from the new organization structure in many ways including adequate staffing in arrears that have previously suffered from under staffing like typing, accounts, and registries; culture change in service delivery; a clear chain of command clarifying who reports to who. This will make it easier for practitioners

to report judicial staff responsible for delays in service delivery. A copy of the report on the Organization Review Commission is hereto attached.

D. Building Human Resource Capacity through Recruitment & Promotions.

The Commission had commenced the process of recruiting Court of Appeal Judges in 2018. This was cancelled for, among other reasons, the fact that the Commission was five members less. This year, the Commission has commenced the recruitment of Forty one (41) judges including eleven (11) judges of the Court of Appeal, twenty (20) judges of the Environment and Land Court, and ten (10) judges of the Employment and Labor Relations Court.

In appreciation of the expanded jurisdiction of the subordinate courts with regard to ELC, ELRC and Succession matters, the Commission made a decision to expand the institution of the magistracy from 635 judicial officers to 1200 judicial officers. The Commission is filling the positions gradually as resources allow. At the end of the year 2018, the Commission set out to recruit fifty (50) Resident Magistrates but only managed to recruit Forty-eight (48) of them.

A total of 196 magistrates and 3 Kadhis were promoted to higher ranks, in the period under review. Parameters for promotions included merit, management skills, performance and integrity. The Commission received feedback from the LSK membership across the country that was useful in making decisions in this exercise. The promoted judicial officers will have wider jurisdiction which will translate to enhanced access to justice.

After the recruitment and promotions, the establishment of the magistracy is spread out as follows: 50 CMs out of the approved 80; 68 SPMs out of the approved 160; 91 PMs out of the approved 240; 191 SRMs out of the approved 400, and 93 RMs out of the approved 320.

The Commission had also hoped to recruit one hundred (100) Legal Researchers but only managed to get sixty-nine (69). Legal Researchers are an important section of staff in supporting judges in legal research.

The recruitment of senior staff in the finance Directorate and secretariat staff for the National Council for Administration of Justice (NCAJ) is underway.

E. Infrastructural Development

The Commission is overseeing the construction of a number of court stations across the country. To date,

construction of four (4) court stations is complete and another 29 are at different stages of completion. Several others are being rehabilitated to make them more modern.

New courts have been established in Msambweni, Dadaab Kadhis court, and Ruiru (through CDF). In addition, there are 59 mobile courts around the country.

A new court like the Shanzu model is also under construction at Kamiti courtesy of UNODC.

F. Status Report on ICT

- Court recording and transcription is under procurement in 6 courts in the commercial division at Milimani under IDLO. Procurement for 26 other courts is under procurement under JPIP. Simple Solution for recording Anti-Corruption Cases “NYS2” at Milimani Ceremonial Hall has been installed.
- E-filing has also been rolled out in the commercial Division since October 2018. Over 300 Cases have been filed on the system and Over 6 Million paid online. The system review underway to include e-service.
- Case Tracking System (CTS) is running in all courts in Milimani Law Courts, Milimani Commercial and Mombasa. It is also under review to include Automated Fee Assessment, Bring Up and SMS/

Email Alerts. It will also be rolled out to other courts. The CTS will soon have a page for Public Search on Judiciary website by mid this year for tracking cases.

- On ICT Infrastructure, 125 Court are currently Connected. The remaining courts are served by Modems. The Long term strategy is to connect to Gov Internet – NOFBI and the judiciary is in Discussion with MoICT to whom they have submitted proposals.

G. Accountability and Discipline

a) Discipline cases against judicial officers and staff

A total of twenty-five (25) discipline matters against judicial officers and staff were received by the Commission in 2018. Issues which dominated the disciplinary cases were absenteeism, alcoholism and corruption, conflict of interest, having unexplained deposits in the account, changing court orders, giving ex-parte mandatory orders resulting in demolition of property, disregarding High court orders on cases before them, among others related cases.

The disciplinary issues for non-judicial staff included absenteeism, corruption, and interfering with procurement process.

The table below shows the discipline matters handled by the Commission in 2018:

Distribution of discipline cases handled by the Commission in 2018

S/No.	Nature of case	Deferred from previous year	No. of cases registered	No. of cases Concluded	No. of cases pending
1.	Discipline	16	5	4	17
2.	Appeals	15	13	13	14
3.	Reviews	5	6	6	5
4.	Retirement on medical grounds	Nil	1	1	Nil
	Total	36	25	24	37

b) Complaints against Judges;

As at January 2019, the Commission had received sixty nine (69) complaints against Hon. Judges. After processing, thirty-seven (37) of the complaints were dismissed as they were found to be on the merit of decision where the appropriate remedy is an appeal or review. Thirteen were sent for hearing which commenced on 13th March 2019. The hearing is conducted by two Panels chaired by Commissioner Mercy Deche and Commissioner Prof Olive Mugenda respectively. The remaining seventeen (17) complaints are awaiting further

consideration in the next JSC meeting on 19th March 2019.

H. Stakeholder engagements

The Commission recognizes the importance of constantly engaging stakeholders in the justice circle. LSK is a major stakeholder. During the period under review, the LSK representatives held numerous consultations with the LSK leadership and LSK branch chairs. Several meetings were held with various branches across the country. One meeting was held with

all the branch chairs as a side event during the 2018 LSK Annual Conference. The representatives also held one meeting with the chair of the Branch Chair's Caucus to discuss various concerns around practice around the country. Apart from the scheduled engagements, the Representatives have remained on call to the entire membership through their known numbers to attend to any issue especially the urgent ones.

The Commission also held several meetings with various Committees of the National Assembly including the Justice and Legal Affairs Committee, Budget and Appropriations Committee, and the Committee on Delegated Legislation. The meetings were aimed at strengthening the mutual relationship and to forge a way forward for a structured engagement between the two organs of government. Issues discussed include challenges facing the Judiciary which Parliament is in a position to intervene. They include budgetary cuts that had significantly affected judiciary and JSC activities, pending legislations comprising of the Judiciary Fund Act and its Regulations; Judicial Code of Conduct for Judges, Judicial Officers and Staff; the pending Tribunals Bill; and the Judges Retirement Pensions Bill. Arising from the deliberations of this meeting, Parliament's Budget committee called the JSC for a meeting to deliberate on the budget cuts and future budgetary needs of the Judiciary. This meeting bore fruit as Parliament through the subsequent supplementary budgets revised the judiciary budget, adjusting the cuts. The pending Bills are also receiving due attention from Parliament.

The Commission also continued to constantly engage its partners through the National Council of Administration of Justice (NCAJ) at both National and Court Station level through the Court Users Committees (CUCs). Through the forums, various challenges affecting the delivery of justice were addressed. The Commission has taken a deliberate move to strengthen the capacity of the NCAJ taking into consideration that it plays an important role in the justice system. In the next few months, the Secretariat of the Council will be enhanced to enable it effectively deliver on its mandate.

Lastly the Commission has maintained a continuous engagement with SRC for the improvement of salaries of Judicial Officers. Improved terms of service is an important component in attracting the best to serve as judges and magistrates from amongst the LSK members.

I. Challenges

- The Commission and the judiciary continue to suffer budget cuts of up to 75% imposed by the National

Treasury. This had the effect of slowing down the planned activities of both institutions. The worst affected areas were the GOK sponsored development projects which received a paltry Kshs. 50 million.

- JSC is a part time Commission, but with a wide mandate. To be able to match the demands of the office, the Commission requires to be engaged almost on a full time basis. Considering that members have other full time engagements, this is usually not possible, thus affecting the delivery of the Commission and slowing it down.
- The Capped sittings mentioned above had greatly hampered the work of the Commission before the court intervened in July 2018.
- The Commission suffered quorum hitches for the better part of the year 2018. The Commission had only six (6) members out of a maximum of eleven (11). The quorum for the full Commission is six, while committees require a quorum of three (3). Whenever one member fell sick (which unfortunately happened) the Commission could not function. Even with the six members, the Commission could not effectively transact certain business especial that which required empanelling like hearing complaints against judges and recruitment of judges.
- So far, only 20 out of the 60 Tribunals have been transitioned to the Judiciary by Treasury. The transition is however unsupported by the necessary legal framework. This has presented difficulties which have unfortunately trickled down to the bread and butter issues of the membership. While the responsibility of recruiting and nominating is vested in the Commission, the power to gazette remains with the Cabinet Ministry of the parent Ministry. On more than one occasion, the Commission recruited a Tribunal Chair that was not the preferred choice of the Cabinet secretary who then declined to gazette. This was the case with the Cooperative Tribunal. The stand-off is yet to be resolved but the Chief Justice has appointed a Magistrate in acting capacity pending fresh recruitment of a substantive chair person. The ultimate solution lies in the enactment of the Tribunals Bill which will vest the entire process of recruitment on the Commission.

J. Conclusion

The Commission considers the LSK a critical stakeholder and appreciates the role played by LSK in assisting the Commission execute its mandate. The LSK representatives remain committed to prioritizing the concern of its membership as they serve continue to serve in the Commission.

RULES COMMITTEE OF THE JUDICIARY

1. INTRODUCTION

The Rules Committee of the Judiciary (RCJ) is established under Section 81 of the Civil Procedure Act, Cap 21 Laws of Kenya. The Committee is tasked with making rules consistent with Acts of Parliament and provision for any other matters related to the procedure of Civil Courts. The Committee is also mandated with drafting all Rules, Regulations and Practice directions made within the Judiciary and other Committees or task force, but in some cases it is called upon to review and draft rules and guidelines that are required to be drafted by the Chief Justice or other Committees.

The Committee has so far played a pivotal role in development of rules for a number of legislation as part of the exercise of its mandate. The proposed amendment to Section 81 of the Civil Procedure Act on the composition of the Rules Committee is before Parliament and is expected to be published in the next Statute Law (Miscellaneous Amendment) Bill.

The Committee's composition as at August 2018 is as follows:

1. Justice Daniel Musinga - Vice Chairman
2. Justice Alnashir Visram
3. Justice George .V. Odunga
4. Justice Grace Nzioka
5. Honourable Moses Wanjala - Secretary
6. Mr. Kevin McCourt - L.S.K Representative
7. Mr. Samson Maundu - Office of the Attorney General Representative
8. Ms. Noela Adagi - L.S.K, Mombasa Branch Representative

The technical team seconded by the International Development Law Organization (IDLO) to the Committee comprises:

1. Dr.K.I.Laibuta - Legislative Advisor to the Committee
2. Mr. Anthony Mugambi Laibuta - Embedded Legislative Drafter
3. Ms. Cynthia Liavule Aswani - Embedded Legal Researcher

The Committee and the technical team hold meetings twice every month to track progress of development and finalization of rules. A progress report including the activities of the Rules Committee in the year 2018 is detailed in the subsequent part of the Report.

2. ACTIVITIES AND SUPPORT RELATED TO DEVELOPMENT AND FINALIZATION OF DRAFT RULES BY THE RULES COMMITTEE IN THE YEAR 2018

a) Technical support from the International Development

Law Organization(IDLO)

In September 2017, the Rules Committee of the Judiciary approached IDLO requesting for support in the development and finalization of rules. While the drafting and publication of some of the rules was at an advanced stage, there still remains a lot to be done. In light of the above context, IDLO and the Judiciary recruited a Legislative Advisor, a technical Embedded Legal Drafter and an Embedded Legal Researcher to support the mandate of the Rules Committee of the Judiciary. The assignment was to be undertaken for an initial period of six months with the possibility of six month renewal based on availability of funding. The technical team members joined the Committee this year although in different months. The full technical team work begun in May and this has enhanced the capacity and efficacy of the mandate of the Committee in fast tracking the process of finalization of draft rules.

b) Sports Tribunal Rules

The Rules Committee finalized and adopted the Sports Tribunal Rules. They were forwarded to the Office of the Registrar of Tribunals from the Office of the Chief Justice for final approval. The Rules Committee has since written to the Registrar of Tribunals requesting for a status update on the rules so that there is closure on the Committee's part.

c) The Matrimonial Proceedings Rules

The Secretary to the Committee took part in a validation exercise of the Matrimonial Property Rules held at the end of January 2018. The rules had been drafted by a Consultant with expertise in family law matters seconded by IDLO to the High Court, Family Division. They were reviewed by the technical team in May and June this year and necessary forms added to the draft rules. The Committee adopted the rules in its meeting held on 13th July 2018. The rules have been forwarded to the Office of the Chief Justice for approval, signature and forwarding to the Office of the Attorney General for gazettelement.

d) The Small Claims Court Rules

The draft Small Claims Court Rules were prepared in conjunction with the Kenya Law Reform Commission. The Committee conducted the first phase of public participation on the draft rules from 21st to 25th of May 2018. During the exercise, the Committee met and collected comments from the members of the public and various Stakeholders at Mombasa, Voi, Machakos, Nyeri, Nakuru, Eldoret, Kakamega and Kisumu Law courts. The Committee then incorporated the amendments with the assistance of the Technical Embedded Legislative Drafter into a set of draft Rules which were then validated by Stakeholders on the 14th March, 2019. The Rules

need to be translated from English to Swahili and public sensitization needs to take place for effective implementation by the Courts.

e) The Civil Procedure (Amendment) Rules 2018

The Committee conducted a public participation exercise on the Civil Procedure Rules, 2010 in September 2017. A review of comments from Stakeholders was conducted by the Committee in a work retreat on the proposals in April 2018. A Report on the deliberations and conclusions of the Committee on proposed amendments has been prepared and some of the recommendations forwarded to appropriate Stakeholders. Draft amendments Rules have been prepared by the technical team in collaboration with some of the Committee members.

In its meeting held on 13th July, 2018, the Committee members met a Consultant, Dr. Johnson Okello seconded by IDLO. He is tasked with the Integrated Court Management Systems (ICMS) project whose work will affect provisions in the Civil Procedure Act and Rules in light of the use of technology in proceedings. These will be incorporated once finalized on by the said Consultant. The Draft amendment rules will need Stakeholder engagement on their viability. The Committee will later be required to undertake validation exercises on the rules before finalization which exercise is being conducted in 2019.

f) The Insolvency Rules

The enactment of the Companies Act, 2015 was commendable but the lack of rules of procedure has caused a deadlock in

the finalization of cases. The concern was raised was many legal practitioners in the Commercial sector. The L.S.K representative to the Committee, Mr. McCourt, embarked on liaising with a sub-committee comprising expert commercial legal practitioners to come up with draft rules. An initial draft was forwarded to the Committee for compilation at which juncture it was discovered that the Office of the Official Receiver was working on amendments to the Insolvency Act which could render any proposed Rules irrelevant subject to the Amendments to the Insolvency Act. The Committee has liaised with the Official Receiver and their consultant and are awaiting a final draft of the Amended Insolvency Act.

The Committee proposed amendments to the Civil Procedure Act CAP 21 and specifically Section 81(1) to change the composition of the Rules Committee. These amendments were effected in the Statute Law (Miscellaneous Amendment Act 2018) No. 18 of 2018 and commenced on 18th January, 2019. Section 81 (1) (VI) entitles the L.S.K to nominate Eight (8) Advocates to the Rules Committee, one from each Branch of the L.S.K as established under Section 24 of the Law Society Act 2014.

3. WORK IN PROGRESS RELATED TO DEVELOPMENT AND FINALIZATION OF DRAFT RULES BY THE RULES COMMITTEE IN THE YEAR 2018

In addition to the above rules whose finalization is advanced, there is work in progress on the rules tabulated below:

<p>1.</p>	<p>Kadhi's Court Rules and Bench Book</p>	<p>A draft of the Kadhi's Court Rules had been prepared in the year 2015. This had been thanks to the efforts by the Judiciary Training institute (JTI).The JTI in the year 2017 then approached IDLO to revive the process of finalizing the rules and Bench Book. The Consultant is one Dr. Hashim, an Advocate of the High Court of Kenya and an expert in Islamic Law. The Consultant in charge of drafting the Rules has shared the draft rules with the Rules Committee and technical team. The process had however stalled because of the Ramadhan period and the need to iron out some concerns raised by a Steering Committee working with the Consultant.</p> <p>A consultative meeting between JTI, IDLO and the technical team attached to the Rules Committee was held on Monday, 16th July 2018.The Consultant agreed that the technical team should be included in the deliberations and refining of the draft rules as are now along with the Steering Committee. The Steering Committee on the draft rules and Bench Book hopes to meet and finalize on the rules in collaboration with the technical team.</p>
<p>2.</p>	<p>Children Act Rules</p>	<p>The Family Division of the High Court and the Taskforce on Children matters along with IDLO and NCAJ have been working on refining the Children Bill which if finalized will need development of rules. The Committee is in touch with the Family Division on the progress of the matter.</p>

3.	Evidence Act Rules on Teleconferencing	<p>The Office of the Attorney General got assistance from the British High Commission on the development of rules related to the two areas. The Rules Committee therefore awaits a response from the Office of the Attorney General on draft rules as well as clarification on approach on development of rules by the Rules Committee.</p> <p>The Rules Committee requires assistance in order to coordinate its efforts on electronic interventions in draft Rules with the Integrated Court Management Systems Committee. A meeting with the lead Consultant of the ICSM project has given direction as regards the amendments to the Draft Civil Procedure (Amendment) Rules so far.</p>
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The Committee also hopes to use the technical support received from IDLO to develop rules related to the following statutes:

	STATUTE	DEVELOPMENT OF RULES
1.	Distress for Rent Act	<p>Distress for Rent Rules, 1959 (Last updated via Act No. 17 of 2006)</p> <p>The Rules are adequate but may require review.</p>
2.	Rent Restriction Act	<p>Rent Restriction (Appeals) Rules (LN 13/1969) The Rules are adequate but may require review.</p>
3.	Landlord and Tenant (Shops, hotels and Catering Establishments) Act	<p>There is need for development of Rules prescribing any procedure, fees or costs in any proceedings in the Environment and Land Court or any other Court, under the Act.</p> <p>However, a long term solution would be to review the Act which needs to be updated given the evolving nature of real estate industry in the country.</p>
4.	Partnership Act	<p>The Chief Justice is mandated to develop rules under the Act on Partner's secondary liability.</p>
5.	Civil Aviation Act	<p>There are some existing rules and the Chief Justice is also still mandated to develop rules for the National Civil Aviation Administrative Review Tribunal.</p> <p>There will be need for expertise advice in the development of the rules.</p>
6.	Certified Public Secretaries of Kenya Act	<p>The Chief Justice is mandated to develop rules under the Act.</p> <p>The Committee will need expertise advice for the development of rules.</p>
7.	Seeds and Plant Varieties Act	<p>The Chief Justice is mandated to make rules as to the procedure in connection with proceedings before the Tribunal.</p> <p>The Committee will need to develop rules as stated above.</p>
8.	Tax Appeals Tribunal Act	<p>The Chief Justice is mandated under the Act to prescribe rules to guide proceedings of the Tribunal and Appeals from the Tribunal.</p> <p>The rules are adequate but may require review.</p>

	STATUTE	DEVELOPMENT OF RULES
9.	Criminal Procedure Code	There is need for rules for development of rules related to Victim Impact Statements.
10.	Witness Protection Act	The Chief Justice is mandated to develop rules. The current rules are adequate but may require review.
11.	Persons with Disabilities Act	The Chief Justice is mandated to develop rules for exemption of persons with disabilities from payment of fees in relation to matters or cases prescribed under the Act. The Committee needs to develop rules.
12.	Sexual Offences Act	The Rules under the Act are adequate but may require review.
13.	Mental Health Act	The Act needs Rules which the Chief Justice is mandated to develop under it.

REPORTS OF THE LSK COMMITTEES

1. IN-HOUSE COUNSEL COMMITTEE

The Convener of the committee is Ms. Ndinda Kinyili and the committee has had the following activities;

The Committee, in partnership with Safaricom Limited, held the inaugural *Law Society In - House Counsel Caucus at Safaricom's Michael Joseph Centre*.

The forum was held under the theme '**Governance as the Epitome of Successful Organizations - the Role of the 21st Century In - House Counsel**' whose main speakers were Ms. Joy Mdivo, Executive Director - East Africa Center for Law and Justice and Mr. Paul Muthaura, CEO Capital Markets Authority and Mr. Fred Waitthaka H.O.D Legal and Secretarial Services Safaricom. Ms. Ruth Kirwa Commissioner Law Reform Commission and Ms. Mercy Wambua CEO LSK amongst other members of Council and invited guests.

The event which was a runaway success and was attended by the LSK President Mr. Allen Gichuhi and counsels from different organizations within the public and private sector.

a. In-House Counsel Breakfast

The Committee, in conjunction with the National Counter Terrorism Center, hosted the In-house Counsel Breakfast on 9th August, 2018 in Leisure Lodge Beach and Golf Resort, Kwale. The event, held during the LSK 2018 edition of the Annual Conference. The Breakfast, held under the theme "*The Role of the In-house Counsel In Curbing Financial Crime and Terrorism*" featured presentations by:

Mr. James Manyonge - Company Secretary and Head of Legal, Compliance and External Relations at the Financial Reporting Centre, Ms. Faith Basiye - Head of Forensic Services, KCB Bank and Mr. Richard Barno - Secretary, Legislative Affairs in the Office of the Deputy President.

b. In-House Counsel CPD Trainings

The Committee issued a Notice to members requesting for proposals for CPD trainings relevant to in-house and public sector counsel. The Committee prepared a report of the received submissions and presented the same to the CPD Committee for approval and integration into the CPD Calendar. The committee will seek to partner with relevant stakeholders for specialized

training for its members for topics that cannot be integrated into the CPD calendar.

c. Mediation Training

The Mediation Training Institute agreed to partner with LSK to conduct mediation training for in-house and Public Sector counsel. The first edition took place between the 15th – 19th October, 2018.

d. Constitution of Parastatal Boards

The Committee is in the process of identifying the state agencies that have not been properly constituted by having a full board. The State corporations with multi-billion shilling budgets do not have boards of directors, exposing management problems and will affect performance of the boards.

The final list will be forwarded to relevant agencies with recommendations for nomination of persons to the said boards.

e. Recommendations on Amendments to the Law Society of Kenya Act

The Committee forwarded proposals to the Law Reform, Devolution and Constitutional Implementation Committee on amendments to the Law Society of Kenya Act. The committee proposed to have a slot for an In House Representative in the LSK Council.

f. New summary of exemptions for advocates undertaking KASNEB Company Secretarial Examinations.

The Committee noted that the negotiated exemptions for advocates by The In House Committee and LSK Nairobi Branch were not being implemented KASNEB. The Committee followed up and KASNEB implemented the said exemption for the November/December 2018 Company Secretarial Examinations.

g. Implementation of the Circular on Public Service Legal Sub- Sector Remuneration.

The Committee wrote to the SRC through the Secretariat noting that though the circular dated 11th June, 2010 on "Rationalization and Harmonization of the public sector remuneration" has been applicable since 1st July, 2010 the same has been completely ignored or under implemented by government agencies and public

institutions. The committee sought for guidelines and recommendations on issuance of the said circular. The SRC responded and indicated the commission conducted a study on Allowances in the Public Sector including Non-Practicing allowance with a view to rationalizing the same. It was indicated that the same will be determined once the new commission assumes office.

h. Regulations for In House Counsel

The committee formed a sub-committee to come up with regulations to guide and cushion advocates in the Public Sector from criminal culpability in the course of duty especially when legal advice given is ignored. The sub-committee

i. Anti-Money Laundering Guidelines

The in House Committee, Practice Standards Committee and Conveyancing Committee has partnered with GIZ to develop Anti-Money Laundering Guidelines for Advocates.

j. In House Counsel Sub- Committees

The committee has formed four sub committees to effectively execute its mandate:

Training, CPD and Events Sub-committee, In House Regulations and Remuneration Sub-Committee, In House Professional Standards Sub-Committee and Welfare Sub-Committee

k. Planned Activities – 1st Quarter 2019

- Partnerships with strategic organizations/ institutions to conduct customized trainings for in-house counsel on a regular basis;
- Develop a manual for running an In House Department.
- More trainings in conjunction with MTI for 2019;
- Participate in the Nairobi Legal Awards and push for a category for In House Counsel/ Departments
- Review of the Government Contract Bill - The Regulation and Remuneration sub-committee to prepare a memorandum of provisions that the Bill violates;
- Follow up on the response received from the SRC on the Implementation of the Circular on Public Service Legal Sub - Sector Remuneration;
- Prepare a memorandum addressing the issue facing the improper constitution of Parastatal boards.

2. COMMITTEE ON CONTINUING PROFESSIONAL DEVELOPMENT (CCPD) COMMITTEE

Mr. Rautta Athiambo is the Chairman and **Mr. Henry Ongicho** is the Vice Chairman of the Committee on Continuing Professional Development.

The Continuing Professional Development (CPD) programme was introduced in the year 2004 under the Continuing Legal Education Regulations 2004 Guidelines. The effective date was 1st January 2005 through Legal Notice 131 of the Kenya Gazette Supplement Number 82. The Guidelines were subsequently replaced by the Advocates (Continuing Professional Development) Rules, 2014.

The CPD Committee:

The CPD Rules 2014 establish the Continuing Professional Development Committee whose principal function is to implement the Continuing Professional Development programme in the country.

The composition of the Committee is as appointed by the Council. The members serve for two years and are eligible for re-appointment for a further term of two years.

The Committee works in tandem with the CPD Department at the Secretariat. The Department coordinates the activities of the Committee and assists it in executing its mandate.

Responsibilities of the Committee:

- a. The Committee comes up with the annual calendar of events by inviting members to propose topics and incorporates them into the calendar. The CPD Committee works with the Secretariat in the implementation of the CPD Calendar of events, development of the curriculum and content of the program.
- b. Enforcement of CPD Rules. The CPD Regulations make it mandatory for all members to comply with the CPD Regulations every year by accruing five Units or to be exempted before renewing their Practicing Certificates. The CPD sub- committee on accreditation handles several applications for exemption and accreditation from members and also accredits independent course providers.
- c. The Committee provides policy direction to the program and meets monthly to discuss any pertinent issues surrounding the CPD program.

- d. The Committee also accredits other institutions that facilitate sessions on professional development for lawyers.

Accreditation and Partnerships:

In the year 2018, the following organizations were accredited to offer courses:

- a. Kenya School of Law
- b. Chartered Institute of Arbitrators
- c. Institute of Certified Public Secretaries of Kenya
- d. International Commission of Jurists
- e. Training and Consulting Associates (TCA)
- f. Mediation Training Institute
- g. International Senior Lawyers Project(New York)
- h. Strathmore University
- i. Loan Market Association

The CPD Committee also partners with different organizations to offer courses in different areas of the law. In the year 2018, the Committee partnered with:

- Retirement Benefits Authority (RBA) - The Committee partnered with the Authority to offer training on *Pensions and Saving Options* in Kakamega, Kisii, Kitale and Malindi.
- Kenya Revenue Authority (KRA) - The Committee partnered with the KRA and offered one day training in Nairobi on Emerging Tax Issues.
- East Africa Law Society (EALS) and Advocates for International Development - A partnership with the Advocates for International Development and the East Africa Law Society resulted in provision of two free trainings for members in Kisumu and Mombasa on *Law and Development*.
- United Nations Development Programme (UNDP) and Ford Foundation - A one day forum on the 2017 Presidential Election Petitions was held in Nairobi following a partnership with the UNDP and the Ford Foundation.
- Capital Markets Authority (CMA) - The Law Society of Kenya (LSK) through the CCPD in partnership with the Capital Markets Authority (CMA) jointly set up a Task Force to develop a curricular on legal audits training for lawyers towards accreditation as The Law Society of Kenya certified legal auditors

Successes:

Some of the successes of the CPD Committee in the year 2018 include:

- Successful implementing the Biometric System of registration at all CPD Seminars. The System

was rolled out in August 2017 at the Annual Conference in Kwale. The system was mainly introduced towards ensuring efficiency, accurate identification, accountability and save on time spent during registration at CPD Seminars and uploading of CPD Units. Biometrics (finger prints) of approximately 9,800 members had been captured by 31st December 2018.

- Developing the CPD calendar for the year 2019 - The Committee held its annual retreat between 1st and 4th November 2018 and came up with the 2019 Calendar of events which has a total of 73 seminars (up from 57 in 2018) incorporating topics which were proposed by members.
- Getting sponsorship for the LSK Annual Conference.

CPD Seminars 2018:

The Committee together with the secretariat organized a total of 57 seminars across the country compared to 53 in the year 2017. All events took place as advertised in the Calendar except for the Seminar on two concurrent CPD Seminars scheduled for Friday 15th June 2018 in Nairobi and Kitale respectively as the Government Gazetted the said date as a Public Holiday.

The two seminars were held on Friday 6th July 2018 at the scheduled venues. The Induction Course scheduled for Kisumu on Friday 6th July was moved to Saturday 24th November 2018. The Committee on CPD added one more additional Seminar – a Lecture on Limited Liability Partnerships (LLPs) on Thursday 15th November 2018. This was due to increased demand by members.

The topics that elicited good response were:

- Life Skills
- Limited Liability Partnerships
- Child Law
- Intellectual Property Law
- Alternative Dispute Resolution
- Economic Crimes
- Taxation Laws
- Land Law
- Company Law
- E-Commerce
- Induction Course

Compliance:

Compliance with the CPD regulations has been as follows:

YEAR	Compliant Advocates
2011	4658
2012	5263
2013	5751
2014	6206
2015	6827
2016	7818
2017	7501
2018	7890

Work in Progress:

The Committee is also in the process of publishing a digest of papers that have been presented at CPD seminars (including LSK Annual Conferences).

3. GENDER COMMITTEE

The committee since its inception in March of 2018 has had three meetings. The committee has a total of 19 members and is convened by Ms. Carolyn Kamende. Its main objective is to advise Council and the Law Society membership on all matters of gender and the law and to promote principles of equity and equality in participation of members in the legal profession.

The committee has discussed and pursued several issues with regard to gender. The following are the activities undertaken during this year;

- Representative committee members attended public participation meetings on the Constitution Amendment Bill on the two-thirds Gender Rule. The meetings took place in Mombasa on 23rd May 2018 and hearings took place on 23rd May 2018 in various towns across the country.
- Members drafted a memorandum which was forwarded to the National Assembly. The memorandum contained their views, opinions and recommendations with regard to the two-thirds Gender Rule.
- Members have discussed having a pro bono lawyer's database to pursue representation for gender issues only. This issue will be tabled first by the convener before the Council and if approved a notice can go out to members who are interested to apply and the database set up.
- The committee is focusing on addressing sexual

harassment of students, pupils and employees in law firms which is on the rise. This is one of their main terms of reference.

- The committee through the convener attended the African Bar Association (AFBA) annual conference which took place from 22nd to 27th July 2018.
- The committee is looking in to establishing a mentorship programme to train and sensitize young lawyers on how to handle gender cases.

Achievements

Successfully organized the LSK Annual Conference 'Women in the Law Breakfast Forum' held on Friday 10th August, 2018. The platform brought together many women lawyers who interacted on different levels and various issues based mainly on the theme 'Breaking the Barriers; Expanding your Circle of Influence.' It was agreed that other similar forums should be organized in the future.

Main Agenda

- The Council has tasked the Committee with developing a Sexual Harassment Policy (SHP) to be adopted by the membership. The committee discussed the SHP during their meeting held on 24th August, 2018. A sub-committee was set up which has since come up with the draft policy. The policy is under consideration and will be tabled before Council for approval.
- The committee plans to host a breakfast validation forum to present the SHP to the membership for their input. This is scheduled to take place in the first quarter of the upcoming year 2019.

4. TASKFORCE ON CAPACITY BUILDING OF LAW SOCIETY OF KENYA MEMBERS ON LEGAL AUDITS COMMITTEE

Ms. Faith Waigwa, Advocate is the Chairperson of the *Task Force on Capacity Building of Law Society of Kenya Members on Legal Audits*.

Members of the Taskforce are: Neddie Eve Akello, George Kashindi, Diana K. Nthiwa, Isaac Kuloba, Hillary C. Biwott, Helen Ombati, Kennedy Modi, Mary Kinyanjui and Anthony Maseno Anabaka.

The Law Society of Kenya (LSK) in partnership with the Capital Markets Authority (CMA) jointly set up the Task Force on developing a *curricular* on legal audits training for lawyers towards accreditation as The Law Society of Kenya certified legal auditors.

The setting up of the Task Force was informed by the Gazettment of the *Code of Corporate Governance for*

Issuers of Securities to the Public in March 2016 which became fully operational on 4th March 2017 seeking to provide a comprehensive framework on corporate governance.

The Code sets out principles and specific recommendations on structures and processes which companies should adopt in making good corporate governance an integral part of their business. Among the requirements set out is that all issuers of securities to the public shall conduct legal and compliance audits once every two years by legal professionals in good standing with the Law Society of Kenya (LSK).

The Taskforce held its first Meeting on Monday 25th June 2018 and came up with a detailed work plan to complete its Terms of Reference by the end of September 2018.

The tasks are:

- To review the legal and regulatory framework on legal audits
- To develop framework/manual for conducting legal audits and a compliance matrix
- To develop a training manual on legal audits
- To develop guidelines for accreditation of legal auditors.

The Taskforce is on the process on compiling its final Report to share the same with the membership for comments before transmission to the Council of the Law Society of Kenya.

5. AUDIT COMMITTEE

Audit committee has a valuable contribution to make in improving the governance, and the performance and accountability of the Society. The committee plays an important role in examining an LSK's policies, processes, systems, and controls.

The committee was constituted in July 2018 comprising of seven members; Three Council members, three members from the wider membership and one representative of ABA. The committee is chaired by **Counsel Mariam Wambui Gaituri** and **Counsel Diana Nthiwa** as deputy chairperson.

The committee was able to convene two meetings in the two quarters of the year 2018. During the first meeting, the committee ratified the Audit Committee charter which stipulates the committee's role and mandate. In line with International Audit Standards, the committee approved the Internal Audit work plan 2018. The second meeting was held on 17th September 2018 where reports

from the Internal Audit department were presented and deliberated upon, key among the reports were summary of key audit findings and implementation status as at 31st August 2018. In doing so, the committee identified potential improvements to governance, risk management, and control practices that was communicated to the management.

During the year the committee underwent a three day Audit Committee training in October 2018 organized by the Institute of Internal Auditors Kenya. The training was necessary to impact the members with the financial and technical knowledge required for effective execution of their mandate.

6. ICT/IP COMMITTEE

The LSK ICT/IP Committee is comprised of advocates who have background or interest in the ICT/IP legislation, led by Ms. Maria Mbeneka, Council Member as the Convener and meets monthly. The following are some of the committees' achievements;

The Committee has come up with four sub-committees as follows: Bar bench - This committee is dealing with matters to do with bar bench to promote technology adoption in the bar including pushing for the training of Judges and Magistrates.

Legislation – Tasked with interrogation of bills touching on ICT/IP.

Training – Tasked with coming up with a plan and content to train members on opportunities in ICT/IP sector.

Publishing – Mandated to come up with ICT/IP handbook and publish a magazine on a quarterly basis.

Engagement in Advocacy, Policy and Legislative Formulation The Committee advised the Council on the need to seek for representation to a taskforce on block chain technology under the ICT Ministry and its impact. Subsequently the Council adopted the Committees recommendations and appointed a representative to the taskforce.

Through the legislation sub- committee, the committee is engaging parliament by contributing to the draft bills e.g data protection and copyrights bills.

Engagement in Public Interest Litigation Constitutional Petition Number 206 of 2018, Bloggers Association of Kenya (BAKE) versus the Attorney General and others. The Association of Bloggers filed a suit challenging

several sections of the Computer Misuse and Cyber Crime Act through lawyer Mercy Mutemi and obtained conservatory orders suspending 22 Sections of the Act. The Law Society of Kenya joined in the matter as interested party through Waikwa Wanyoike Advocate. The Committee has drafted and recommended to the Council the filing of a case to challenge the Finance Act 2018. The Case will be filed through Mutemi Sumbi Advocates a member of the ICT/IP Committee.

Provision of Expert Opinion and Advice on E-Conveyancing Pursuant to Constitutional Petition no 144 of 2018; Law Society of Kenya versus Attorney General, the PS Ministry of Lands and others, the Cabinet Secretary, Ministry of Lands & Physical Planning appointed a Taskforce on Electronic Land Transactions. The LSK through the ICT Committee has provided proposals to the Taskforce on Electronic Land Transaction to facilitate electronic land transactions, registration, conveyancing and other related activities under the purview of the Land Registration Act 2012, the land Act, 2012, the Community Land Act 2016 and other related policies and statutes. The Committee was represented by Mr. James Ivia at a conference held in Sopa Lodge, Naivasha held on 17th – 18th September 2018 where he made proposals to the digitization Taskforce.

The following are the committees planned activities;

1. Drafting of a handbook on Intellectual Property Rights and legislation is ongoing.
2. The Committee is working on the ICT/IP newsletter to be circulated to members on a quarterly basis to educate them on ICT/IP legislation and possible opportunities.
3. The Committee through the training subcommittee is working on partnerships with universities offering law studies in Kenya for the purpose of mentoring the upcoming lawyers.
4. Reviewing the Law Society of Kenya ICT draft Policy.
5. Sensitization of members on block chain technology and the need for embracing technology to improve their practice. To achieve the Committee has compiled a report to be shared with members.
6. Preparation of a paper to be presented at an International forum on “The role of lawyers in bringing about more

(Partner at Anjarwalla and Khanna Advocates).

The Committee formed on an adhoc basis in hind sight, following the uproar on the imposed punitive Tax Laws and Regimes by the Government under the then Finance Bill 2018, later enacted into Law, and with a request from across Section of Members, to enable the Society enforce its mandate of protection of public interest- on matters incidental Tax.

The Committee’s Terms of Reference are as follows;

1. To assist in reviewing tax related bills directed to LSK for comments and to provide timely feedback.
2. To identify matters of public interest within existing tax legislations for litigation.
3. To push for compliance of tax decisions and judgments passed by courts.
4. To Undertake to channel pressing needs from the general public and legal practitioners to KRA to facilitate ease of transacting business in respect of services offered and decisions made.
5. To liaise with the Tax Tribunal in publishing its decisions to the public.
6. To identify key areas on tax to be included in the CPD Calendar.

The Committee in its formative stages has been instrumental in the following;

- The preparation and filing of a Memorandum to the Parliamentary Committee that sat to discuss on Finance Bill 2018.
- Members appeared before the said Parliamentary Committee on Friday 3rd August, 2018 to present on the pertinent issues as raised in the submitted Memorandum; issues such as the ‘Robin Hood Tax Clause’.
- Have given the Society legal opinions that have successfully seen to filing of petitions for i.e legal opinion on the mode of passing of the Finance Bill 2018 by Speaker National Assembly.
- The members further assisted in the preparation and filing of **Petition 344/2018- LSK vs. Attorney General, Speaker National Assembly and Commissioner General KRA**. Of which Hearing is set for 5th February 2019.
- The Committee intends in the year 2019 to achieve even more, with the full intention of causing more seminars to be undertaken by the CPD Committee in the year (2019) Calendar in respect of tax grey areas to enlighten members on opportunity at work (tax) out there and for personal growth and further to sensitizing them on the tax compliance measures that ought not be overlooked by one.

7. LSK TAX ADHOC COMMITTEE

The Convener of the Committee is Mr. Daniel Ngumi

- Lastly the Committee is looking at possible petitions and lobbying for support so as to review the current Finance Act 2018 as implemented within the 2019 Finance Bill and Income Tax Bill in the interest of the Public.

8. YOUNG LAWYERS COMMITTEE

The Young Lawyers Committee is chaired by Ms. Aluso Ingati and with a membership of 25 is mandated to do as follows;

- To advise the Council of the Law Society of Kenya on all issues relating to young lawyers in the context of the legal profession in Kenya.
- To promote the participation of young lawyers in the legal profession and in particular, in the affairs of the Law Society of Kenya.
- To promote the concerns of young lawyers within the Law Society of Kenya and in the legal profession.

The Committee has in the 2018 achieved the following;

- Young Lawyers Mentorship Program** - Young Lawyers Committee together with LSK spearheaded the development of the Young Lawyers Mentorship Manual that was launched during the LSK Annual Conference 2018. The Mentorship Program will be piloted in Nairobi and eventually throughout the Country. Communication on how members can subscribe to the mentorship program will be issued in due course. Through the Council the Young Lawyers Committee will offer support in the pilot stages of the program.
- Kenya Power and Lighting Company provision for legal services tender (Pre - Qualification Tender No. KP1/ 9A.2/PREQ/66/1718):** The Committee recommended to the Council and successfully challenged the prequalification tender by KPLC on the basis of discrimination of young lawyers for requiring an indemnity cover above the statutory provisions being a violation of relevant regulations. The Committee subsequently engaged with the head of legal department of the Kenya Power and Lighting Company with regards to the tender above with a view to reducing the professional indemnity cover required for the young lawyers category amongst other unfavorable provisions in the tender. We are happy to report that the tender was recalled.
- Young Lawyers Medical Cover-** The Committee has taken up the previously negotiated Madison Insurance that is tailor made to suit the needs of the young advocate in Kenya. The medical cover which expired in June was successfully renegotiated and

renewed in July 2018. The Committee continually undertakes robust sensitization of members on the same. Young Lawyers are encouraged to take up the medical cover.

- Professional Trainings-** The Young Lawyers Committee has negotiated and organized trainings for young lawyers on professional mediation at very low subsidized rates specifically for young advocates only. In collaboration with the Mediation Training Institute (MTI), there have been four trainings in the year 2018 with more than 70 young advocates having been trained on Mediation. The partnership extends into the new-year (2019) with several trainings already scheduled. Proposal is for the same to be taken around the country.
- The Young Lawyers Committee provided recommendations on the on-going process of amendments to the Law Society of Kenya Act by forwarding proposals on areas for amendments to facilitate better participation of the young advocates in general.
- The Young Lawyer Committee came up with a proposal and concept note on unemployment of young advocates and the same has been presented before the LSK Council for consideration and adoption.
- In collaboration with the gender committee, the Committee intends to develop guidelines/policy on sexual harassment to address numerous reported cases of sexual harassment facing the young advocates.
- In collaboration with the Stanbic Bank, the Committee is set to undertake training on Financial Probity and wealth management in the year 2019. Finally the Committee invites all to make contribution and offer support to the activities as promoted, in the spirit of strengthening the Society and for the general good of the young professionals.

9. LEGAL EDUCATION (ATP) AD HOC COMMITTEE

The Committee was formed in line with Hon. Mativo, J Orders (**in Aluvaala & Another v Council of Legal Education & Another [2017]**) that tasked the Law Society of Kenya to look into the outcry by students over the high failure rates at the Kenya school of law and give a report of the same on or before February 2019 when the matter will be coming up for mention. The Convener of the Committee is **Ms. Wangeci Esther Chege Advocate.**

The Committee shall operate on adhoc basis. Of noteworthy are that similar concerns were raised by members during the March 2018 LSK Annual General

Meeting seemingly to extend the mandate of the Committee to consider the Kenya School of Law cases in its entirety. The Committee has successfully floated a survey out to Members (Advocates) in a bid to collect views from them as to the source of this problem. The same will be put in a record and submitted to the Judge on the said date. Members are invited to interact with the committee and forward their views on how best address the issue of the high failure rates at the School through the Convener.

10. PUBLIC INTEREST, LEGAL AID AND HUMAN RIGHTS COMMITTEE.

The Committee is convened by Mr. Borniface Akusala, Council Member and it has held three committee meetings and one retreat this year.

Achievements:

- Took part in recruiting new pro bono advocates into the scheme, which saw an increase in the database from 812 to 983 Advocates.
- Developed the PIL Code to which upon approval shall cover all the operations of the Public Interest, Human Rights and Legal Aid Committee, and shall come into operation in accordance with the Law Society of Kenya Act.
- Restructuring the PIL Committee to house the legal components of Criminal justice and medico-legal
- Formulating regulations for accreditation of pro bono work in liaison with the CPD Committee, which will set out guidelines and a basis of how CPD points will be awarded to the members who carry out pro bono work to conclusion.
- Undertook a capacity building session on role of LSK in public interest matters by Paul Ogendi and the Legal framework on PIL and legal aid in Kenya by Steve Ogolla.
- The committee concerned about the current practice of PIL e.g on
 - o matters that fail to meet the threshold of what should constitute PIL,
 - o that has made it a tool of political manipulation, has made it susceptible to abuse of the court process and
 - o ultimately affected the role which it ought to play which is critical for the upholding of constitutionalism, Rule of Law and Human Rights have begun to carry out Advocacy and engage stakeholders in Public interest Law to deliberate on and come up with guidelines on the practice of Public interest in Kenya in 2019.
- Carried out a legal aid clinic in partnership with a community based organization known as Sheria Mtaani. The Clinic was held at the Lower Savanna (Soweto) Social Hall, Soweto Informal Settlements. The theme was around Criminal Justice Processes. The members got to engage with the locals drawn mainly from the Youth Population with representation from a few older members of society too.
- In partnership with ALN Academy took part in training on the European Union's General Data Protection Regulation (GDPR) that came into force on 25 May 2018.
- In partnership with A4ID and EALS working on a project that will map the state of legal pro bono throughout the East African region. It will be jurisdiction by jurisdiction (including EALS), and will go into the developments, opportunities and challenges.
- In partnership with TISA in partnership with TISA, we hosted a half day forum for advocates to deliberate on Devolution and Inter Governmental Relations and CDF Public Interest Litigation.
- Have actively been involved in identifying, deliberating on and giving Legal opinions on a number of Public Interest matters such as:
 - A number of the committee members have taken conduct of PIL matters which LSK is party

Ochiel Dudely - appeared as counsel for the Law Society of Kenya in the case against the Cyber Crimes Act where he argued for conservatory orders which enabled the film Rafiki to be shown to consenting adult audiences for seven (7) days. The orders also allowed the film to enter the competition for the prestigious Oscars Awards. The awardee has also argued a case on the constitutionality of the offence of publishing obscene information under section 84D of the Kenya Information and Communications Act

11. ALTERNATIVE DISPUTE RESOLUTION COMMITTEE

The Alternative Dispute Resolution Committee is convened by Mr David Njuguna Njoroge Council member and upcountry representative. The core mandate of the Alternative Dispute Resolution committee is: to provide technical advice in Alternative Dispute Resolution to the Council and to promote the use of ADR mechanisms and processes in the administration of justice in Kenya. The reconstituted committee revised its objectives and reviewed their broad thematic areas of focus as aligned to the LSK framework and would develop targeted projects and activities. Broadly, the thematic

areas are: Practice Issues, Advocacy, Sensitization, ADR institutional policy formulation and the monitoring of policy and legislation in ADR: The committee outlined the following functionalities: The facilitation of the development of programmes that enhance the use of ADR; Advisory on policy direction, formulation of guidelines and regulations on the practice of ADR; The collaboration of local and international ADR institutions and practitioners; The Collaboration of the government and statutory bodies in the promotion of ADR; The facilitation of capacity building opportunities for members locally and internationally; The establishment, promotion and the maintenance of standards and ethics in the training and practice of ADR; The development and maintenance of a data base for ADR practitioners; The facilitation of seminars, workshops, conferences and such other fora for sharing experiences and developing the use and practice of ADR: The committee has had accomplishments and it in the processing of attaining more.

On matters of Practice Issues,

1. The committee has been in the process of developing a basic curriculum on the broad spectrum of Alternative dispute resolution to increase the competencies of members of the bar. In so doing, the committee is collaborating with the international law development organization-IDLO. Subsequently, successfully held a 'Focus Group Consultative Forum on the Training of Lawyers on Alternative Dispute Resolution' on Thursday 22nd November, 2018 at Four Points by Sheraton, Nairobi. The forum targeted lawyers from various institutions within the justice sector drawing participants from several public institutions, private firms, academia, committee members of the Law Society committees and the ADR committee. The consultative forum was supported by the International Development Law Organization (IDLO) under its Commercial Justice Sector Reforms Programme.

The focus group forum sought to evaluate the training of lawyers in ADR. The consultative group discussed four areas: key gaps, challenges, opportunities in training of lawyers in ADR, emerging areas with the attendant recommendations. Key recommendations included the re-evaluation and development of a comprehensive curriculum on ADR for lawyers as well as the expeditious of the development of a national policy in ADR.

2. **Court Annexed Mediation pilot project:** The Committee continues to engage and participate in the Court Annexed Mediation pilot project. Two members have been nominated to the Taskforce to review the pilot

project. The members participated in a '**Stakeholder Forum**' held on the 27th July, held by the Judiciary. A key recommendation from the forum was the necessity for continuous engagement and support to the court annexed pilot programme.

In its Advocacy,

3. The committee pursues collaborations with institutions involved in ADR through partnerships. Thus, the committee endorsed the Young Lawyers Committee and Mediation Training Institute partnership on mediation training.
4. Outreach to Universities: The committee noted that in order for alternative dispute resolution to be firmly rooted in the legal profession, it should be inculcated at the earliest opportunity. The committee therefore has focused on outreach to the universities to promote Alternative dispute resolution. In doing so, the committee has commenced engagements with the Young Arbiters Society. The YAS is a student association based at the University of Nairobi; School of Law was founded on the need to introduce Alternative Dispute Resolution at the University level. The society is a platform that creates awareness, sensitization, and advocate and promotes Alternative Dispute Resolution among the students at the University.

For Sensitization,

5. The committee is in the process of finalizing its Mock Mediation Project whose outcomes is a Mock Mediation video which documents the mediation process. The video is envisaged as a tool for sensitization and training for lawyers on the Mediation process. The development of the video was necessitated by the up scaling of the court annexed pilot project. The Courts will be rolling Mediation throughout the country as a part of the trial process. Most practitioners who do not engage in practice of ADR will require sensitization of the actual mediation process as well as appreciate the role the lawyer plays in such a process.

The ADR institutional policy formulation process,

6. The committee reviewed the draft ADR policy guidelines for the LSK. The policy guidelines aim; to minimize the effect of the continual erosion of use of arbitration; are aligned to best practice with institutions which provide alternative dispute resolution services; to ensure competitiveness of the Law Society of Kenya as a dispute resolution service provider. The reviewed guidelines include proposals for remuneration for a Remuneration Schedule for the various classes of ADR practitioners within the Law Society.

Monitoring legislation and policy in ADR.

7. Increasingly, legislation being enacted makes provisions for the use of alternative dispute resolution. The same is true for policy processes. The committee has begun monitoring these policy and legislative processes to audit the relevant provisions ensuring the basic structure of alternative dispute resolution is maintained. Additionally, the monitoring will aid the committee for purposes of advocacy.
8. The committee engaged with the ADR department of the Kenya Revenue Authority, headed by Deputy Commissioner Risper Simiyu on the 21st of September at the Advocates' Lounge Milimani. The aim of the engagement was pursuant to KRA's function to sensitize stakeholders with a view to change the perception of the institution, create synergies between the department and the committee and jointly pursue outreach activities especially at the county levels for the promotion of ADR.
9. The KRA launched Alternative Dispute Resolution in June 2015 and was conceived as a means of enhancing transparency and speed in tax dispute resolution. The framework for ADR is the constitution, Sec 55 of the Tax procedure Act, sect 28 of the Tax Appeal Tribunal Act, and the Court Annexed process.
10. The committee participated in the review of the draft regulatory framework for ADR developed by the Alternative Dispute Resolution Department and submitted comments.

12. LAW REFORM AND CONSTITUTIONAL IMPLEMENTATION COMMITTEE

The Law Reform, Devolution and Constitutional Implementation Committee is convened by Ms. Herine Kabita a Council member representing Nairobi. The core mandate of the Law Reform, Devolution and Constitutional Implementation committee is technical assistance and advice to the Council on matters law reform, devolution and Constitutional Implementation matters. The reconstituted committee revised its broad focus areas and outlined the following thematic areas: Law Reform matters; Devolution matters; Constitutional Implementation Monitoring; Judicial Proposals for Reform; Policy engagement; Review of Bills and the review of the LSK Act

Law Reform is predominantly the review and analysis of bills in parliament and other upcoming legislation. The key parameters for review and analysis is; the Society's objectives and mandate set out under section 4; the constitutionality of the provisions; whether the provisions violate the rule of law, administration of justice and the principles of natural justice; and the

effect on practice of law. **Devolution** focuses on the audit of county laws for compliance with the constitution, engaging devolution institutions, safeguarding and promotion matters of devolution. **Judicial Proposals for reform** is an area in which the courts identify different aspects for law reform during cases which are then collated by the Kenya Law Reporting Council.

The committee engagement in this area is a proactive step on matters of reform which would result in continuous engagement with the Law Reform commission. The committee would review international law as part of its terms in accordance with Article 2 of the constitution which may comprise monitoring of international law, analysis of the various instruments, and monitoring the ratification process as per the Treaties Act. **Policy Engagement** occurs since Policies precedes laws and generally makes recommendations regarding legislation either through proposed amendments to existing legislation or development of new legislation. The committee in considering policies is placed in a position to proposals that are contrary to the law from the outset. The policies under consideration include the Legal sector reforms, public participation and the transport policies

The committee in the past year monitored and reviewed bills in both the National Assembly and Senate Houses of Parliament through the bill trackers. The committee likewise focused on the Acts that directly affect practice of law including; the Advocates Act, Oaths and Statutory and the Law Society of Kenya Act. The Committee has interrogated the Law Society of Kenya Act pursuant to the various motions from the previous annual general meeting and subsequent member's proposals. The committee is in the process of developing a first draft amendment legislation.

The Legislation and proposed legislation the committee has kept under review include: the Workmen's Injuries Benefits Act, the Cybercrime Act, the County Attorney Bill 2018, Statute Miscellaneous Amendment bill No 2 of 2018, a petition to parliament on the Business Premises Rent Tribunal, Government contracts bill 2018, County Government Amendment Bill 2018, the Constitutional Amendment Bill No 2 of 2018, the Energy Bill 2018, the Public Private Participation Bill 2018 the SACCO Bill 2018 and the Public Financial Management Bill 2018, amongst others. The reform of financial legislation was considered important due to the cognizance budgetary implication and impact in the society and within the Judiciary. It was noted that the budgetary allocations to the Judiciary would affect overall access to justice.

The LSK through the Council would be in a position to advocate on behalf of the judiciary. The Society subsequently sent Memoranda to parliament on the various proposed legislation. In addressing issues of devolution the committee has focused on the quality of legislation at the county level. Consequently, the committee mooted the development of a framework at branch level for the branches provide technical assistance to the Counties on legislation in which the Council will liaise with branches. Additionally, the Committee joined the Council on courtesy calls to the Senate and Kenya Law Reform respectively. The institutions generally agreed to work together on matters legislation and reform.

Additionally, Committee members have had engagements with various stakeholder forums on policy and legislation. The committee participated in the launch of the National Urban Development Policy by the Ministry of Lands and Urban development. The Policy guides the development of urban areas in the country in conjunction with the Urban Areas and Cities Act. With the Institute of Economic Affairs, the committee participated in the *Launch of Study on Public Procurement in Kenya: Analysis of the Auditor General's Reports*.

The study focused on the compliance of the national and county governments with procurement legislation, and the need to monitor the report as an audit measure. The committee engaged in the Association of Professional Societies of East Africa Professionals Convention on Corruption that was held on the 30th of October 2018. The aim of the convention was to engage professional associations on interventions and participation of anti-corruption measures and discussed mechanisms available to the professional bodies for anti-corruption.

13. LAND, CONVEYANCING, ENVIRONMENT AND NATURAL RESOURCES COMMITTEE

The committee is convened by Peter Muhui, Advocate. As the year closes the committee wishes to report on the following milestones. Cumulatively, the committee has held five committee meetings in the year 2018 and would wish that the Council takes note of its milestones.

- The committee participated in various Land reform initiatives like amendment to Sectional Property Act, Task force on Electronic Conveyance, and that on enactment of Land Regulations 2018.
- The committee precipitated the constitutional reference on the Capital Gains Tax.
- The committee lobbied the CS and ensured the Land Regulations became operational.
- The committee undertook advocacy that culminated in the Gazettement of LSK Conditions of Sale 2015 alongside Land Regulations.
- Currently the committee continues monitoring the status of implementation of the new Regulations through reminder notes and letters to the CS land.
- The committee lobbied the CS about the hiccups with the land digitization process – that if it is carried out without regard to the change in law and the Land Regulations- in word, form and content- will lead to duplicity, irregularity and waste of public resources.
- The committee has made the following demand on the CS Ministry of land in the last quarter of the year:
 - ✓ To alert the registries on the change in the law and the use of the new land forms as set out in the Land Regulations, without exception, save as otherwise provided by law. A training program for registrars will be useful to ensure symmetry of information and processes in all registries.
 - ✓ To upload all the land forms in the electronic platform of the Ministry for ease of access to members of the public.
 - ✓ To ensure that the procedures of extension of leases, change of user and other land administration functions follow the due process set out in the Land Regulations.
 - ✓ To act in consultation with the National Land Commission in setting up a multidisciplinary working committee (comprising representatives of relevant experts from the public and private sector) to coordinate the implementation of the migration of the various land registers in the country. It is customary in other jurisdictions with reformed land registries, for such an important exercise to warrant the formation of a working committee to ensure a timely and coordinated exercise.
 - ✓ To gazette the task force on electronic conveyancing as their input in the proposed exercise will be critical.
 - ✓ To ensure the digitization exercise is harmonized with the recommendations of the working committee to avoid duplicity.
 - ✓ To revise the Community Land Regulations- which were referred by Parliamentary Committee on Legislation- to factor the changes proposed by Parliament and have these regulations re-gazetted as soon as possible.

- The committee has also been giving advisory to the Council as when and if called upon like on Kakuzi matter and on issue of renewal of leases generally.

14. MEMBER'S SERVICES COMMITTEE

The Committee is convened by Harriette Chiggai, LSK Vice President. The committee held its maiden meeting in the last quarter of the year, last week of November, building on preliminary activities that have hitherto rolled out - trial Advocacy training initiative that is being worked on jointly with Inns of College of Advocacy, UK and the Kenya School of law.

The committee considered the draft members service charter, its overarching tool that outlines the LSK service standard, procedure of monitoring members satisfaction with services rendered to members. The committee noted the need to prioritize the synchronized manifestoes with the service statement to ensure delivery of promises made to members by the Council. (As developed during Council retreat in Naivasha)

The committee underscored the need to work towards ISO certification standards and have a robust feedback process and predictable timeline on communications on services sought. It was noted that this process will support with discovering whether or not members are satisfied with services received from the LSK. Stakeholders' feedback is then used to analyze whether or not changes need to be made in operations to increase satisfaction. The committee thus recommended introduction of a stakeholder's complaints box with the sole purpose of receipt of feedback, and a email address for the same to enhance strategic communication which will in turn enhance members satisfaction survey and provide essential statistics to inform areas for improvement needs. The committees' priority for the coming quarter will be to join hands with the ABF to push for an all-inclusive satisfactory medical insurance scheme for LSK members and also ensure a workable MOU for Motor Vehicle insurance loan facilities for all members.

15. REGULATION'S COMMITTEE

The committee held five meetings at the end of the year, with the last meeting held on the first week of December 2018. The Committee is Convened by Jane Masai, Council Member. In all the meetings the main document of focus has been the LSK Regulations 2018, there was consensus building with Branch Chairs (Narumoru), the Council (Mombasa), amendment and presentation of the document to the members during the SGM (Intercon-Nairobi).

During the last meeting the committee considered the final draft as presented by the consultant after the SGM and wishes to table it before the Council for adoption and onward transmission to the parliament as by law required.

16. PRACTICE, ETHICS STANDARDS & COMMITTEE

The committee is convened by Mr. Kipkoech Ng'etich, council member. The committee has 14 active members. The mandate of the committee is to advise the Council on promotion of excellence in practice, client care and the achievement of full compliance with the rules of good practice in the profession through advice, support and other forms of assistance to advocates and Law firms.

The committee is undertaking the following activities:-

1. Establishment of an Inspectorate Unit

A subcommittee has been formed to draft rules and regulations for the Inspectorate Unit and the subcommittee is working on the same.

The Committee's objective is to promote excellence, professionalism, integrity, democracy, equity, commitment and full compliance with the practice rules as well as curb the malpractices in the legal profession. This is also aimed at enhancing monitoring of the professional conduct of advocates.

2. Robing by Advocates

In order to offer guidance to members on robing before the Courts, the Committee developed guidelines on Robing by Advocates. The guidelines which complement the LSK Dress code 2013 were forwarded to the Hon. Chief Justice for implementation by Judiciary.

3. Rules Governing the Use of Social Media by Advocates in Kenya.

The committee has developed draft guidelines on the Advocates social media usage code 2018 and forwarded to the Council for consideration and further directions.

4. Anti-Money Laundering risks Assessment Guidelines

The Committee in conjunction with GIZ is in the process of formulating comprehensive guidelines on anti-money laundering in order to assist advocates in detecting and avoiding money-laundering that bedeviled business transactions within the country, regionally and internationally.

The Project Team, working on the said guidelines, held a meeting on 7th December 2018 and reviewed the "Inception Report" by the consultant.

Further, the council with support of Giz has initiated stakeholders' consultative forums on the draft guidelines on anti-money laundering and countering the financing of terrorism (Aml/CFT) to be held in various regions. The first stakeholder's forum was held on 20th February 2019 in Kisumu while the second one took place in Mombasa on 6th March 2019. The council intends to hold a validation meeting after which the draft guidelines will be tabled for consideration and or adoption by the general membership.

5. Practice Directions on LLP (Law Firms):

It was noted that Advocates are gaining traction on the use of LLPs and there being no Rules and Regulations over the same, the committee was called upon to look into formulating directions as to the LLPs admittance and operationalization. It was further noted that the Registrar had shelved registration of LLPs. Thus, the committee is reviewing the (Generic Names) Regulations 2006 with a view of advising the council on the same.

6. Trainings and Talks on Professional Ethics and Conduct of the Newly Admitted Advocates

The committee participated during the induction course for the newly admitted advocates held on 24th November 2018 at Panari, Nairobi. Mr. James Marienga, the co-convenor of the committee made a presentation on professional ethics.

7. Code of Ethics and Conduct for Advocates

The Committee through the CPD committee held a Lecture on the Code of Ethics and Conduct for Advocates on 27th February 2019 from 2pm to 4pm at the Hilton Hotel, Nairobi. The committee is scheduled to hold such lectures in all the 8 LSK branches.

The main objective of the lectures is to create awareness and sensitize advocates of the Code of Ethics and Conduct.

8. Review of the Advocates Practice Rules

The committee is in the process of reviewing the advocates practice rules with a view of making recommendations to the council in order to bring the rules up to speed with practice.

17. DEVOLUTION COMMITTEE

The committee was constituted in July 2018 comprising of eight members. The committee held its first inaugural meeting on 10th July, 2018 the Convenor of the committee is Counsel Eric Nyongesa.

During the first meeting the committee was able to develop the terms of reference for the committee and table a report on level of compliance and absorption

of devolution funds. The Committee has also planned amongst its activities to assist/engage the branch chairs to comply with the compliance requirements so as to absorb 100% of devolution funds and be able to establish welfare programs and have a functional secretariat office at the branch level so that members can access services near the branches. The committee has also planned to solve the disputes within the branches which are hampering on absorption of the devolution Funds.

The committee has facilitated 100% disbursement of Devolution funds to most branches, the Committee has also been able to adopt the branch internal Audit report done by the LSK internal Audit department and is working towards improving on compliance by the Branches. The committee is working in liason with the branch chairs on suitable modalities of sharing out the Devolution Equalization fund among the 8 LSK branches.

18. DEVELOPMENT AND INVESTMENT COMMITTEE

The committee was constituted in July 2018 and inaugurated by LSK president on 19th July, 2018 and proceeded to elect Counsel Stephen Mallowah as its chairperson and Counsel Sally Mukabana as deputy chairperson.

The committee has made tremendous progress towards development of LSK offices at Gitanga road which is anchored in the 2017-2018 LSK strategic plan and Termination of i.A.C project in South C. The Committee has also held a meeting with the South C project consultants in an effort to engage them before the closure of the project. Members of the committee also deliberated and agreed to engage an independent lawyer to give an opinion on were LSK stands in regards to the Payments to the South C I.A.C Project.

The committee has made proposals to have a feasibility study conducted on the Gitanga road property to inform the members on the viability of Construction of LSK offices and forward thee same to the Council. The Committee has been able to review the status of the South C I.A.C Project.

19. BUDGET AND FINANCE COMMITTEE

The Committee is convened by Roseline Odede, Council member. The committee's mandate includes;

a. Budget mandate

The committee to consider annual capital, income and expenditure budgets, together with proposals and variations thereof, as well as review financial performance against budget and plans. Thereon make appropriate recommendations to the Council

b. Finance mandate

Consider, advise and make appropriate recommendations to the Council on all aspects of financial strategy, including financial regulations and procedures;

Consider tender reviews, proposals for major capital expenditure, development projects, and give approval within agreed parameters established by the Council or financial regulations;

c. Investment mandate

To oversight the developing and implementing the investment policy.

Coordinates updates to the Investment Policy, including soliciting input from the designated tax and legal advisers to the society.

Identify a risk management structure applicable to investing monitoring investment risks and reporting them

Some of the achievements of the committee are

- a. Updating of LSK financial manuals
- b. Financial reporting summaries to be part of documents reviewed during quarterly committee meetings.

The committee is in the process of

- a. Developing of the LSK financial manual.
- b. Reviewing of proposed LSK Budget 2019

20. THE LAW FIRM MANAGEMENT MANUAL DEVELOPMENT COMMITTEE

The Committee is convened by Richard Harney, Advocate.

The Committee's achievements are;

- The Committee developed the LSK Law Firm Management Manual (2018). The Manual is aimed at standardizing the management of Law Firms in Kenya, raising the standards of practice within our jurisdiction and improving the levels of efficiency and consistency in the administration and dispensation of justice to clients. The Manual is intended for use by all cadres of staff in law firm or a legal department set up. It is a hand book for both current and future practitioners who desire Law Practices that shall out live them.
- The Manual was launched by the Chief Justice Hon. David Maraga during the 2018 Annual Conference in Diani, Kwale.
- The uptake of the manual is very good, more than

600 advocates from across the Country have acquired the Manual in less than 60 days after publication.

The committees planned activities include;

- Continuous sensitization of members on the LSK Law Firm Manual during LSK event such as CPD seminars etc.
- Assessing the effectiveness and usability of the manual.
- Periodical review of the Manual.

21. THE BAR BENCH COMMITTEE

The Committee is convened by Charles Kanjama, Advocate. The Committee comprising of the Branch Chairpersons deal with the development of Bar Bench Committee Practice Guidelines.

The Committees achievement;

- The Committee oversaw the development of the Bar Bench Committee Practice Guidelines.
- The Bar Bench Committee Practice Guidelines was launched by the Chief Justice Hon. David Maraga during the 2018 Annual Conference in Diani, Kwale.

The committees planned activities include;

- Dissemination of the Bar- Bench Committee Practice Guidelines.
- Implementation of the Bar Bench Committee Practice Guidelines.
- Vibrant Bar Bench Committees
- Assessing the effectiveness and usability of the guidelines.

Communications Committee: The Committee was constituted on 12th November 2018 with an aim of increasing the visibility of the Law Society of Kenya through strategic brand promotion and continuous relevance in the media and Public. The Committee members includes the following Council Members; Borniface Akusala (Convener), Aluso Ingati, Jane Masai and David Njuguna.

The Committee is tasked with the responsibility of providing guidance to the Communications department on Communications matters. The Committee is working on a Communications policy for the Society.

LSK BRANCH REPORTS

SOUTH-WEST KENYA BRANCH

The branch held its' elections for the Council members on 19th April, 2018 where the following members were elected as officials:

- **Wilkins Ochoki:** Chairperson
- **Mercy Ang'asa:** Vice Chairperson
- **Samuel Mainga:** Secretary
- **Moses Oirere:** Treasurer
- **Violet Mogueche:** Organizing Secretary
- **Brenda Nyaega:** Deputy Organizing Secretary

Council Meetings

The branch Council has been holding meetings at least once every month since their election with the first one dedicated to developing a Strategic Plan and Calendar of events for the year 2018 which are in line with delivering on the objectives of the Law Society of Kenya. The other routine meetings are dedicated to planning events; assessing and reviewing the progress of previous activities.

Tree Planting Exercise

In bid to support the nationwide clamor for environmental conservation, branch members joined the Office of the Director of Public Prosecutions (Kisii) in an environmental conservation awareness event held on **18th May, 2018** which culminated into a tree planting exercise at **Sironga area, Nyamira County**. The members engaged the general public on the importance of conserving the environment and also educated them on various laws relating to the environment and its conservation. The event reached more than 100 residents of the area and successfully planted approximately 300 tree seedlings of various kind which are currently under our joint maintenance.

Visit to Kisii Remand G.K. Prison

Upon invitation by the Office of the Director of Public Prosecutions (Kisii), some of the branch members made a visit to the Kisii Remand Prisons to offer legal advice to the inmates on a number of issues ranging from Human Rights, access to justice and basic drafting skills to the art of self-representation among others. The visit was held on **21st May, 2018**. This was in a bid to support the Office of the Director of Public Prosecutions' action plan for fast tracking disposal of Criminal Cases.

Official welcome of Hon. Justice Majanja, Presiding Judge Kisii Law Courts

Upon reporting of the Presiding Judge to Kisii Law Courts, the members welcomed the new resident judge to Kisii Law Courts on **11th June, 2018**. As the Presiding Judge used the opportunity to outline his vision for the court and work plan,

the society welcomed him and gave their commitment to continue with their cooperation to ensure ease in handling of cases.

Court Users Committee, Nyamira Law Courts

On **20th June, 2018** the Branch Council represented the members in a court users committee meeting which was held at Guardian Hotel. This served as a consultative forum among various court users and also an opportunity to have various stakeholders educate plenary on topics related to their areas of practice. LSK was tasked to present on "*Case Management and Role of Stakeholders*". This forum was held with a view of ensuring that justice is accessible to all and that cases are handled expeditiously.

The committee was able to ventilate on challenges faced and reached various resolutions whose implementation has seen smooth running of affairs at the law courts with increased efficiency in handling cases.

1. Law Students' Society of Kisii University (LSSKSU) Dinner

On **26th June, 2018** members of the branch were part of a successful annual dinner hosted by Kisii University Law Students which at Emboga Dream City Hotel within Kisii Town. Apart from presentations on the main theme: *JUDICIALIZATION OF POLITICS AND THE POLITICAL QUESTIONS*, the event also served as discussion forum between our members and the students on various topics ranging from Trial Advocacy, Criminal Litigation, Civil Litigation and Career Opportunities in the legal field.

We further used the event to explore more opportunities of partnership in future with an array of activities planned to be hosted together.

2. Bar-Bench Committee

The council represented branch members in the Kisii Law Courts bar bench committee meeting which was held on **18th July, 2018** at the Kisii Law Courts. The meeting brought together various court stakeholders and discussed among other issues improving the delivery of services at the court, expeditious disposal of cases and cooperation by counsels in the judiciary's action plan of clearing case backlog.

3. Environment and Land Court Bar-Bench Meeting with the land registrar, police officer and land surveyors

A number of branch members did attend the ELC bar-bench meeting held at Kisii Law Courts on **26th July, 2018**. The main objective of the meeting was dealing ways of expeditious disposal of Land related cases. The

stakeholders discussed a number of challenges they face in adjudicating, litigating or administering land matters and reached a resolve that will see improvement of services in land matters.

4. **The LSK South West Kenya Branch Luncheon**

The branch successfully hosted a luncheon on **19th July, 2018** at La Premier Hotel within Kisii Town. This Luncheon brought together various players in the legal field (judicial officers, advocates, Prosecutors, State Counsels). The core aim of this event was: creating a platform for bonding and ventilating on the issues different persons face in practice and delivery of justice.

5. **Justice Cup Tournament**

The branch was able to send a football team for the 2018 Justice Cup Edition which was held on **28th June 2018** at Parklands Grounds in Nairobi.

6. **Public Interest Litigation**

The branch has also been able to engage in public interest litigation through filing of **Petition Number 7 of 2018** in the Kisii High Court, aimed at preventing construction of an access road on Ogembo Law Courts property and a section of the riparian zone of **River Gucha**. The case is still pending before court.

7. **Visit to Manga Children's home**

The members visited the children at Manga remand children's home on **21st September 2018**. Members supported the noble course through donations and pro bono services. A large number of female advocates turned up. The core aim of this event was: giving back to society by creating a platform for bonding and ventilating on the issues different children face in the hands of justice.

8. **Migori elections**

The Migori branch held their elections on the 11th December 2018. They elected Edward Kisia as the chair, Lavender Okota as the Treasurer, Esther Angawa as the Secretary.

9. **Prison Visit**

Members visited the Kisii GK Prison on the 21st December 2018 for legal aid as well as donation of two bulls to the inmates for the Christmas celebrations. We were accompanied by members of the judiciary.

10. **Donation of typing paper to the Kisii law courts**

The branch donated a number of rims of paper to the Kisii law courts for typing of proceedings in criminal matters. The presiding judge having requested counsel to do so,

they were supplied with five cartons of the same.

11. **Carol service/AGM**

A carol service was held at the Dan's hotel on the 19th December 2018 summing up as the annual general meeting. A variety of issues were discussed.

LSK NAIROBI BRANCH

A. Introduction

The Law Society of Kenya Nairobi Branch comprises of the Council, Secretariat, Committees and the General membership through which it executes its functions. This report covers the activities and programmes of LSK Nairobi Branch in the year 2018. At the beginning of the year, the Council set out to establish sustainable programmes on practice and welfare issues, to engage Stakeholders regularly through various established Liaison Committees and to organize member-engagement fora to spread awareness to members on the role and activities of the Branch in fulfilling its mandate under Section 24 of the Law Society of Kenya Act 2014.

B. The Branch Council

The previous Council which was elected into office on the 25th of February 2016 concluded its term after the Nairobi Branch Elections which were held on 3rd and 4th May 2018. The previous Council comprised of:

1. **Mr. Charles Kanjama:** Chair
2. **Ms. Paula Njuguna:** Vice-Chair
3. **Ms. Ndinda Kinyili:** Secretary
4. **Ms. Aileen Aluso:** Deputy Secretary
5. **Mr. Abdi Hassan:** Treasurer
6. **Mr. Gad Gathu:** Deputy Treasurer
7. **Mr. Robinson Kigen:** Organizing Secretary
8. **Ms. Diana Mageto:** Deputy Organizing Secretary
9. **Ms. Joy Mdivo:** Council Member
10. **Ms. Ekaterina Handa:** Council Member
11. **Mr. Felix Odhiambo:** Council Member

The new Council officially took office on 25th May 2018 at the Annual General Meeting. It includes:

1. **Mr. Charles Kanjama:** Chair
2. **Ms. Paula Njuguna:** Vice-Chair
3. **Ms. Catherine Ngunjiri:** Thika Representative
4. **Ms. Helene Namisi:** Secretary
5. **Mr. Gad Gathu:** Treasurer
6. **Mr. Colbert Ojiambo:** Deputy Treasurer
7. **Ms. Catherine Kariuki:** Fundraising Secretary
8. **Mr. Wangila Waliaula:** Organizing Secretary
9. **Ms. Carolyne Mutheu:** Deputy Organizing Secretary

10. **Ms. Rose Wanjala:** Communications Secretary

The Branch organized farewell dinner for the Inaugural Council at the Sarova Panafric Hotel on 24th May 2018 at 7.00pm. The dinner was lovely and the Council gave thanks to each other for the good relationship they had since the launch of the Branch.

The Branch also organized for an introductory dinner for the new Council Members to engage each other and interact socially before embarking on official duties of the Branch.

The Council went on a retreat on 7th and 8th June 2018 at the Masai Lodge in Rongai. The main purpose of this was to induction, brainstorming and formulation of a joint manifesto. In 2019, the Branch Council went for another retreat on 11th and 12th January 2019 to discuss the Strategic Plan for 2019, the 2019 Branch Calendar, the Branch Charter and ways of improving practice and welfare matters of the membership.

C. Council Meetings

The Branch Council met every month in 2018 to deliberate on matters of concern to legal practitioners and assess its progress in achieving its Agenda. The Council Meetings Meetings of the Branch were and still are the forum for exploration of proposals that the Council Members have regarding the Branch and how it should run guided by its mandate under Section 24 of the LSK Act 2014.

D. Branch Secretariat

In 2018, the Branch Secretariat was comprised of one Programme Officer, one Programme Assistant and an intern. It had been a goal of the Branch to get a Secretariat Office but financial limitations had compelled the Branch Chair to continue to host the Secretariat at I&M Bank House, 4th Floor, 2nd Ngong Avenue, Nairobi. The Secretariat expanded in August 2018 and currently comprises of 3 Programme Officers, 2 Programme Assistants and 2 interns.

Secretariat Office

The Branch acquired an office premise which was officially opened on 14th December 2018. The new office is located at Lower Hill Duplex, Suite No. 015, Upperhill Road next to UAP Old Mutual Towers. The Chief Guest was the President of LSK together with the CEO of LSK, Ms. Mercy Wambua. The Branch signed a Lease Agreement on 17th January 2019.

The Branch has also been managing its website at www.nairobiaw.or.ke

E. Branch Engagements with Stakeholders

In 2018, the Branch engaged with various stakeholders as follows: Branch Council met with the **Chief Justice Hon. Justice David Maraga** on 3rd April 2018 and 26th June 2018. The following are proposals on judicial reforms arising from the meeting and engagements with members of the Bar and Bench at all levels of the Judiciary:

- a. The courts, with an exception of the ELRC, should have social days for notably non-complex applications which should not clog the court system for long. Such matters include appeals.
- b. The ELRC should on the other hand explore identifying matters that can be fast-tracked and to hear one or two of them per day as a means of clearing backlog.
- c. A directive should be issued that Cases which are relatively complex be fixed for two or more consecutive days to reduce the number of Part-heard cases.
- d. The courts should engage trained stenographers stationed at every court to record proceedings in court at the direction of the Judge.
- e. This will require a two-step process namely recruitment and training of the stenographers. Recruitment may be done for individuals who have the same level of qualification as court clerks after which the training is conducted and the stenographic machines procured.
- f. The JSC should engage more magistrates to the Milimani Law Courts of about twenty (20).
- g. There should be a determined ratio of number of Magistrates per Judge.
- h. There should be a level of specialization of Magistrates especially to deal with ELRC (Land) Matters and commercial matters. This means that gazettement can be done of ordinary Magistrates who are assigned additional land matters to their other duties.
- i. Judiciary resources should be directed to setting up a new Court building in Nairobi to accommodate the additional Judicial Officers.
- j. There should be provided along court corridors water points or dispensers. This means that the courts may liaise with public/private water providers such as Nairobi water for this purpose.
- k. There should be an electronic assisted document management that allows a self-service system for perusal of files. This will be assisted by having a cubicle where the files may be perused and

returned to the registry. This will reduce human interface at the registries.

- l. There were consultations between the Branch, Convener of the Committee, the LSK Conveyancing Committee and the Branch Chair attended a coordination meeting with LSK Conveyancing Committee Leadership on 7th May 2018. The Branch Chair also represented the Branch in a meeting with the Cabinet Secretary, Principal Secretary and Registrar of Lands, President of the Law Society of Kenya Mr. Allen Gichuhi and the Conveyancing Committee Leadership. We agreed to:
 - i. Set up a task force on digitization
 - ii. Allow manual and digital systems in parallel implementation
 - iii. Organize another meeting to deal with issues arising from recently published Land Regulations.
- m. The Branch was invited to attend the Installation Ceremony of Lady Justice Lydia Achode as the Principal Judge of the High court of Kenya. The ceremony which was held on **15th May 2018**, was attended by the Honourable Chief Justice, Judges of the Court of Appeal and of the High Court as well as the Chief Registrar of the Court and the LSK President, Members of Council and Branch Council Members. After the welcoming address by the Registrar High court and prayer by Justice Lesiit, Hon Justice Richard Mwongo, Principal Judge Emeritus II gave his remarks after which The Chief Justice commended the Judge together with Mbogholi J. vesting upon them the Emeritus sash. The President of the Court of Appeal, The Chief Justice and Deputy Chief Kadhi gave remarks on Hon Justice Achode. The new Principal Judge was then proclaimed as such by the Chief Registrar Hon Amadi and installed with a fan fare from Nairobi ensemble. She took oath and signed the same together with the roll of Principal Judges after which she gave her maiden speech. The final vote was issued by Hon. Justice Mwongo and closing prayers by Deputy Chief Kadhi Omar Rashid. The event ended in a photo session, final judges procession and lunch served at 1.00pm
- n. The Branch Secretariat attended a meeting with Kenya Association of Manufacturers to discuss potential partnership and sponsorship for Branch programmes and activities on **14th May 2018** at 11.00am at KAM House, Westlands.
- o. Branch Officials paid a courtesy call to **Thika Chapter** representatives on **24th February 2018** and discussed avenues of support and collaboration

with the Chapter. The Branch has disbursed Kshs. 50,000 annually to Thika to support activities of the Chapter. The Branch Council was invited to Thika Chapter for a barbeque at Eton Hotel on **22nd June 2018** at 6.00pm. A brief meeting was held over the barbeque where Thika Chair, Mr. Ishmael Ngingura discussed the main challenges they are encountering, especially in terms of funding for programmes, staffing office space. It was agreed that Thika Chapter will submit their budget to the Branch for consideration before disbursement of grant. The Branch made another Chapter Visit to Thika Chapter on **16th November 2018** at Eton Hotel. Members discussed practice and welfare issues affecting Thika members. The Council also paid a courtesy call to the High Court Judge of Environment and Land Court and the Land Registrar.

- p. The Secretariat and one Council Member, Rose Wanjala represented the Branch in the Inaugural In-House Counsel Forum which was held on **18th June 2018** at the Michael Joseph Safaricom Centre from 6.00pm. The theme of the Forum was **"Governance as the Epitome of Successful Organizations - The Role of the 21st Century In-House Counsel"**. Some of the guest speakers were Ms. Ruth Kirwa Commissioner, Kenya Law Reform Commission, Ms. Joy Mdivo – Executive Director at East Africa Centre for Law and Justice, Mr. Paul Muthaura – CEO Capital Markets Authority and Mr. Allen Gichuhi – President of the Law Society of Kenya. The event was hosted by Mr. Fred Waithaka – H.O.D. Legal and Secretarial Services, Safaricom. The Branch Council made a courtesy call to the President, Law Society of Kenya, Mr. Allen Gichuhi, to introduce the new Council and present a memorandum on the challenges faced by LSK Nairobi Branch. The meeting was held on **22nd June 2018** at the National Office at 2.00pm. The meeting was fruitful and some resolutions were made during the meeting which are captured in the Minutes for the said meeting.
- q. The Branch Chair represented the Branch in the ceremony for swearing in and assumption of office of the President of the Court of Appeal on **26th June 2018** from 10.00am to 1.00pm. It was a colorful ceremony with the Kenya Police Band playing during the procession of Court of Appeal Judges. Some of the guests were Mr. Allen Gichuhi, President of Law Society of Kenya, the Attorney General, Mr. P. Kihara Kariuki, Hon. Kenneth Lusaka, the Speaker of Senate and Hon. Justine Muturi, the Speaker of the National Assembly.

- r. The Chair of Nairobi Branch was elected as the Chair of Branch Chairs Caucus on **14th July 2018**. The Branch Council has been supportive of the Branch Chairs Caucus activities.
- s. The Branch Chair and Secretariat attended a Breakfast Meeting on **19th July 2018**, on the implementation of the non-custodial measures pilot project, at Sarova Panafric. The meeting was organized by the Milimani Chief Magistrates Criminal Bar Bench Court Users Committee and Raoul Wallenberg Institute of Human Rights and Humanitarian Law.
- t. The Secretariat attended the African Bar Association Annual Conference which was held at the KICC from 22nd to **27th July 2018**.
- u. The Branch participated in the LSK Justice Cup Tournament which was held on **28th July 2018** at the Parklands Sports Club. The team managed to get 6 points at the Pool stage where it was eliminated by the team from AhmedNassir & Abdikadir Advocates.
- v. The Branch was involved in organizing a prison visit to Industrial Area Remand Prison which was conducted on **24th August 2018**. This was an initiative of the Chief Magistrates Criminal Bar Bench Court Users Committee.
- w. The Branch Council paid a courtesy call to the Director of Criminal Investigations (DCI) on **6th September 2018** to discuss rules of engagement between Lawyers and Police. The Branch in collaboration with DCI has held several meetings to draft Lawyer Police Guidelines. The Guidelines will be shared with members once adopted by both parties.
- x. The Council paid a courtesy call to the Director of Public Prosecutions, Hon. Noordin Hajji on **14th September 2018** several practice concerns in the Criminal Courts, liaison structures between the Branch and the ODPP, welfare of prosecution counsels and how to deal with harassment of Advocates in their line of duty.
- y. Members of the Branch attended the Special General Meeting of the LSK held on **15th September 2018**, to review the Draft LSK Regulations.
- z. The Branch had a meeting with Kenya Revenue Authority Representatives on **21st September 2018** to discuss possible ways of partnering in order to provide trainings to our members.
- aa. The Council had a meeting with the High Court Principal Judge, Hon. Lady Justice Lydia Achode together with Presiding Judges of various Divisions on **24th October 2019** to engage on practice matters affecting Nairobi Branch.

F. Branch Committee Engagements

The Branch issued out notices via its Weekly Newsletter throughout the month of June 2018, requesting members to express interest in joining Committees. The Committees were reconstituted while new Committees were also formed. The following is the current list of Branch Committees;

1. Council Committees

The Branch has five main Practice Committees which are:

- i. The Litigation Practice Committee convened by **Colbert Ojiambo**
- ii. The Social and Welfare Committee convened by **Carolyne Mutheu**
- iii. The Commercial Practice Committee convened by **Catherine Kariuki**
- iv. The Devolution and Law Reform Committee initially convened by **Wangila Waliaula**
- v. Branch Legal Aid and Public Interest Litigation Committee convened by **Gad Gathu**

2. Bar-Bench Committees

Since establishment, the Branch has constituted and engaged with the Nairobi Courts in Bar-Bench meetings where issues specific to various courts have been discussed and solutions proposed and pursued. The Bar-Bench Committees of the Bench are;

- i. The Court of Appeal Bar-Bench Committee convened by **Charles Kanjama**
- ii. High Court Family Bar-Bench Committee convened by **Rose Mbanya**
- iii. Constitutional and Judicial Review Bar-Bench Committee convened by **John Chigiti**
- iv. High Court Commercial Bar-Bench Committee convened by **Nazima Malik**
- v. The High Court Criminal, Anti-Corruption and Economic Crimes Bar-Bench Committee convened by **Mercy Mathai**
- vi. Environment and Land Court Bar-Bench Committee Formerly convened by **Ezra Makori**
- vii. Employment and Labour Relations Bar-Bench Committee convened by **Cosima Wetende**
- viii. Milimani Chief Magistrates Criminal Bar-Bench Committee convened by **Clarence Jumba**
- ix. Milimani Chief Magistrates Commercial Court Bar-Bench Committee convened by **Paula Njuguna**

- x. Kadhis Court Bar Bench convened by **Abubakar Ramadhani**
- xi. City Court Bar Bench convened by **Clarence Jumba**
We are still pursuing the Office of the Chief Justice to constitute a Supreme Court Bar Bench.

3. Tribunal Committees

- i. The National Environment Tribunal Committee
- ii. The Rent Restriction Tribunal Committee
- iii. The Business Premises Rent Tribunal Committee
- iv. Co-operative Tribunal Committee
- v. Public Procurement Tribunal Committee

4. Liaison Committees

The Branch has also set up Liaison Committees specifically for the Companies Registry and the Nairobi Lands Registry and specific commercial practice areas to bring together lawyers with similar interests. There are:

- i. ICT and IP Liaison Committee convened by **Rose Wanjala**
- ii. Tax Liaison Committee convened by **Stephen Saenyi**

- iii. Nairobi Lands Registry Liaison Committee convened by **Catherine Kariuki**
- iv. Nairobi Companies Registry Liaison Committee convened by **Charles Kanjama**

5. Special Committees

- Special Committees set up by the Branch include;
- i. Trial Advocacy Committee convened by **Helene Namisi**
 - ii. Awards Committee convened by **Charles Kanjama**
 - iii. Rules Committee convened by **Gad Gathu**
 - iv. Internal Dispute Resolution Committee convened by **Charles Kanjama**
 - v. Lawyer – Police Relations Committee convened by **Wangila Waliaula**

Regular Communication of Committee progress is issued to members via the Branch Weekly Newsletter and Committee progress is updated on the Branch website Committee pages at <http://nairobiilaw.or.ke/about/committees/>.

The Branch is pursuing a proposal to award members CPD Points for regular Committee participation.

Committees	Meeting Dates	Achievements
Council Committees		
Commercial Practice Committee	31st January 2018, 18th April 2018 and 13th June 2018	<ol style="list-style-type: none"> 1. The Committee in collaboration with the Ministry of Lands organized for training on digitization process on 13th September 2018 2. It organized for trainings for members by the CMA on new CMA Regulations
Litigation Practice Committee	9th February 2018, 7th March 2018, 17th August 2018, 26th October 2018 and 30th November 2018	<ol style="list-style-type: none"> 1. The Committee is organizing for Litigation Practice Workshop to be held in May 2019 to train Advocates in drafting and trial procedure 2. It formulated the Judicial Performance Evaluation Template which was launched on 26th April 2018
Social and Welfare Committee	15th August 2018 and 27th September 2019.	<ol style="list-style-type: none"> 1. The Committee has organized social events such as Monthly Run and Advocates Barbeque 2. The Committee is coming up with a Mobile SOS Application to assist Advocates in distress

Committees	Meeting Dates	Achievements
Legal AID and Public Interest Litigation Committee	24th July 2018, 28th August 2018, 21st September 2018 and 7th December 2019	<ol style="list-style-type: none"> 1. The Committee has organized a Legal Aid Day scheduled on 26th February 2019 at the National Archives as a way of promoting access to justice. 2. The Committee has identified some PIL matters to be filed in Court
Devolution and Law Reform Committee	16th August 2018, 20th September 2018, 18th October 2018 and 22nd November 2018	<ol style="list-style-type: none"> 1. The Committee has initiated contact with Parliament to incorporate more lawyers in Parliament into Nairobi Branch activities 2. The Committee engaged an expert in Devolution and Drafting, Mr. Mugambi Laibuta who advised on how to participate in law reform and devolution matters.
Bar – Bench Committees		
Court of Appeal Bar Bench Committee	12th July 2018	<ol style="list-style-type: none"> 1. The Committee has successfully persuaded the Court to allow review applications to be heard by any Judge. 2. The Committee made proposals on case management, that it should be made by consent and written submissions to be filed within 30 days to reduce unnecessary adjournments 3. The Committee proposed amendments to the Court of Appeal Rules which would help in amending the practice directions 4. The Committee has been part of Court of Appeal Strategic Plan 2018 – 2022 and automation of the Court
High Court Family Bar Bench Committee	12th June 2018, 30th July 2018 and 17th October 2018	<ol style="list-style-type: none"> 1. Formulated and launched the Law of Succession Hand Tool on 17th June 2018 2. Organized an end year party for the Judges of the Family Division
Constitutional and Judicial Review Bar Bench Committee	26th July 2018 and 8th November 2018	<ol style="list-style-type: none"> 1. Organized an Inns of Court in coordination with the Secretariat held on 9th October 2018 2. They are currently pursuing amendments to Mutunga Rules
High Court Commercial Bar Bench Committee	10th April 2018, 30th May 2018 and 7th June 2018	<ol style="list-style-type: none"> 1. Has successfully initiated Commercial Justice Sector Reforms through ICT initiatives 2. Has in liaison with Business CUC of the same Court held an IP Training
High Court Criminal, Anti-Corruption and Economic Crimes Bar-Bench Committee	20th February 2018, 30th May 2018, 27th July 2018, 18th September 2018 and 31st October 2018	<ol style="list-style-type: none"> 1. The Committee prepared a report on challenges encountered with pro bono briefs and whether the Advocates doing pro bono are being paid in time 2. The Committee has been creating awareness of plea bargaining by accused persons.

Committees	Meeting Dates	Achievements
Environment and Land Court Bar Bench Committee	10th May 2018, 5th July 2018 and 16th October 2018	<ol style="list-style-type: none"> 1. The Committee wrote to the Institution of Surveyors of Kenya and the Auctioneers body and invite them as members of the CUC. 2. The Committee managed to coordinate with the Secretariat in informing members of judicial leave date in good time 3. The Committee has been pushing for fixing of dates for all matters in the Division
Employment and Labour Relations Court Bar Bench Committee	13th April 2018, 19th June 2018 and 26th September 2018.	<ol style="list-style-type: none"> 1. The Committee has been publicizing the ELRC Rules and its enforcement during trial process. 2. The Committee has been at the forefront in trying to urge the Court to clear case backlog
Chief Magistrates Criminal Court Bar Bench Committee	21st March 2018, 16th May 2018, 23rd May 2018, 30th May 2018, 26th June 2018, 22nd August 2018 and 6th September 2018.	<ol style="list-style-type: none"> 1. The Committee is in the process of formulating Non – Custodial Measures Pilot Project at Milimani in collaboration with Raoull Wallenberg Institute 2. The Committee has conducted several prison visits within Nairobi to collect data and come up with ways of decongesting prisons 3. The Committee commissioned a photocopier to be used by accused persons to make copies of their court documents for free.
Chief Magistrates Civil Bar Bench Committee	4th April 2018, 1st August 2018 and 25th October 2019	<ol style="list-style-type: none"> 1. The Committee has been addressing the jurisdiction of the Court with regards to matters arising out of the Work Injury Benefits Act (WIBA) 2. The Committee made proposals relating to Judicial Service Commission on employment of more judicial officers to reduce case backlog 3. The Committee addressed the enhanced jurisdiction of Magistrates Court to hear Land matters and how to deal with cases transferred to these Courts
High Court Civil Bar Bench Committee	19th March 2018, 20th June 2018.	<ol style="list-style-type: none"> 1. The Committee was engaged with the Rules Committee in proposing reforms to the Civil Procedure Rules, 2010 2. The Committee proposed use of Mediation, Service Weeks and expeditious hearing to clear case backlog.
Childrens' Court Bar Bench		The Committee was formed in 2018 due to demand in addressing practice issues in this Court. The Committee is making progress in engaging different actors and incorporating them into the Committee

Committees	Meeting Dates	Achievements
Tribunal Committees		
National Environment Tribunal Committee	Has not met	
Rent Restriction Tribunal Committee	9th November 2019	
Business Premises Rent Tribunal Committee	21st November 2019	The Committee discussed how to engage the relevant stakeholders not to disband the tribunal which would otherwise affect the practitioners and the clients they represent
Cooperative Tribunal Committee	7th November 2019	The Committee pushed for deployment of judicial officers at the Tribunal by engaging JSC
Public Procurement Tribunal Committee	Has not met	
Liaison Committees		
ICT and IP Liaison Committee	2nd July 2018, 3rd August 2018, 7th September 2018 and 5th October 2018	<ol style="list-style-type: none"> 1. The Committee has engaged KIPi in its strategic plan for 2019 2. The Committee is organizing Legal Tech and Innovation Week scheduled 3. There are sub – committees that are reviewing legislations in ICT and IP
Tax Liaison Committee	23rd February 2018 and 28th August 2018	The Committee has engaged KRA and organized tax trainings for members. More trainings are slated for 2019.
Nairobi Lands Registry Liaison Committee	7th September 2018 and 29th October 2018	<ol style="list-style-type: none"> 1. The Committee organized for training of Advocates on Land Registry Processes and procedures. 2. The Committee has pushed for efficiency of service delivery at the Lands registry.
Nairobi Companies Registry Liaison Committee	31st January 2018, 13th April 2018, 18th May 2018, 22nd June 2018 and 6th November 2018	<ol style="list-style-type: none"> 1. The Committee pushed for interim resolutions regarding service system concerns 2. The Committee has collaborated with BRS to organize trainings for members on the new system 3. The Committee has pushed for implementation of interim solutions reached during meetings with the Registrar of Companies
Special Committees		
Trial Advocacy Committee		The Committee has partnered with Justice Advocacy Africa to organize a 5 – day trial advocacy training scheduled on 8th – 12th April 2019.

Committees	Meeting Dates	Achievements
Awards Committee	18th April 2018, 14th January 2019 and 28th January 2019	The Committee organized the inaugural Nairobi Legal Awards and is organizing the next Awards Ceremony scheduled on 25th April 2019.
Rules Committee	7th February 2018, 7th March 2018, 16th March 2018	The Committee addressed challenges faced by practitioners in complying with Order 11 of the Civil Procedure Rules and to address E-filing of cases in court.
Internal Dispute Resolution Committee	21st February 2018 and 21st September 2018	The Committee has received several disputes from Advocates which are currently under review by the Committee
Lawyer – Police Relations Committee	19th September 2018, 28th September 2018 and 11th October 2018	The Committee in collaboration with the DCI has prepared draft Lawyer Police Guidelines which will be shared by the DCI team for consideration and adoption

G. Practice Matters

1. The Litigation Practice Committee has set up a Judicial Performance Evaluation Program through a template which was launched at the Inaugural Nairobi Legal Awards on **26th April 2018**. This template will facilitate members/lawyers to participate in judicial performance reviews through providing regular feedback on the performance of judicial officers. Members are urged to share their views on the Form which is available on the Branch Website.
2. Companies Liaison Committee met the Registrar General and Registrar Companies on 13th April 2018. Key issues discussed included challenges with the digitization process and facilitation of online Company processes. Some resolutions were reached in regards to challenges encountered with the Business Registration Service and e-citizen portal, filing of annual returns and other service concerns. the Registrar General, Mr. Kenneth Gathuma directed that the Branch Secretariat should do the minutes of the meeting and send to his office for official communication to be released to members regarding the said resolutions. The formal communication was issued on **16th April 2018** and the Branch Secretariat assisted in circulating the same.
3. The High Court Commercial Bar Bench Committee in collaboration with the High Court Commercial Division launched the Commercial Justice Sector Reforms and Showcase of ICT Initiatives, which was held at Radisson Blu Hotel on **17th May 2018** from 9.00am. The Chief Guest was the Hon. Chief Justice David Maraga together with other distinguished guests such as the President of Court of Appeal Hon. William Ouko, the Principal Judge Hon. Lady Justice Lydia Achode, the Hon. Ambassador of Netherlands to Kenya Frans Makken, the Presiding

Judge of Commercial and Tax Division Hon. Justice Fred Ochieng, the President of the Law Society of Kenya Mr. Allen Gichuhi, the Branch Chair Mr. Charles Kanjama and the Secretariat team, the Principal Secretary of Ministry of Trade Mr. Chris Kiptoo and other distinguished guests. The long term objective is to fully automate the Commercial and Tax Division of the High Court. The project was funded by the Kingdom of Netherlands. The pilot project will begin at Milimani Law Courts before being implemented by other Court stations countrywide.

4. The High Court Family Bar Bench Committee in collaboration with the High Court Family Division launched the Simplified Inheritance Reference Tool on **12th June 2018** at the Four Points by Sheraton.

The following Programmes relating to practice have been proposed and are under implementation by the Branch:

- i. Engaging the Courts on judicial efficiency in case management. (Significant progress for example the Court of Appeal backlog in hearing appeals reduced from six years to less than one year)
- ii. Creation of Awareness on Judiciary ICT Initiatives. **(Initiated)**
- iii. Continuous engagement with LSK Judicial Service Commission Representatives on matters related to judicial performance and functioning of courts and tribunals. **(Active)**
- iv. Engagement with the Rules Committee on amendments to the Civil Procedure Rules. **(Active)**
- v. Regular Engagement with Commercial Registries (Companies, Lands) on emerging practice issues. **(Active)**
- vi. Improvement of and robust engagements on practice standards through the Inns of Court and Awards

- Programme. **(Active)**
- vii. Handling disputes between Lawyers through the Internal Dispute Resolution Committee. **(Active)**
 - viii. Setting up cohorts for specialized practitioners. **(Initiated)**
 - ix. Managing regular practice challenges between the Bar and the Bench. **(Active)**
- Committee progress is updated on the Branch Website.

H. Welfare Matters

The Branch set up an Internal Dispute Resolution Committee to pursue initial resolution of disputes that arise among Lawyers of the Branch in their practice and welfare interactions with one another. The Committee has since been receiving complaints from members and seeking to amicably resolve them, while maintaining the dignity of the Profession.

The following Programmes relating to welfare have been set up and are under implementation by the Branch:

- i. LSK Sacco Scheme for Practising Certificate Young Lawyers **(Delivered)**
- ii. CPS Quick-route Qualification **(Delivered)**
- iii. Branch partnership with Traction School of Governance and Business to offer CS Course at discounted rates. **(Active)**
- iv. Branch partnership with Jumia Travel to offer discounts on travel packages for members. **(Active)**
- v. Mentorship Programme for Young Lawyers **(Active)**
- vi. Internal Dispute Resolution Committee **(Active)**
- vii. Engagements for improvement of Lawyer-Police Relations **(Active)**
- viii. Socialization and Barbeque Forums **(Active)**
- ix. Debt Collection Programme in partnership with Metropol Credit Reference Bureau Limited **(In the pipeline)**
- x. Development of Guidelines on Terms of Engagement for Young Lawyers **(In the pipeline)**

I. Member Engagement Fora

In 2018, the Branch organized and/participated in the following Events:

- I. In February 2018, the Branch took its stand on the need to obey court orders and the Rule of Law by supporting and participating in the **Yellow Ribbon Campaign** by the Law Society of Kenya. The Branch co-hosted and participated in the March from Milimani Law Courts to the Supreme Court and held an Inns of Court Forum on Contempt of Court. Presenters included **Chacha Odera** (Oraro

& Company Advocates). In August 2018, the Branch participated in the **Purple Ribbon Campaign** in solidarity with Uganda Law Society in pushing for adherence to rule of law in Uganda, during the arrest of Robert Ssentamu alias Bobi Wine, opposition Member of Parliament.

- II. **The Nairobi Legal Awards** which was held at the Intercontinental Hotel, Nairobi on 26th April 2018. The Awards Ceremony recognized members who were nominated for providing excellent legal services and to honour Judicial Officers nominated for their efficient service delivery within the Judiciary. The Awards category were Law firm of the Year, Lawyer of the Year, Pupil Master of the Year, Young Lawyer of the Year, Judicial Officer of the Year and Civil Society of the Year. The Hon. Chief Justice graced the occasion as the Chief Guest and Hon. Attorney General Paul Kariuki who was invited as the Guest of Honour was represented by the **Deputy Solicitor General Ms. Christine Agimba**. Other guests in attendance were the CEO of Centum Investments **Mr. James Mworira** and **Mr. Beauttah Siganga** from the Advocates Complaints Commission.

III. Young Lawyers Mentorship Programme on 5th July 2018.

The theme for the Mentorship Forum was "Achieving Greatness in Legal Practice". The Forum was held on Thursday, 5th July 2018 at Hotel 680 from 6.00pm. The Forum served as an avenue for giving advice to the young lawyers on professional development and how to tap into their full potential. We invited guest speakers such as Prof. Tom Ojienda, SC, Judy Thongori, Mariam Mbeneka, George Omwansa, Eunice Lumallas and Kheper Ojijo. Mr. Justus Munyithya the Chair of Management Committee was in attendance and he participated in the one-on-one session with young lawyers. The event was held successfully. It was proposed during the event that the Mentorship Forum be organized on a monthly basis to sustain the program and for perpetuity. The next Mentorship Forum is slated for **7th March 2019**. More information will be shared on our social media platforms.

IV. Luncheon with Senior Lawyers on 27th June 2018.

The Branch was invited to attend the Luncheon organized by the National Office. The objective of the Event was to engage Senior Lawyers on various issues and explore ways in which the Branch can

be involved to improve conditions of practice for Senior Lawyers.

- V. The Branch participated in the **Annual LSK Justice Cup** held on **Saturday 28th July 2018**. We thank all the members of the Team LSK Nairobi who represented the Branch at the Justice Cup Sports Tournament. The team improved in performance and was eliminated at the Pool Stage with six (6) points.
- VI. The Branch organized **Advocates Barbeque Grill** which was held on **6th October 2018** at Whiskey Rivers Lounge. The event was very successful, the next Advocates Barbeque Grill will be on 8th June 2019. More information will be circulated on our social media platforms.
- VII. The **Inns of Court for Constitutional and Judicial Review Division** was held on **9th October 2018** at the Ceremonial Hall, Milimani Law Courts. The invited guests were Senior Counsel Pheroze Nowrojee, Hon. Lady Justice Pauline Nyamweya, Abbas Esmail, Long'et Terer and Evans Ogada.
- VIII. **Council Visit to Thika Chapter** was held on **16th November 2018** at Eton Hotel. Members discussed practice and welfare issues affecting Thika members. The Council also paid a courtesy call to the High Court Judge of Environment and Land Court and the Land Registrar.
- IX. **Monthly Social Run** was held on **17th November 2018** at Karura Forest. Advocates ran for 5 kilometres then engaged in aerobics for a few minutes. The next monthly run is scheduled on 9th February 2019. More information will be circulated on our social media platforms.
- X. The Branch in collaboration with The Institute of Social Accountability organized for a Public Interest Litigation Forum, which was held on **23rd November 2019** at Hilton Hotel.
- XI. The Branch held its inaugural **Quiz Night on 6th December 2018** at Moniko's Kitchen at Valley Arcade. The event was fun and successful. The Branch launched welfare packages such as Jumia travel packages at discounted rates for subscribed members and CS Course offered at Traction School of Governance and Business, at discounted rates as well. The next quiz night is scheduled on **30th April 2019**.

XII. The Branch office was officially opened on **14th December 2018**.

J. 2018 Branch Elections

A Notice of Branch Elections 2018 was issued to Branch members. The Nominations Notice and forms were uploaded onto the Branch Website to facilitate members in accessing the forms. The Branch Elections were initially to be held on 22nd March 2018 but later postponed to 3rd and 4th May 2018. The Independent Elections Committee (IEC) was constituted on 11th April vide a Notice issued to members that invited them to express interest in joining the IEC. The Committee had several meetings and briefings with ICPAK who were the service providers for the voting platform used in the Elections. The IEC agreed to conduct mock elections to give the electronic voting system a test drive and collate the views and feedback from members in regards to the functionality of the system. The mock elections were conducted on 25th April 2018 from 8.00am to 5.00pm. The Branch received feedback and comments regarding the system and it was agreed to consider the same during the actual elections. The actual elections were held on 3rd and 4th May 2018. The tallying ceremony was held at the Ceremonial Hall in Milimani Law Courts on 4th May 2018 at 5.30pm

K. The second Annual General Meeting of LSK Nairobi Branch

The Branch conducted its second Annual General Meeting on 25th May 2018 at the Ceremonial Hall from 2.30pm. The Agenda of the meeting began with the Secretary reading the Notice to convene the meeting. Members had a moment of silence to pay tribute to members departed. Minutes of the last AGM held on 23rd June 2017 were confirmed as some members proposed amendments to the minutes. The Annual Report for 2017 which had Financial Statements and Audit Reports was presented at the meeting and members appointed the firm of O. M. Ngotho Associates as the Branch Auditors for the year 2018. The Branch Charter was discussed as members gave their comments and proposals on the same.

L. Other Branch Initiatives and Ongoing Programmes

1. The Branch has pushed for special **Certified Public Secretaries Certification** for advocates. A meeting with the Registration of Certified Public Secretaries Board on 22nd September 2017 resolved that the current CPS Exemptions for lawyers would be reviewed and a Committee set up to look into the modalities for this. On 19th February, 2018 the Executive Officer of the Board

of Registration of Certified Public Secretaries issued a notice on the relevant exemptions in regards to the units to be undertaken by Advocates to be admitted as Certified Public Secretaries. On 26th July 2018, the KASNEB issued a summary of exemptions to Advocates and other holders of Bachelor of Laws (LLB) Degree. The Branch has partnered with Traction School of Governance and Business to offer CS Course at discounted rates to members. We urge members to take advantage of this offer.

2. The Branch has helped to improve Police-Advocate interactions through engagement with the Police and set up a **Lawyer-Police Relations Committee**.
3. The Branch has an active **Internal Dispute Resolution Committee** to pursue first-step advocate-to-advocate dispute resolution.
4. **The Nairobi Legal Awards:**
The Branch set up an annual legal excellence Awards Programme which began in 2018. This is in recognition of the challenges noted with law practice in the region including low customer satisfaction and below average quality of legal services. The Awards Programme was set to recognize law firms/ legal departments and individual lawyers with outstanding standards of practice and legal service delivery in an effort towards encouraging excellence in practice. The criteria was based on globally recognized best practice in legal practice and service delivery.

The Branch received sponsorships for the Awards Ceremony from **Anjarwalla & Khanna Advocates, FIDA Kenya, LSK Sacco, Centum Investments and Kenya Law**. The winners of the different categories were **Ashitiva Advocates LLP** as Law Firm of the Year, **Eunice Lumallas** as the Lawyer of the Year, **Michael Kiruti** as the Pupil Master of the Year, **Ribin Ondwari** as the Young Lawyer of the Year, **Hon. David Mburu** as the Judicial Officer of the Year and **Katiba Institute** as the Civil Society of the Year.

We look forward to the next Awards Ceremony slated for 25th April 2019. We thank all the members of LSK Nairobi Branch who attended the Awards Gala, all the nominees of the different categories, the members of Awards Committee and Jury and the sponsors who facilitated the Awards Gala.

5. **Young Lawyers Mentorship Programme**
Regular sessions of the Young Lawyers Mentorship Programme were organized by the Branch within

the year 2018. The first forum took place on 5th July 2018 at Hotel 680 from 5.00pm and the next one is on 7th March 2019. Mentorship has also been done through **Video Podcasts on the Branch YouTube Channel**. We urge members to follow our social media pages to stay updated on Branch programmes. Currently, the Branch has allocated mentees to mentors, who had expressed interest in being part of the programme.

6. Quarterly Luncheons

The Branch held one of its quarterly luncheons on **6th September 2018** at Pride Inn Hotel Westlands from 12.00 noon. The invited guests were Hon. Dr. Otiende Amollo and Ms. Catherine Musakali. The turnout was good as lawyers discussed their role in the fight against corruption. The next luncheon is on **21st February 2019** at Pride Inn Westlands. More information will be shared on our social media platforms and the website.

M. Challenges and Measures to resolve them

1. Financial Stability

The Branch has received more funding from the National Office which has facilitated Branch activities and acquired its own office located at Lower Hill Duplex, Suite No. 015, Upperhill Road. The office was officially opened on 14th December 2018. We thank the LSK Council members for gracing the occasion and supporting the Branch.

2. Communication

The Branch has access to updated details of the overall members' database held by the Law Society of Kenya National Office which has facilitated our ability to communicate effectively with all our members. Our main challenge is getting our members to read the newsletters and give feedback on matters arising in practice.

Website Revamping

The LSK Nairobi Branch website has been revamped through;

- a. Creation of pages for all major events undertaken by the Branch
- b. Improving the outlook by having borders on the page bearing Branch contacts and subscription information
- c. Inclusion of all partner logos and improvement of general organization of the website
- d. Inclusion of social media icons to direct members to our social media pages.

Social Media

The Branch operates on four main social media platforms to communicate to members, namely, Facebook, Twitter, Instagram and WhatsApp. Frequent posts are made on various Branch activities and Programmes on either or all the Platforms. The Branch has also successfully developed a WhatsApp Database for all Group Administrators of various advocates' WhatsApp groups to enhance communication to members.

Bulk Email & Mailing List

The Branch has made use of the Atomic Mail Application to send out multiple emails simultaneously to all members on our mailing list. The Mailing List is also constantly and manually updated after every event and new engagement with members. The Branch is looking to upgrade to Mail Chain which can keep track of emails received and sent for better communication.

Newsletter

Regular communication of Committee progress and Branch activities is issued to members via the Branch Newsletter. Sixteen regular newsletter emails have been sent to Members.

Creation of Office Emails for Secretariat

The Branch has also created official emails for the Secretariat members to effectively enhance both internal and external day to day communication.

3. Consistent Member Participation

The Branch reconstituted in 2018 to enhance the membership and vibrancy upon coming into office of the new Council. Further, membership of Branch Committees is voluntary and we are pursuing a proposal to award members CPD Points for regular Committee participation.

4. Mobilization of Members for Events and Increasing Diversity of Programmes

The Branch is currently limited in their member activities it may undertake because it is not allowed to issue CPD Points for its Events.

COAST BRANCH- REPORT OF THE MOMBASA LAW SOCIETY

The Council members for year 2017/2019 are;

1. Mathew Nyabena - Chairman
2. Abdulrahman O. Aminga - Vice Chairman
3. Natasha Ali Errey - Secretary General
4. Esther W. Njuguna - Deputy Secretary General
5. Paula Ng'etich - Treasurer
6. Jacqueline Waihenya - Deputy Treasurer
7. Elizabeth Mvoi Mwasaru - Organizing Secretary
8. Manases Alwenya - Member
9. Elizabeth Aroka - Member
10. Oduori Siminyu - Member
11. Evalyne Odongo - Member
12. Tadayo Muyala - Member
13. Boaz Adalla - Member
14. Gikandi Ngibuini - Trustee
15. Mohamed F. Khatib - Trustee
16. Mercy Deche - Trustee

The following are the Committees of the Mombasa Law Society:-

1. Conveyancing Committee
2. Information technology & Public Relations
3. Bar-Bench
4. Welfare Investment and Mentorship
5. Ethics and Compliance
6. CPD and Inns of Court
7. Finance
8. Family division
9. Young Lawyers
10. Admiralty and Maritime
11. Civil Litigation
12. Criminal Practice
13. Alternative Dispute Resolution
14. Devolution
15. In house
16. Sports & Recreation
17. Kadhi's Court
18. Environment and Land Court
19. Employment and Labour Relations Court
20. Public Interest Litigation Committee

Highlights of the Year

1. **Ground Breaking for the proposed High Court building & witnessing handing over of the Kadhi's Court Msambweni by the CDF Msambweni on 29th January 2018 In Kwale**

**Discussions initiated by the President of LSK between officials of Mombasa Law Society and Malindi Law Society on the formation of an interim Coast Branch Committee have not so far been successful. It is hoped that further discussions shall be held in this regard*

The Chairman of Mombasa Law Society (MLS) and members both practicing in Mombasa and Kwale were in attendance. The Chief Justice Hon. David Maraga was present to preside over the event.

2. Ground Breaking Ceremony for Mombasa Justice Tower held on 30th January 2018

The Council of Mombasa Law Society and the entire membership were present at the Ground Breaking Ceremony for Mombasa Justice Tower. We look forward to its completion.

3. Courtesy Call on the Chief Justice on 30th January 2018

The Council paid a Courtesy call to the Honourable Chief Justice on 30th January 2018 at the Mombasa Law Courts and discussed various issues affecting the membership.

4. Coast Colloquium on Countering and Prevention of Violent Extremism on 7th to 10th February 2018 at Pride Inn Shanzu

Mombasa County is one of the first and more progressive counties in Kenya to not only initiate the conversations around violent extremism but also develop an Action Plan whose goal is to prevent and counter violent extremism. In 2017, the Governor of Mombasa, the County Commissioner of Mombasa and NCTC led efforts of Mombasa Stakeholders (National and county governments, private sector, civil society organizations, community based Organizations, faith based organizations, international Community, academia, professional associations) in developing the Mombasa County Action Plan for Preventing and Countering Violent Extremism (MCAP-PCVE). Following the launch, key steps have since been undertaken towards the Implementation of MCAP-PCVE.

These include:

- Mapping of P/CVE stakeholders in Mombasa County.
- Development of the 2018 implementation plan for MCAP-PCVE

5. County Visit by the Advocates Complaints Commission on 20th February 2018 at Mombasa Sports Club

The Advocates Complaints Commission is a statutory body established in 1989 for the purpose of inquiring into complaints against advocates, their firms and employees under Section 53 of the Advocate Act (Cap 16 Laws of Kenya).

As one of the strategies to promote professional discipline in the legal practice, the Commission reaches

out to various stakeholders through consultative workshops.

The Society hosted the Commission and discussed issues of mutual concern.

6. Hiking/Zip Line/ Excursions on 10th March 2018

The Mombasa Law Society organized the event. The said event took place at Kilifi Bofa. It was a well-attended.

7. Mombasa County Civic Education Program held on 9th April 2018 at Sunrise Nyali

The event was organized by the Office of the County Attorney. The Society ably participated in the event.

8. Mombasa Law Society Sports & Family Fun Day On 14th April 2018 At Mombasa Sports Club

Our members and their families were in attendance. The event was successful and the event has been marked as an Annual event for the Mombasa Law Society.

9. Retreat Of Branch Chairs On 18th To 21st April 2018 At Whitesands Hotel

The LSK organized a retreat that was held on 18th to 21st April 2018 at Whitesands Hotel. Issues affecting the membership were discussed. The Chairman represented the Society and the Coast fraternity.

10. Launch Of Mombasa Advocates Welfare On 20th April 2018

The Mombasa Law Society Welfare was launched on 20th April 2018 at Coast Car

Park. So far the welfare has achieved the following:

- i. Registered a Trust Deed that enables members to engage as an entity with 3rd Parties.
- ii. Elected Trustees as custodians of the fund and providers of oversight to the Committee.
- iii. Embarked on opening Bank Accounts in the names of the Trust.
- iv. Streamlined their operations system as Committee and agreed on a working schedule under sub-committees of membership, Finance, Statutory compliance and public relations.
- v. Competition Authority Sensitization Workshop held on 20th to 23rd April 2018 held at the Mombasa County Office.

11. Competition Authority Sensitization Workshop On 20th To 23rd April 2018

The event was held on 20th to 23rd April 2018 at the Mombasa County Offices. The event was well attended by our members.

12. **Colloquium on the Presidential Election 2018 Held At Hilton Hotel Nairobi.**
The Chairman attended the function.
13. **Learning Session For Key Actors In The Criminal Justice System At Pride Inn Nyali On 14th To 16th May 2018**
The event was organized by Mombasa High Court in conjunction with MUHURI and search for Common Ground Organization. The event was well attended by our Members.
14. **Public Participation Stakeholders Engagement On The Small Claims Court Rules, 2018 On 21st May 2018**
The Council of the Law Society met with the Rules Committee and gave their recommendations and reservations on the exclusion of lawyers from appearing before the Court.
15. **Visit To Kwale Prison On 8th June 2018**
The event was organized by the Office of the Director of Public Prosecution (ODPP) the Chairman and members attended.
16. **Meet And Mingle Session On 9th June 2018**
The Society through the Young Lawyers Committee held a Meet and Mingle session on 9th June 2018.
17. **LSK Council Visit On 6th July 2018**
The National Council of LSK lead by the President Mr. Allen Gichuhi held a Branch visit on 6th July, 2018 and hosted members to a Dinner at Whitesands Hotel. Issues of mutual concern were raised and continue to be addressed.
18. **LLM Open Day On 20th July 2018**
LLM Open Day on 20th July 2018 at UON, Mombasa campus.
The Council has engaged with UON to ensure that the Commencement of LLM Class at the campus in Uni-plaza. There are now three Doctors at the Campus to supervise the graduate class.
19. **Tree Planting And Mentorship Session At Shimo La Tewa High School On 21st July 2018**
This was an initiative of the Mombasa Law Society to bond with the students, provide mentorship and also make the School green. Members generously contributed trees that were planted. The society donated 2 bulls, prepared and had lunch with students. The event was well attended and was successful. There was a football match between the Mombasa Law Society team and the Students which ended in a 1-1- draw.
20. **Trial Advocacy Training On 13th To 17th August 2018 At The University Of Nairobi, Mombasa Campus**
This training that imparts trial skills was held from 13st to 17th August, 2018 at the University of Nairobi's Mombasa Campus. Thirty two (32) participants both from Nairobi and Mombasa and Law Students were trained.
21. **Workshop On Implementation Of Beneficial Ownership Information At The Companies Registry Held On 17th August 2018**
The Government of Kenya has come a long way in its fight against corruption. As the first County to sign and ratify the UN Convention on Corruption, the County has been under an extra juridical obligation to pave the way in terms of its Implementation. The Society ably participated in the same.
22. **Public Lecture On 24th August 2018**
The event was held on 24th August 2018 at the University of Nairobi Mombasa Campus under the topic Peace versus Justice: the Kenyan Dilemma.
23. **Seminar On National, Regional And International Patent Systems In Mombasa On 31st August 2018**
The seminar was held by the world intellectual Property Organization (WIPO) in collaboration with the Kenya Industrial Property Institute and the African Regional Intellectual Property Organization. The objective of the seminar was to create awareness on patents, focusing on the national, regional and international patent systems.
24. **Inaugural Mentorship Session On 7th September 2018**
Mombasa Law Society held a successful inaugural mentorship session on the 7th September 2018 at the University of Nairobi. It was also resolved to have quarterly mentorship sessions under the Brand "Steps of Practice".
25. **Charity Event On 8th September 2018**
The Mombasa Law Society through the young lawyers committee visited Future Hope Childrens' Home in Miritini on 8th September 2018.
26. **2018 Legal Awareness Week On 24th To 29th September 2018**
The theme for the LSK Legal Awareness Week this year was "Corruption: A Crime against Justice, Democracy, Development and Prosperity." The Legal Awareness Week ran from 24th to 29th September 2018 in Mombasa.

Mombasa Law Society observed the Legal awareness

week and advocates as well as other NGO's and Government agencies institutions provided legal aid and partnered with us in various ways.

The event was launched on Monday 24th September 2018 at the Makadara grounds at 9:00 a.m. by the Chief Guest Justice Eric Ogola assisted by the Chief Magistrate Mombasa Law Courts Honorable Evans Makori

This year Mombasa Law Society took the Legal Aid to mwanainchi to impact more people. We visited Mombasa, Kwale and Shimo La Tewa Prisons, Kilifi and Kwale Courts. There was an increase in the number of people served.

27. Lecture On Cross Border Opportunities In The Field Of Tax On 25th October 2018

The event took place on 25.10.2018 at the University of Nairobi and was well attended by our members.

28. East Africa Maritime Awards Held On 28th October 2018 At Pride Inn

The function was attended by the Chairman.

29. Annual General Meeting On 9th November 2018

Mombasa Law Society held its Annual General Meeting on 9th November 2018 at Pride Inn Hotel. The Secretary General took members through the notice convening the meeting, the Agenda was adopted. Welcome remarks were from the Chairman.

Members went through the treasurer's report. Issues affecting members were discussed. The meeting went on well.

30. End Of Year Party On 7th December 2018

The Mombasa Law Society held an End of Year Party on 7th December 2018 at Fort Jesus. Both Senior and Junior Advocates were in attendance. The event was a success.

31. Formation Of Coast Branch

As per the Resolution of the AGM held on 3rd November 2017, the Council met our counterparts from Malindi in order to actualize formation of the statutory branch. Consequently it was agreed that a steering committee of both Societies be constituted.

On 24th August 2018 a steering Committee was formed. The steering Committee Members are as follows:-

1. Mathew Nyabena
2. Natasha Ali Errey
3. Paula Ngetich
4. Jacqueline Waihenya

5. Gicharu Kimani
6. Lucy Mwangi
7. Tonia Mwanja

A draft Charter has been prepared and circulated to the members for their input.

An Inaugural General meeting for the Coast practitioners has been scheduled for 25th January 2019.

Other Issues affecting the branch

1. The Society was enjoined as a party in a Petition No. 196 of 2018 on the issue of WIBA where conservatory orders were granted. The same seeks the interpretation of Article 159 of the Constitution as to whether the powers of the Court can be transferred to the Executive. The hearing is ongoing.
2. The Bar-Bench meeting on 18th April 2018 and deliberated on issues affecting the practice. The Council continues to engage with the Judges Magistrates to ensure delivery of services.
3. The Court of Appeal Building renovation has not been complete and we continue to agitate for its completion.
4. The Justice Tower is proceeding at a good pace.
5. The Courts are crowded and Judicial Officers are operating from chambers which hardly can accommodate Advocates and members of the public.
6. Our Boardroom is filled up with files for our colleague who no longer practices and this is a serious challenge. The law society of Kenya needs to come up with clear guidelines on how to address the issue of member's files where members are unable to practice.

SOUTH EASTERN BRANCH

1. Branch A.G.M /Office Handing Over

The branch held its annual general meeting on 19th January 2018 at Garden Hotel. The meeting incorporated the office handing over from the previous Branch council which had served the Branch for an interim term of 2 years. They handed over the office to the office bearers who were elected in a ballot exercise conducted on 15th December 2017. The meeting was attended by members of the branch within and out of Machakos. A new team of officials took over from Mr. Andrew Makundi advocate led by Mr. Justus Mutia Advocate.

2. Monthly Branch Council Meetings

The Branch Executive holds its meetings once in a month on every third Friday of the month at the branch office boardroom. It's during these meetings when the members deliberate on issues touching the general

membership practice across the branch, issues to do with the branch and also check out on complaints that are received and filed in the office.

The 2018 Monthly meetings were held as follows:

1. 19th Jan 2018
2. 12th Feb 2018
3. 26th Feb 2018
4. 16th Mar 2018
5. 27th Apr 2018
6. 18th May 2018
7. 22nd Jun 2018
8. 20th July 2018
9. 17th Aug 2018
10. 14th Sep 2018
11. 19th Oct 2018
12. 18th Nov 2018
13. 19th Dec 2018

3. Compiling A List Of Pending Rulings/Judgments

Through the Branch Executive, the Branch conducted sensitization (7th – 12th Feb 2018) to its members requesting them to forward to the Branch office lists of pending rulings and judgments from court stations across the branch which resulted due to transfer of judicial officers. This enabled the Branch to forward the compiled lists accompanied with letters to the respective court stations for the issues to be addressed.

4. Yellow Ribbon Campaign

In unity with the other Branches and the Council, the Branch participated in the Yellow Ribbon Campaign on 12th to 16 Feb 2018 in protest against impunity and disrespect to Court orders in the country. Advocates showed participation in the exercise by wearing yellow ribbons as a sign of solidarity.

5. Court Visits

The newly elected Branch Executive through the leadership of the Chairman, Mr. Justus M. Mutia, introduced visits to court stations within the South Eastern Branch. During these court visits, the Executive met court with the Head of Stations and other judicial officers and discussed issues affecting practice that needed to be addressed in those courts. The visits were also a way of strengthening the bond between the different court stations and the Branch. The visits were done as follows respectively:-

1. 14th Feb 2018 – Machakos Law Courts
2. 09th Mar 2018 – Kilungu Law Courts
3. 14th Mar 2018 – Kangundo Law Courts
4. 22nd May 2018 – Makindu & Makueni Law Courts
5. 12th July 2018 – Mutomo Law Courts

6. 28th Aug 2018 – Mavoko Law Courts
7. 28th Sept 2018 – Kithimani Law Courts

6. Advocate's Ad Hoc Welfare Committee

During the Branch A.G.M held on 19th January 2018, members of the branch raised an agenda that there was a need of a welfare group for advocates of South Eastern Branch. It is after this when the Branch Executive appointed an Ad Hoc Committee whose task was to come up with a report which would help in formation of the welfare group. The committee would only achieve this with meetings which resulted to drawing down a questionnaire which was issued to members across the Branch in order to collect views of members. After the questionnaire was filled up, it was returned to the Branch Office where the Ad Hoc committee used to meet to analyze, tally and compile a report out of the same based on a deadline given by the branch executive. The committee held meetings as follows respectively:-

1. 15th Mar 2018
2. 23rd Mar 2018
3. 27th Mar 2018
4. 04th May 2018
5. 09th May 2018
6. 14th May 2018
7. 17th May 2018
8. 25th May 2018
9. 31st May 2018

Later, in the Month of October 2018, the Welfare Association was established. It has over 100 members now.

7. Advocates Luncheons / Meetings

The Branch conducts meetings for its general membership often at different venues in order to collect views and comments from the members.

The 2018 saw the Branch hold several luncheons as follows:-

a. 29th March 2018 at Garden Hotel

The luncheon was held in partnership with U.A.P insurance company whose representatives did a presentation to members on issues relating to welfare and the need of insurance covers. It's after this when the Advocates Welfare Ad Hoc committee issued members with questionnaire forms to go and fill in and then sent it back to them for sampling.

b. 5th April 2018 at Zeros Resort

During this luncheon, the Judiciary incorporated the Branch to hold a farewell ceremony for

Hon. Lady Justice Pauline Nyamweya who was transferred from Machakos Law Courts. The event was attended by Advocates, Judges of Machakos and Makueni Law Courts, court staff and members of the public.

c. 12th July 2018 at Kitui

Through the branch Executives introduction of court visits, the idea also brought out devolution of luncheons and advocates meetings to the regions covered by the branch. It during the Mutomo Law Courts visit when the Executive meeting held a Luncheon for advocates of Kitui region. The members of that region interacted with the branch officials fully and gave out their view and comments.

29th Aug 2018 at Kitengela

The Branch Executive made a court visit at Mavoko Law Courts and thereafter held a Luncheon for members of Mavoko/Kitengela/Kajiado region at Kitengela. The event which showed a good turn up of members from that region, was attended by 36 advocates who had a good and interactive session. During this meeting, the Branch Executive sold to members the idea of welfare and encouraged them to register. The Executive also briefed members on the issues which it addressed during their prior court visit at Mavoko Law Courts.

d. 28th Sept 2018 at Kyaka Hotel

The luncheon was for members of the Branch from Machakos and its outskirts. This came after a court visit at Kithimani Law Courts. The Branch Executive, led by the Chairman, briefed members on issues concerning the Branch and the progress made. This included presenting the branch budget to members, encouraging members to register for the welfare and much more.

e. 02nd Nov 2018 at Kyaka Hotel

The agenda of the Welfare group had reached to maturity and it is during this luncheon when the Branch Executive had invited the registered members so far for the Launch of the Welfare. The Welfare which had so far registered over 80 advocates across the Branch did appoint its officials and agreed on basic rules and regulations which would govern the group.

f. 14th Dec 2018 at Kyaka Hotel

The year ended in a style for members of south eastern branch when the Chairman and the Branch

Executive held a luncheon for them at Machakos. During this luncheon, members shared their experiences through the year, commented on how the Branch Executive and office had performed in 2018. Members also gave out their opinion for the oncoming year and what they would like the office to tackle in order to better the general practice at large.

Branch Visit by the National Office

The Council led by the Law Society of Kenya President did a visit to the South Eastern Branch on 8th June 2018 at Gelian Hotel. During this visit, the President and his team paid a courtesy visit to Machakos Law Courts where they were received by the Chief Magistrate, Hon. Kibiru. After that, the Executive of the Branch had a chance to have a closed door meeting with the Council and thereafter they met members of the Branch where they had a lunch and interacted fully by commenting on the National office's performance as well as giving out recommendations for the same.

8. Justice Cup Tournament

As part of the Law Society of Kenya activities, the Annual Justice Cup Tournament was held on 28th June 2018 at Parklands Sports Club. For the first time in history, the South Eastern Branch presented a football team during the same. The team participated fully and awarded a certificate of participation.

9. Legal Awareness Week

The 2018 annual legal awareness week was conducted on 24th - 28th September 2018. In South Eastern Branch, we did set up four stations across the region which served members of the public and advocates of the same regions as well. The stations were; Machakos Law Courts, Kitui Law Courts, Kajiado Law Courts and Makindu Law Courts. Advocates attended to members of the public by answering their questions and giving the free legal advice.

10. Corporate Social Responsibility

For the first time in history since the Branch was chartered, the Branch Executive conducted its first CRS where members paid a visit to New Scent Center International Children's home at Tala. Advocates who could not make it at the venue donated out monetary and material things which were topped up to the shopping the Branch had done. The members who represented the Branch involved themselves in interacting with the little children and giving the piece of advice and hope to prosper as well. The event took down on the 20th October 2018.

11. Children's Service Week

The event was held at Kangundo Law Courts for one week (12th – 16th Nov 2018). The Chairman participated during the launching of the Service week.

12. L.S.K South Eastern Welfare Association

After the welfare group was launched, the members of the group appointed the office bearers who spearhead the running of the group. The group was named to L.S.K S. Eastern Welfare Association and under the head of its officials; it holds its meetings in the Branch Office Boardroom. It is chaired by Mr. Martin M Muithya Adv. So far it has conducted two meetings in 2018 as follows:-

1. 16th Nov 2018
2. 07th Dec 2018.

Report Approved by the Chairman and adopted by the Branch Executive on 16th day of February 2019.

NORTH RIFT BRANCH

The Executive committee elected into office in October 2017 for a two year term comprises the following:-

1. Zephania K. Yego - Chairman
2. Aggrey Karani - Vice Chairman (Representing Kitale Chapter)
3. Aseso Omollo - Secretary General
4. Tecla Tum - Treasurer
5. Michael Wabomba - Assistant Secretary General

1. Annual Dinner

The Branch hosted its end year party/annual dinner on 13th December 2018 at Hotel Sirikwa. The highly colourful event was attended by several members of the Branch and was graced by Hon. Lady Justice Olga Sewe, Hon. Justice Stephen Githinji, the Chief Magistrate Hon. Charles Obulutsa, the Senior Principal Magistrate Hon. Peris Wairimu and the Deputy Registrar Hon. Grace Kimanathi.

The dinner party gave the Bar and the Bench an opportunity to interact freely away from the court room environment whereby there was plenty of laughter and dance. The chief guest Hon. Lady Justice Oglia Sewe standing in for the Presiding Judge, Hon. Lady Justice Hellen Omondi gave the keynote address and encouraged a robust partnership between the Bar and the Bench.

The Chairman thanked the Bench and promised to facilitate frequent social interactions between the Bar and the Bench to foster mutual partnership in the administration of justice.

2. Sports Day

On Saturday 27th November 2018 the Branch hosted a Sports day for its members in Eldoret Sports Club. Several advocates attended the event with their families and had plenty of fun. The advocates engaged in plenty of games including football, badminton and basketball.

3. National Children's Service Week

On 26th November 2018, Eldoret played host to the National Children's Service Week that was celebrated countrywide. The event was graced by Hon. Lady Justice Jessie Lesiit who represented the Deputy Chief Justice Hon. Justice Philomena Mwilu. The Court Users Committee led by the Law Society of Kenya played a vital role in ensuring the success of the event. During the service week, several children matters were concluded as advocates came forth to offer pro bono services.

4. Bar-Bench Meetings

The Branch convened a number of Bar Bench meetings with the judges and magistrates in the Branch particularly Eldoret station. The said meetings were instrumental in resolving issues in administration of justice and contributed to enhanced service delivery and good working relationship between the Bar and the Bench.

5. Court Users Committee

LSK North Rift Branch being one of the key members of the Court Users Committee engaged in a number of Court Users Committee meetings in the branch. The Committee, comprised of the Judiciary, Law Society of Kenya and a galaxy of other court users was instrumental in streamlining the administration of justice and the rule of law through regular engagements among the various stakeholders.

6. Legal Awareness Week

The Branch duly organized and observed the Legal Awareness Week between 2nd September 2018. To enhance the success of the event the Branch partnered with key stakeholders namely: National Legal Aid Service, Anti Counterfeit Agency, Independent Medico Legal Unit, Legal Aid Centre of Eldoret and Moi University faculty of Law. Members of the Bar offered free legal services to members of the public who turned up in large numbers. The members extended the service to inmates and remandees at Eldoret G. K. Prison. The event enhanced and boosted access to justice by members of the public.

7. Luncheon

On 31st August 2018, the Branch hosted a luncheon held

at Ndupawa Hotel outside Eldoret town. The luncheon brought together a huge number of advocates who freely interacted and had fun. The get-together fostered social interaction, unity and cohesion among professional colleagues.

8. Justice Cup

In July 2018, the Branch registered a team and successfully participated in the LSK Justice Cup tournament held at Parklands Sports Club. The team put up a strong showing and contributed to the success of the tournament.

9. Young Lawyers Retreat

The North Rift Young Lawyers Caucus held a retreat at Rimoi National Game Reserve in Elgeyo Marakwet County on 8th September 2018. The event was highly successful and gave young lawyers an opportunity to engage and socialize a serene and tranquil environment away from the hustle and bustle of legal practice.

10. 14th May 2018-Demonstrations And Court Boycott

On 23rd May 2018, Eldoret lawyers went to the streets to protest the lack of judges in Eldoret High Court and the failure by the Judicial Service Commission to address the infrastructural crisis at the station. Business came to a standstill in the station as advocates boycotted court sessions and staged a peaceful demonstration from Eldoret High Court to Eldoret Law Courts through the streets of Eldoret town. The demonstration yielded fruits as the Chief Justice posted three judges to the station within two days and promised to prioritize the construction of ultra modern courts in Eldoret. The Chief Justice further sent five more judges to reduce the backlog of cases in the station during the Judiciary Service Week held in the month of August 2018. Whereas the issue of backlog of cases has and continues to be addressed, the infrastructural crisis remains largely unaddressed by the Judicial Service Commission.

11. Legal Education

The Branch has continued to mentor and nurture budding lawyers at the nearby Moi University School of Law. On 31st August 2018 the Branch Chair Mr. Zephania Yego and Hon. Justice Luka Kimaru gave a public lecture to the Law Students Association of Moi University on the topic "The Role Courts in enforcing Judicial Decisions Amidst Impunity". The highly successful public lecture gave the Branch an opportunity to continue playing its rightful role in promoting and enhancing legal education.

12. Council Visit

On 7th September 2018 the Council of the Law Society of Kenya, paid a visit to the Branch and engaged

members on issues relating to practice and welfare. The visit culminated in a sumptuous dinner held at Boma Inn Hotel.

13. Land Purchase

The Branch has laid plans to acquire land for development of its secretariat in future. The Branch has already identified prime property along the newly tarmacked old Nairobi Road (Plateau Road) in Elgon View Estate. The Executive Committee has engaged its lawyers to carry out due diligence on the property and a sale agreement is expected to be entered and executed by March 2019. North Rift Branch is therefore on course to become the first Branch to acquire land.

14. Meeting with the Chief Justice

Under the aegis of the Branch Chairpersons Forum, the Chairman and fellow Branch Chairpersons had a meeting with the Hon. Chief Justice in his office on 15th February 2019 to deliberate on several issues and concerns related to the administration of justice. During the meeting, the Chief Justice promised to prioritize construction of a modern court building in Eldoret.

15. Launch of Court Annexed Mediation

On 27th February 2019 Court Annexed Mediation was launched in Eldoret. The highly colourful event was graced by Hon. Justice Fred Ochieng, Chairman of the Taskforce on Mediation and H. E. Jackson Mandago, Governor, Uasin Gishu County. The project is expected to assist reduce backlog of cases and enhance expedition disposal of matters while enhancing access to justice. The Branch promised to support the process and further offered its secretariat offices as a mediation suite. Most of the Branch members have also trained as Mediators so as to take the lead in resolving disputes through mediation.

MOUNT KENYA BRANCH

1. CPD-Continuing professional development

- ✓ Mt Kenya region now has enough CPD sessions covering at least all chapters and members can have access without much difficulties.
- ✓ The CPD committee while preparing its calendar for the year 2019 had asked members to forward relevant topics they would have liked covered.
- ✓ We engaged members to send the topics for consideration and inclusion in the new calendar and we are glad to report that their views were considered.
- ✓ The region got an additional CPD which was the first to be held in the region this year. It was held in Roswam hotel in Kerugoya, and the attendance was great.

2. Justice Tournament 2018

- ✓ The region participated in the justice cup tournament in 2018.
- ✓ Our team Mt.Kenya F.C under the leadership of the team manager Benson Kijaru, captain Calvin Otieno and assistant captain Ramadhan Abubakar played well and was awarded the trophy for fair play.
- ✓ The team has been doing very well in the last couple of years with each yearly participation.

3. Legal awareness week-2018

- ✓ The legal awareness week was observed between 24th -28th September,2018 and I wish to state that all the chapters and practice centers within the region did participate and the members had an opportunity to give back to the community.
- ✓ The list of all those who participated was forwarded to the secretariat for awarding of at least one(1) CPD unit.
- ✓ The branch was able to facilitate the week long activity according to the resources which were available.

4. LSK General Regulations

- ✓ The executive committee through the chairman had engaged the council in several meetings over the LSK regulations which were approved and passed at the LSK Special AGM held on 15th September,2017.
- ✓ This was a great achievement to the council and the branches as it gives clear guidelines on the role of the branch.

5. International Arbitration Centre

- ✓ Members in the region were notified that it was resolved in the AGM that those members who wish to get a refund of their money can fill the appropriate forms and get the refund. So far no issue has been raised in the region over this matter.

6. Devolution to Branches

- ✓ The devolution funds were to be shared out from the year 2018 and the branches were to receive at least 13.5% of the total unrestricted revenue.
- ✓ Our branch has since received the first trench of one million in 2018 and the second trench has been received for the year 2019.
- ✓ This amount is to be shared amongst the chapters upon meeting the laid down conditions on compliance for accountability and upon scrutiny by the council.
- ✓ The branch is in the process of formulating a welfare scheme to assist its members which shall be rolled out after members participation.
- ✓ The region started drafting the proposed welfare scheme which we hope to pass on to the members in the course of the term.

7. Branch Register

- ✓ The members were urged to register with their respective chapters as we intended to have a register for the branch which will be used in calculation of the devolved funds, so far 295 advocates have registered with the secretariat.

8. Practicing Certificates

- ✓ There has been delay in getting practicing certificates, an issue which is being addressed by the council with amendments to have the certificates printed online to avoid delay and inconveniences in the coming years.

9. Bar/Bench

- ✓ We still have judicial officers who delay rulings and judgement, delay in starting court or proceeding beyond normal working hours.
- ✓ We also have judicial officers who have no respect for their colleagues hence affecting performance within their respective stations.
- ✓ Some judicial officers are still corrupt, an issue which is worrying. Most advocates fear to be victimized when they report such issues against such officers.

10. Infrastructure

- ✓ Some of the court rooms within the region are too small, this issue was directly brought to the attention of the CJ by the branch chairman and promised to deal with the issue.
- ✓ Other court buildings are still pending completion of constructions. we have engaged CJ directly on the issue.

11. Conclusion

- ✓ The chairperson appreciates the entire executive committee, the members of Mt. Kenya branch, the LSK Sacco who have always partnered with us in all our activities and the LSK HQs for their cooperation and support of all branch activities.

RIFT VALLEY BRANCH

1. AGM 2017

The Rift Valley Law Society Annual general meeting was held on 10th June 2017 at the Nakuru Athletics Club. The mandate of the serving council was renewed.

2. Branch engagement with stakeholders Council's Bar Bench meetings.

- Court user's committee meetings throughout the year 2017.
- The council also participated in the collection of views for the amendment of the civil procedure rules, 2010 in the month of October 2017.

- High court civil and commercial division Bar Bench on 5th December 2017
- Bar Bench meetings with the magistrates on 10th 2018
- Bar Bench meeting with the new presiding judge, Justice Ngugi, Justice Ndungu, Justice Munyao and Justice Mulwa on the 7th May 2018.

Member's Bar –Bench meetings

- Seminar for all members with the Court Annexed mediation team on 9th May, 2017.
- High court environment and land division bar – Bench meeting 22nd June 2017.
- Meeting with the Judicial Service commission on 12th April 2018.

3. CPD Seminar

The Council facilitated the CPD seminars in Nakuru as follows:

- On 28th April 2018 –emerging trends in Criminal law at Waterbuck hotel
- On 22nd September 2017 -On intellectual property at waterbuck hotel
- On 2nd October 2017-on family law at Milele Resort Nakuru.
- On 24th October 2017-on the retirement benefits at Eagle Palace Hotel.
- On 27th April 2018 –on law reforms at waterbuck hotel.

4. Council meetings

The council meets once a month and the meetings may be conducted more often depending on the issues raised by the general membership.

The agendas of the meetings are guided by the provisions of section 24 of the Law Society Act and the same relates mostly to the welfare of members and practice issues within the Branch.

5. Council's retreat.

The Council had a retreat on the 19th August 2017 at The Elementaita Lodge where part of the agenda discussed was the Draft Law Society of Kenya (General) Regulations, 2017.

6. Special General Meeting

The special General Meetings were held on 8th March 2017 and 15th November 2017 where matters of practice and welfare of members were discussed and various resolutions passed.

7. Law Society General Election

The members of the Rift Valley Law Society participated in the elections where they exercised their right to vote in the leaders of their choice. The election was conducted at the Nakuru High court premises.

8. Dinner with the Judicial Service Commission

The JSC hosted members for dinner on 11th April 2018 where the members got to interact with the judiciary.

9. Member's welfare

One of the major mandates of the branch is to address and secure welfare interests of the Rift Valley Law Society practitioners. The General membership has been keen to ensure that the welfare of each individual is catered for through the principle of brotherhood.

Various issues have risen over the past one year where the branch has been called upon to intervene on behalf of members, including: abuse of police/investigative powers, death of members, relatives, social support in other situations, medical, and matters of lawyers in conflict with one another or with the judiciary, dress and address in court and welfare of young lawyers among others.

The members have always contributed generously towards the challenges facing fellow and close relative's members.

Member's welfare activities.

i. Purple Ribbon Campaign

The campaign was held from 23rd June to 30th June 2017 in commemoration of the victims of extra judicial killings and more so to the death of Willy Kimani Advocate in 2016. The members took the said time to offer free legal services to the public within the court vicinity and also dawned the purple ribbon in solidarity.

ii. Golf tournament sponsored by RVLS advocates

The members sponsored a golf tournament on 17th June 2017 with the purpose of encouraging cordial relationship between then members and other professionals. The tournament was a successful event.

iii. Nairobi Hospice dinner

Members of the RVLS generously contributed toward the sponsorship on the Nakuru Hospice responsible for taking care of the cancer patients. The contribution by the members was presented to the Hospice Board of Directors on 30th June 2017 during a dinner hosted by the Hospital.

iv. Carol service

The Council hosted the members for a Christmas carol service which was conducted at the ACK the Good shepherd Nakuru. The same was conducted on the 8TH day of December 2017

v. End of the Year Cocktail

On 15th December 2017 the Council hosted members for an end of year cocktail party at the Rift Valley Sports Club. The members had the opportunity to interact with each other as well as other visitors who graced the occasion.

vi. Solai Dam Victims

The members of the Rift Valley Law Society played an important role in providing financial and material support to the victims of Solai dam.

vii. Home coming party for Advocate Benhard Kipkoech Ngetich.

On 26th may 2018, the members had the honor of being hosted for lunch by Mr. Benhard Kipkoech together with the Council and the members had a chance to interact mingle and unwind from the pressures of work. The members also got to interact with the president of the Law Society Mr. Allen Gichuhi and Professor Tom Ojienda who made the occasion bubbly.

Annual General Meeting 2018

The Rift Valley Law Society held its AGM on the 9th of June 2018 at the Rift Valley Sports Club. Election of new branch executive members was conducted at the same day through secret ballot and the following were duly elected;

- **Chairman** - Mr. John Ochang' Ajigo
- **Vice president** - Mr. Harold Mbatia
- **Secretary** - Mr. Steve Odhiambo Opar
- **Treasurer** - Ms. Caren Lagat

Branch Executive Members

1. Mr. Sam Omiti
2. Mr. Anthony Musili
3. Ms. Sheila Sabaya
4. Ms. Lucy Karuga
5. Ms. Imelda .N. Wanjau
6. Mr. Charles Tombe

The new Branch Executive held their first meeting at the Rift Valley Law Society secretariat on 21st June 2018 and in that inaugural meeting the executive took decisions and came up with the Branch budget and activities of the year.

a) Branch engagements with stake holders

Branch Executive Bar -Bench meetings

Throughout the year the branch executive had various meetings with various divisions of Court for example; the Environment and Land Court Division

- Family and Probate Division
- Conveyancing and Commercial Division
- Employment and Labor Relations Court
- Family Division
- Civil Litigation Division
- Criminal Justice Division

Employment and Labour Relations Court Bar Bench Meeting

In this meeting the Honorable Lady Justice Monica Mbaru discussed with the members who mostly practice in the Court the rule of practice before the court. It was an interactive session in which members went through the Court rules to familiarize themselves with the rule with a view to ensuring smooth practice in the Court.

Generally speaking in all these Bar Bench meetings the Bar and the Bench discussed elaborately matters of practice in various divisions and came up with proposals and resolutions for the day to day operations and practice in those divisions with a view to identifying emerging issues and finding possible solutions for a smooth practice environment.

Legal awareness Week

The Rift Valley Law Society participated in the national legal awareness week that was held from 24th to 28th September 2018 at the Nakuru High Court premises.

During this period members of the RVLS volunteered their time out of their busy schedule for the entire week to offer free legal services to the citizens who sort legal advice.

The legal awareness week was conducted in Nyahururu law courts, Kericho law Courts and Narok law Courts under the supervision of the RVLS Executive and by the end of the exercise more than five hundred Kenyans with diverse legal issues benefited from free legal services offered by the members of RVLS.

Members' Welfare Activities

Inter-Branch Golf Tournament

In conjunction with the Nakuru golf club the Rift Valley Law Society sponsored a golf tournament at the Nakuru Golf Club on the 17th November 2018 whose aim was to foster and cultivate partnerships between legal practitioners and other members of the public with a view to encouraging nation building initiatives.

The tournament attracted participants from the branch chapters, the golf fraternity in Nakuru and participants from other branches including Mombasa Law society.

The very successful tournament marked the first of its kind in the LSK inter branch golf activities and in the end the RVLS was awarded a Certificate of appreciation and recognition

Interactive Members' dinner

The Rift Valley Law society organized a members' interactive dinner on the 12th October 2018 at the Rift Valley sports club attended by overwhelming majority of the young lawyers together with a number of senior Members of the Bar . This dinner was aimed at affording members of the RVLS an opportunity to interact freely and learn from each other's experiences.

During the same period Professor Tom Ojienda and Mr. Caleb Nyamwange gave a key note address after which they fielded a variety of questions from the members especially the young advocates in the spirit of mentorship and capacity building.

A visit from the National Office Council

The Rift Valley Law Society hosted the Law Society of Kenya National Council led by President Allen Gichuhi and vice president Ms. Harriet Chiggai at the Sarova woodlands on the 19th of October 2018. This was in tandem with the national office visit to the branches. The well attended dinner was also graced by the Mount Kenya Branch Executive led by the then chairman Mr. Gilbert Ombachi .

Carol service

The Rift Valley Law Society in conjunction with the Christian Lawyers Association organized and hosted the RVLS members for a Christmas carol service graciously held at the ACK Cathedral Church of the Good Shepherd Nakuru. The event which was held on the 7th day of December 2018 was attended by the law students from the Kabarak and Egerton University together with a praise and worship from the Kabarak University.

Mr. Peter Waiyaki, advocate from the association of Christian lawyers was the guest speaker under the theme psalms 150; Thanks Giving.

The collections from the service were channeled to the Nakuru women's prison to support the mothers with children in prison at the Nakuru G.K prison.

End year party

The Rift Valley Law Society branch executive hosted members for an end year party on the 8th of December 2018 at the Nakuru Athletics Club. The end year party was attended by the majority of the members of the Branch. Members shared ideas, prayers and aspirations for the New Year. In attendance was Mr.Macharia Njeru who attended the event as a meet and greet event in line with his declared interest to run for

the position of the LSK male Representative to the Judicial Service Commission.

WEST KENYA BRANCH

The West Kenya Branch is comprised of Four chapters namely Kisumu, Kakamega, Bungoma and Busia. The Chairman of the Branch is Samuel M. Onyango having been duly elected to the office by the members. The elected officials for the Branch are;-

- | | |
|-------------------------|----------------------|
| 1. SAMUEL M. ONYANGO | CHAIRMAN |
| 2. PETER M. SAMBA | VICE CHAIRMAN |
| 3. VERA KEMUNTO ONSONGO | TREASURER |
| 4. RAUTO SUSY EKESA | ORGANISING SECRETARY |
| 5. CHARLES M. MATETE | MEMBER |
| 6. EDWARD M. WAKHUMBA | MEMBER |
| 7. FAUSTINE ATIENO | MEMBER |

The current leadership assumed office on the 3rd day of February 2018.

The chapters held their elections respectively and elected their leaders as follows;-

1. Kisumu Chapter

Kisumu Chapter held their elections on 10/4/2018 and the following members were elected as the chapter officials.

- | | |
|-------------------------|-----------------|
| 1. ODENY BRUCE ODIWUJOR | CHAIRMAN |
| 2. OTIENO JOAN NETO | VICE CHAIRMAN |
| 3. ARIHO NGUNDU | SECRETARY |
| 4. SELINE ADWAR | ASST. SECRETARY |
| 5. KEMUNTO VERA ONSONGO | TREASURER |
| 6. ODINO GLEN ODHIAMBO | ASST. TREASURER |
| 7. INGUTIAH JACQUELENE | MEMBER |
| 8. ABANDE JAMES OCHIENG | MEMBER |
| 9. OMBOTO DOROTHY AWITI | MEMBER |

2. Kakamega Chapter

Elections were held on 23/2/2018 and the following members were elected:-

- | | |
|---------------------------|------------------------------|
| 1. CHARLES MWELESE MATETE | CHAIRMAN |
| 2. MILDRED WANDEMA AKINYI | VICE CHAIRPERSON |
| 3. VICTOR SHIVEGA | ORGANISING SECRETARY |
| 4. HILLARY OBILO | TREASURER |
| 5. MBALILWA GAUDENCIA | YOUNG LAWYERS REPRESENTATIVE |
| 6. NELSON ARWANDA | VIHIGA COUNTY REPRESENTATIVE |

- | | |
|-------------------|---------------------------------|
| 7. OTINGA OCHUME | BUTERE/MUMIAS
REPRESENTATIVE |
| 8. PHILIP MANYONI | BUTALI REPRESENTATIVE |

3. Bungoma Chapter

Elections were held on 21/12/18 and the following were elected as officials:-

- | | |
|----------------------------|----------------------|
| 1. GEORGE MURUNGA | CHAIRMAN |
| 2. DAISY NABALAYO WAKOLI | VICE CHAIRPERSON |
| 3. HAMMERTON MALOBA | SECRETARY |
| 4. EDWARD MUSUMBA WAKHUMBA | TREASURER |
| 5. NOBERT WAHANGA | ORGANISING SECRETARY |
| 6. PAULINE NATWATI | ASS. SECRETARY |
| 7. ANNETTE NYUKURI | CONVENER BAR-BENCH |
| 8. BENJAMIN OTSIULA | CONVENER WELFARE |

4. Busia Chapter

Elections were conducted on 10/4/2018 and the following members were elected as chapter officials:-

- | | |
|-------------------------|-----------|
| 1. ERICK JUMBA | CHAIRMAN |
| 2. CARLISTUS NYEGENYE | SECRETARY |
| 3. DOLLARN NABULINDO | TREASURER |
| 4. BOAZ OTIENO OTANGA | MEMBER |
| 5. WYCLIFFE OUMA OKUTTA | MEMBER |

The current council took over an office that had no laid down structures on mode of operation, no outlined deliverables, disunited membership and some chapters were not active and or operative. The Council's core mandate was to therefore revive and revamp the branch, re-unite its members and help the chapters back on track and make the branch vibrant.

Through various activities carried out in the year 2018, to date, the Branch has been able to re-unite its membership, the non-active chapters have been revived with the chapter chairmen being kept abreast of the ongoing activities at the Branch level. The branch has fully supported the chapters in the running of their activities and has been closely monitoring the operations and progress of the chapters, albeit the minimal funds advanced to it.

Member welfare including benevolent and practice issues have been addressed by the Council. The branch is in active engagement with the bench and a score card has been developed by the chapter chair men in relation to their areas of jurisdiction. The branch through the representation of the chairman and the Treasurer engaged the court of Appeal Judges Kisumu on behalf of the members and arrived at a working plan.

The branch is in the process of setting up a benevolent scheme for the Advocates in the region and the same was ear marked

for fast tracking. The region has lost about 10 (ten) advocates since the current office bearers took over with another good number of members currently undergoing heavy medical bills which keep on escalating on a daily basis. The branch established a committee namely Welfare and benevolence Committee convened by Edward Musumba Wakhumba and deputized by all the chapter chair persons.

The Branch has a fully operational office located at Alpha House, 1st floor, room 13, Oginga Odinga street, Kisumu with one staff i.e the Office Manager with a few office equipment. With part of the devolution funds released, the Branch is in the process of equipping the office with the necessary infrastructure.

The Branch established a mentorship program and in 2018, the branch hosted a mentorship talk in Kisumu which talk was graced by a presentation from Prof. Tom Ojienda, Mr. James Aggrey Mwamu, Mr. Richard Onsongo, Mrs Betty Osuna, Mr. Kevin Osore and Miss. Lorna Odhong. Topics discussed were;- Relevance of East Africa Law Society and opportunities East African Law Society, Professional Ethics and etiquette, need and cohesion in bridging the gap; plight of young lawyers, among others.

The branch organized and held a legal awareness week through the chapters whereby free legal aid was accorded to the public by lawyers drawn from all over the Branch.

Several meetings have been convened to enable the branch meet its obligations and core activities for the year 2018.

On the 3rd day of February 2018, the Council had its first meeting in the office. The Branch Council met with the former officials who officially handed over to the new officials. Most of the documents were handed over a part from the audited accounts. The transition was smooth and based on the documents at hand and the members' views given during the AGM and elections day, the Council quickly strategized on how to deal with the most urgent issues including obtaining audited reports for the period when the outgoing council was in office.

On 26/5/2018, the Council held a meeting with local chairpersons and their organizing secretaries. The branch further held a meeting with members of the devolution committee i.e. Miss Roselyn Odede and Mr. Nyongesa. The meeting acted as the first point of uniting the branch by bringing the chapter leadership together. The disunity was almost palpable with one chapter being unrepresented. Immediate member issues were raised and resolutions made on how to address them. The chapter leaders were taken through the compliance requirements and what was expected

of them. The current state of West Kenya Law Society as at then was discussed at length and a resolution was made that all leaders shall work hard to revive their chapters. Suggestions on issues that would make to 2018 calendar of events in reviving the branch were given.

The Council representatives had an insightful discussion with the branch. They were informed of how the compliance requirements were difficult and almost impossible to meet since most chapters did not have a developed office structure and full time employees due to insufficient funds. The chapters did not have charters and were not able to meet most of the other compliance requirements.

In July 2018, the Branch Council met to address the issue of unaudited accounts. The Council was informed that the branch had not received their allocation because the audit report had not been presented. An auditor was suggested and the fee note presented for approval.

On 25/7/2018, the branch met and had the entire local chapter budget tabled for discussion and consolidation. The budgets were consolidated and formed the basis of the West Kenya Law S budget that was then presented to the National Council.

On 17/9/2018, a meeting was held to establish the progress on compliance by chapters, to assess the preparedness of chapters for legal awareness week, to agree on how to deal with accumulated utility bills, to get the way forward on the office lease that had expired, to be informed of the amount of money received by the branch from the national office and agree on disbursement formula to the chapters.

The monies were disbursed out to the local chapters for the normal running of their activities and for the legal awareness week.

The branch further held a meeting on the 16/11/2018 to establish why it had not received the devolution funds yet, to decide on how to deal with Busia chapter which was still not actively engaged in branch activities and had even returned the two cheques written to them and finally organize a members end year dinner.

Members were notified that the devolution money was withheld due to non-compliance from other chapters and it was resolved that the branch moves ahead with the documents at hand and proceed to have a meeting in Busia with Busia officials and members in Busia to understand their underlying issues and how to deal. End year dinner for members could not be held due to lack of funding. It was agreed that this be deliberated upon and the same be held next year.

The branch also held a council meeting on the 19/12/2018, to assess the branch performance for the year. It was confirmed that the branch had received Kshs. 1000, 000/= for devolution. The branch had performed extremely well on reviving and uniting its membership. Communication forums had been established. The website development was reported to be underway. New office lease had been obtained. Status of Busia being a practice centre and not a chapter was obtained, and Busia members informed accordingly.

The branch was not able to run most of the projected activities in the calendar of events for the year 2018 due to insufficient funds. Most of what the branch received has been utilized towards funding branch activities, and the office manager's salaries.

BRANCH CHAIRPERSONS



Mathew Nyabena
Coast Branch



Zephania Yego
North Rift Branch



Lindah Kiome Gakii
Mt. Kenya



Charles Kanjama
Nairobi Branch



Samuel Onyango
West Kenya Branch



Ochang Ajigo
Rift Valley



Wilkins Ochoki
South West



Justus Mutia
South Easter Branch

PUBLIC INTEREST LITIGATION/COURT CASES

1. PETITION NO. 26 OF 2018 ROSELYNE WAVINYA VS LAW SOCIETY OF KENYA.

The Petitioner moved to court seeking a declaration that Section 18 (2) of the Law Society of Kenya Act No.21 of 2014 is discriminatory and unconstitutional since it offends and contradicts Articles 24 and 27 of the Constitution. Additional orders of injunction to restrain the conduct of the scheduled elections and *mandamus* to compel the Society to accept the Petitioner's Nomination Papers were also sought. The impugned section bars members with less than two (2) years practice from being eligible for electoral positions in the Society's Council. The *Petitioner withdrew the matter after the dismissal of Petition no. 607 of 2017 Nelson Havi vs Law Society of Kenya and Attorney General* which had been founded on similar facts.

Mr. Paul Muite, SC and Mr. Steve Ogolla, Advocate were on record for the Society.

2. PETITION NO. 44 OF 2018 LSK VS INSURANCE REGULATORY AUTHORITY AND 3 OTHERS.

The Law Society moved to court to challenge statutory provisions of **Section 67** of the **Insurance Act** and the almost consistent issuance of moratoriums by courts in favour of unstable insurance companies thereby depriving members of the public, policy holders, creditors and other affected persons the right to access justice, right to a fair hearing and rights to seek the protection of the courts as guaranteed under Articles 48 and 50(1) of the Constitution. The matter was mentioned on 28th February 2018 where Justice Chacha Mwita granted the Respondents 14 days to respond to the Petition and the application for joinder by the intended interested party – Kiki Investment Ltd and Mumbi Holdings Ltd being shareholders of United Insurance. The matter was scheduled for mention on 21st May, 2018 for hearing of further directions.

The matter came up on said date and the court allowed the application for joinder and directed the interested parties to file their affidavits in 10 days. Court further directed the petitioners to file further affidavit and submissions in 10 days. Matter shall be heard on **21st November, 2018**.

Mr. Guandar Thuita, Advocate is on record for the Society.

3. PETITION NO. 148 OF 2014 LSK -VS- ATTORNEY GENERAL (IN THE MATTER (MOTOR VEHICLE, THIRD PARTY RISKS), AMENDMENT ACT 2013.)

Mr. Fred Ngatia, Advocate acting on pro bono basis filed the case on behalf of the LSK pro bono and **Dr. Gibson Kamau Kuria** took over the conduct of the case. Despite representation to Parliament, the President on 24th December 2013 assented to the **Insurance (Motor Vehicle, Third Party Risks), Amendment Bill, 2013** amending the **Insurance (Motor Vehicle Third Party Risks), Act Cap 405** and thereby introducing a schedule of structured payment of compensation under the Act similar to that under the Work Injury Benefits Act; providing a maximum compensation in respect of death or fixed compensation for each body part based on individual income levels, nature and extent of injury sustained; among others. The submissions were filed on 25th September, 2015 and highlighted on 2nd November, 2015. The judgment was delivered on 5th April, 2016 wherein learned judge **Justice Onguto** partially allowed the Petition, declaring **Sections 3(a)** of the Insurance (Motor Vehicle Third Party Risks Amendment Act, 2013 and proviso to **sub-section 1** of **Section 10** unconstitutional, null and void. The learned judge also declared **Section 6** and **sub-section 1A and 1B** of **Section 10** unconstitutional, null and void. The Attorney General appealed and the judgment was delivered on 20th April, 2018 by Judges Visram J, Karanja J and Koome J. The Court of Appeal dismissed the appeal, upheld the lower court's decision in declaring Section 3 (a) and Section 6 of the Amendment Act that sought to introduce the schedule of structured compensation unconstitutional.

4. PETITION NO. 50 OF 2018 WAMBUI SHADRACK KINYANJUI VS LAW SOCIETY OF KENYA AND 3 OTHERS.

The Petitioner has moved to court to challenge the application of Section 22 of the Advocates Act on requisite payments for issuance of practicing certificates by advocates. The Petitioner claims that the fees charged by the Society amounting to **Kshs. 21, 360** for newly admitted advocates are illegal, unreasonable and unconstitutional.

The matter was before court for issuing of directions, it was agreed that the respondents file responses within 14 days. The matter was scheduled for mention on 15th May, 2018. All parties had filed their respective pleadings and hearing was set for 30th October, 2018. However it did not proceed since counsel for the AG was engaged at the Court of Appeal and it was set down for 28th January, 2019 for hearing. Judgment to be delivered on 3rd May, 2019.

Mr. Cohen Amanya, Advocate is on record for the Society.

5. PETITION NO. 36 OF 2018 JACQUELINE OKEYO & 5 OTHERS VS THE ATTORNEY GENERAL AND LAW SOCIETY OF KENYA.

The Petitioners moved to court to challenge the provision in Rule 7 of the Advocates (Senior Counsel Conferment and Privileges) Rules 2011 which states that a criterion for conferment of rank of *Senior Counsel* is an advocate having argued a substantive matter before a superior, regional or international court. The Petitioners argue that the impugned section is inconsistent with Section 17 of the Advocates Act which provides that “the President may grant a letter of conferment to any person of irreproachable professional conduct who has rendered exemplary service to the legal and public service in Kenya conferring upon him the rank and dignity of Senior Counsel.”

The Petitioners argue that the impugned provision discriminates against advocates whose practice of law does not ordinarily involve attending Court to argue matters. The matter came up for highlighting of submissions on 21st March, 2018 before Justice Chacha Mwita. Judgment was delivered on 3rd August, 2018 where he dismissed the Petition. The Petitioners, being dissatisfied with the decision, lodged a notice of appeal but are yet to take any further steps.

Mr. Chacha Odera, Advocate is on record for the Society.

6. PETITION NO. 89 OF 2018 LSK VS DIRECTOR GENERAL COMMUNICATION AUTHORITY, MR. JOE MUCHERU CS ICT, MR. FRED MATIANG’I CS INTERIOR & AG.

The Society moved to court seeking declarations that the decision/action of the Respondents whether jointly or severally to shut down four broadcasting stations of the 1st to 3rd Interested Parties from 30th January, 2018 was ultra-vires, unlawful and a violation of Articles 10, 33, 47 of the Constitution as read with Section 4 and 5 of the Fair Administrative Action Act and section 5A (2) Kenya Information and Communications Act.

The Petition was filed on 14th March, 2018 and mentioned on 21st May, 2018 to confirm compliance of the court’s directions on filing of responses. None of the Respondents had filed their responses and they sought 14 days to comply. Court was of the view that the Petitioner should file its submissions even if Respondents haven’t filed their responses. The Petitioner would thereafter be at liberty to file supplementary submissions.

Hearing was fixed for 19th November, 2018 but did not proceed. The 1st Respondent filed their response to the petition and requested for 7 days to file submissions. The matter was set down for hearing on 18th February, 2019.

Mr. Nani Mungai, Advocate and **Ms. Julie Soweto, Advocate** are on record for the Society.

7. JR NO. 686 OF 2017 PARLIAMENTARY SERVICE COMMISSION (PSC) VS SALARIES AND REMUNERATION COMMISSION (SRC).

The Parliamentary Service Commission moved to court seeking Judicial Review orders of *Certiorari* to quash the decision of the Salaries and Remuneration Commission contained in *Gazette Notice No. 6517* of 7th July, 2017. The Gazette Notice reviewed downwards the salaries and allowances of state officers in the Senate and National Assembly serving in the 12th Parliament. The Law Society applied and was enjoined as an Interested Party in the suit due to the public interest nature of the matter.

The applicant (PSC) was granted leave to apply for an order of *Certiorari* to quash the decision of the Respondent (SRC) contained in *Gazette Notice 6517* pending hearing and determination of the matter. The said leave, granted by Justice Odunga, applied as a stay of the implementation of the decision of the Respondent. The matter came up for directions on 22nd January, 2018 and was scheduled hearing on 20th March, 2018 but **Justice Odunga** was moved to Machakos. The matter will be mentioned on 17th May, 2018 in Machakos. Judgment was set down for delivery on 18th October, 2018 but was delivered on 10th December, 2018 with **Hon. Justice Odunga** issuing an order of *Certiorari* bringing into this Court the decision by the Respondent contained in *Gazette Notice No.6517* published on 7th July, 2017 for the purposes of being quashed.

Advocates **Mr. Nzamba Kitonga, SC**, **Ms. Edinah Arati**, and **Mr. Paul Ogendi** are on record.

8. Misc. CRIMINAL APPLICATION NO. 57 OF 2018 MIGUNA MIGUNA VS DPP, DCI & 2 OTHERS.

The Society applied to be joined as an Interested Party in the suit after the Respondents failed to comply with a court order to release the applicant on bail and to present him in Court on 5th February, 2018. **Hon. Justice Kimaru** thereafter ordered that the Respondents personally appear before him to answer to the contempt of the issued orders aforementioned.

Thereafter, on 15th February, 2018 **Hon. Justice Kimaru** issued the following orders that-;

- i. The declaration issued by CS Ministry of Interior on 6th February, 2018 is null and void because it was issued in contempt of court.
- ii. The valid Kenyan passport of the applicant be surrendered to the Deputy Registrar by the Director of Immigration within seven days.
- iii. The second and third Respondents to issue written undertakings that they shall comply and give effect to the orders of the court.

The Respondents appealed against the decision by **Hon. Justice Odunga** delivered on 28th and 29th March 2018, in which they were found guilty of contempt of court for failing to comply with orders issued by **Hon. Justice Kimaru** above. The matter was scheduled for mention on 28th June, 2018 but was taken out of the cause list until a more convenient date for the Court is taken.

Mr. Haroun Ndubi, Advocate and **Mr. Stephen Ongaro, Advocate** are on record for the Society.

9. PETITION NO.1178 OF 2007 INVESCO ASSURANCE CO. LTD VS THE COMMISSIONER OF INSURANCE AND 3 OTHERS.

Invesco Insurance initiated the proceedings herein seeking, inter alia, a declaration that the enforcement of decrees held by third parties in ancillary suits would contravene its rights under Sections 70(a) (c), 75(1) (3) (6) and 76(1) of the repealed Constitution. When the petition came up for hearing on 22nd June, 2010, a Consent was recorded whose effect was to exclude the enforcement some decrees held by third parties in the said ancillary suits.

Later, the Commissioner of Insurance applied and succeeded in setting aside the Consent Order on the ground that it was binding on parties that were not represented in the Petition. The Petition is thus supposed to be heard afresh but in the meantime Invesco Insurance has sought to amend it since it was filed under the repealed Constitution.

The Matter was mentioned on 18th December 2017 for further directions and thereafter scheduled for a further mention on 20th March, 2018 to obtain directions on hearing of the Petition. The Court fixed the Petition for hearing on 31st July, 2018 to allow the Petitioner to file their amended Petition. The Petitioner was granted leave to file an Amended Petition within 14 days and the matter fixed for hearing on 11th December, 2018. The Judge thereafter directed that the matter be heard on 18th December, 2018 to take a judgment date.

However, Justice Chacha Mwita directed that the Petitioner files a bundle containing the Petition and all Further Affidavits in support thereof for expediency. The matter was set down for a mention on 19th February, 2019 for confirmation of compliance and taking of a judgment date.

Mr. Steve Luseno, Advocate of **Messrs Majanja Luseno and Co.** is on record for the Society.

10. PETITION NO. 106 OF 2018 LSK VS SPEAKER NATIONAL ASSEMBLY, ATTORNEY GENERAL.

The Law Society moved to court to challenge the purported appointment by the President of the 1st Interested Party – Hon. Justice Mohammed Warsame, as a member of the Judicial Service Commission. The Petition also sought to prohibit the scheduled vetting of the 1st Interested Party, by the 1st Respondent as a member of the Judicial Service Commission contrary to Article 171(2) (c). The Petition also questioned the constitutionality of Section 15(2) of the Judicial Service Act to the extent that that provision purports to give the President powers to nominate persons elected to be members of the Judicial Service Commission under Article 171(2)(b), (c), (d) and (f). Such persons under Article 171 (2) (b), (c), (d) and (f) are elected by various entities to the Commission and are therefore not subjected to nomination/appointment by the President and subsequently, Parliamentary vetting.

The matter came up for mention on 4th April, 2018 before Hon. Justice Chacha Mwita and he directed that the matter, together with a similar matter - **Petition No. 119 of 2018 Samuel Njuguna vs Attorney General, Judicial Service Commission and the National Assembly** be mentioned on 15th May, 2018 for directions. The two matters were consolidated, heard and judgment rendered on 6th July, 2018. Justice Chacha Mwita agreed with the Society and made the following Orders;-

1. A declaration is hereby issued that Justice Mohammed Warsame, the 1st Interested Party herein, having been elected by Judges of the Court of Appeal as a member of the Judicial Service Commission in accordance with Article 171 (2) (c) as read with section 16 of the Judicial Service Act, is not subject to approval by the National Assembly under Article 250 (2) of the Constitution.

2. An order is hereby issued invalidating the purported nomination by the President of Justice Mohammed Warsame as a member of the Judicial Service Commission and forwarding his name to the National Assembly for approval and any subsequent decision by the National Assembly in that regard.
3. A permanent injunction is hereby issued prohibiting the National Assembly from vetting or approving Justice Mohammed Warsame as a member of the Judicial Service Commission.

Mr. Lempaa Suiyanka, Advocate and **Mr. Hassan Mohamed, Advocate** were on record for the Society.

The Speaker of the National Assembly has since filed a Notice of Appeal. **Mr. Ochiel Dudley, Advocate** filed a Notice of Address for purposes of representing the Society.

11. PETITION NO. 77 OF 2018 CHARLES KANJAMA VS LSK AND A.G.

The Petitioner, Mr. Charles Kanjama, Advocate moved to court seeking an order of prohibition to restrain the Law Society from remitting Kshs. 4,000 collected from members in favour of the East Africa Law Society pending deliberation of the Petitioner's Notice of Motions dated 27th February, 2019 at the Ordinary General Meeting of 24th March, 2018.

The Petitioner also seeks a declaration to have his motion to create a Devolution Fund deliberated upon, considered and voted on by members of the Law Society at the Ordinary General Meeting to be held on 24th March, 2018.

The Petitioner's motion was deliberated upon and issues settled during the aforementioned AGM thus the substance of the suit is essentially spent. **Mr. Cohen Amanya, Advocate** was on record for the Society.

12. CONSTITUTIONAL PETITION NO. 87 OF 2017 KENYA HUMAN RIGHTS COMMISSION VS THE ATTORNEY GENERAL AND ANOTHER.

The Petitioner (KHRC) moved to court to seek interpretation of certain Sections of the Contempt of Court Act – Sections 9, 10, 19, 30 and 35 and a declaration of the unconstitutionality of those sections. The Respondent had been given 14 days to file and serve a response to the Petition which is yet to be done. The matter was listed for mention for further directions on 4th December, 2017. The Law Society has been enjoined as an Interested Party, with **Mr. Stephen Ongaro, Advocate** on record. The matter came up for hearing on 16th May, 2018 and judgment was delivered by **Hon. Justice E. C Mwita** on 9th November, 2018 who agreed with the Petitioner and ordered as follows;

1. A declaration that Sections 30 and 35 of the impugned Act are inconsistent with the Constitution therefore null and void.
2. A declaration is hereby issued that the entire Contempt of Court Act No. 46 of 2016 is invalid for lack of public participation as required by Articles 10 and 118 (b) of the Constitution and encroaches on the independence of the judiciary.

13. MISC. CIVIL APPLICATION NO. 159 OF 2018 LSK VS NHIF BOARD OF MANAGEMENT AND NHIF CEO.

The NHIF Board, through its Chief Executive Officer issued a directive/notice that it shall no longer recognize and accept Affidavits commissioned by qualified Advocates showing proof of marriage. This therefore has led to such Affidavits being rejected unless they have been commissioned by Magistrates.

The LSK moved to court to seeking Judicial Review Orders of *Certiorari* to quash that directive, *Mandamus* to compel the Respondents to accept Affidavits of marriage commissioned by advocates and Prohibition forbidding the issuance of further similar unlawful orders. **Justice Mativo**, on 16th April, 2018 issued the following orders -;

1. Leave be and is hereby granted to the applicant to apply for Judicial Review, leave herein granted shall operate as stay of the notice/directive dated 22/2/2018 issued by the 1st Respondent pending the hearing and determination of the JR proceedings.
2. Mention for further directions on 2nd May 2018.

The case was mentioned on 25th July, 2018 for further directions possibly to agree on a hearing date. The applicant (LSK) was given 21 days to file submissions and serve the Respondents. The Respondents were also given 21 days after date of service to file their submissions (and, also confirm the filing of their responses from the registry).

The matter will be mentioned on 11th November, 2018 for highlighting or to take a judgment date. It was instead mentioned on 16th November, 2018 and a date fixed for mention for highlighting submissions on 17th December, 2018. Judgment was reserved for 7th March, 2019.

Mr. Paul Ogendi, Advocate is on record for the Society.

14. CONSTITUTIONAL PETITION NO. 144 OF 2018 LAW SOCIETY OF KENYA – VS – THE ATTORNEY GENERAL, PRINCIPAL SECRETARY MINISTRY OF LANDS, CABINET SECRETARY MIN. OF LANDS & ANOTHER.

On 4th April, 2018 the Principal Secretary for the Ministry of Lands issued a Public Notice on processing and registration of land transactions effectively discontinuing manual transactions at both Nairobi and Central registries. The Notice also effectively obliges all users to use electronic means for land transactions including applications for registrations of instruments. The Society through **Mr. Duncan Anzala, Advocate** moved to court challenging the propriety and implementation of the said Notice.

The Petition was certified urgent on 17th April, 2018 and **Lady Justice A. Okwany** issued the following orders -;

1. A conservatory order in the nature of an injunction is issued restraining and staying the 2nd and 3rd Respondents from implementing electronic filing of conveyancing documents as per the Notice on e-filing dated 4th April, 2018.
2. The Petition and the Application be served upon the Respondents within 7 days.
3. The matter be mentioned on 2nd May, 2018 for further directions.

On said date **Mr. Anzala, Advocate** informed the Court that there were two other applications pending -:

1. An application by the 1st to 3rd Respondents seeking to review the conservatory orders issued; and
2. An application by Consumer Federation of Kenya (COFEK) to be enjoined in the suit as an Interested Party.

The Judge allowed the request made by parties for more time to engage in negotiations towards a settlement and issued the following directions, that by consent -:

1. COFEK be enjoined as an Interested Party,
2. The Case be mentioned on 9th May, 2018 to confirm if parties had reached a settlement and for directions; and
3. Interim orders be extended till then.

A Consent was filed in court on 22nd May, 2018 to the effect that -:

1. The 3rd Respondent do establish within seven days an all-inclusive Taskforce comprising of representatives of all relevant stakeholders to develop guidelines for implementation of the electronic land transactions.
2. Specific processes shall continue to run electronically.
3. Applications for registration, transfer, charge, lease, caution/caveat, court orders, consent etc shall run concurrently on electronic and manual form.
4. Members of the Petitioner be granted unfettered access to the physical copies of land records.
5. A mentioned is set for 30 days for further orders.

On 6th June, 2018 the matter came up for mention with a view to having the Consent filed on 22nd May, 2018 adopted however, the National Land Commission opposed its adoption on the ground that the Ministry of Lands had usurped some of its mandates. The Court declined to adopt the Consent and directed that the Commission and Ministry of Lands hold further negotiations.

The matter was scheduled for 25th June, 2018 to confirm whether an agreement has been reached. In the interim, Court directed that if there will be no agreement -:

1. The Petitioner files and serves submissions to the Petition within 10 days;
2. The Respondents and Interested Party files and serves submissions within 14 days
3. Interim orders be extended.

The matter was mentioned on 26th September, 2018 to confirm status of progress of the Taskforce. It was confirmed before Court that the Taskforce had been gazetted and had begun executing its mandate before the rules are subjected to public participation. Court directed that the matter be mentioned on 4th December, 2018 to review progress.

15. PETITION NO. 113 OF 2018 FRANCIS MUIRUI KIMANGI VS COUNCIL OF LEGAL EDUCATION AND LAW SOCIETY OF KENYA.

The Petitioner, an advocate admitted to the Rwandan Bar on 12th January, 2017 sought clearance for admission to the Kenyan Bar. However, his application was denied by the 1st Respondent (CLE) because his academic qualifications are not recognized and do not conform with Regulation 7 of the Legal Education (Accreditation and Quality Assurance) Regulations, 2016. The Petitioner seeks Judicial Review Orders of *Certiorari* to quash the decision to reject his application and *Mandamus* to compel the Respondents to clear him for admission. The matter was coming up for directions on 5th April, 2018 and was set down for mention on 3rd July, 2018

However, the Judge was not sitting on said date and the Petitioner is yet to fix another date at the registry.

Mr. Cohen Amany, Advocate is on record for the Society.

16. HIGH COURT CRIMINAL CASE NUMBER 75 OF 2011 – R VS MOHAMMED ISMAEL MADLEY & 3 OTHERS (MURDER OF LAWYER ANTHONY NAHASHON NGUNJIRI).

The matter came up for hearing on 22nd January, 2018 before **Justice Wakiaga**. However, it did not proceed since counsel for the 1st and 2nd accused persons was handling an election petition in Migori and counsel for the 3rd and 4th accused persons was unwell. Prosecution was however ready to proceed with one witness who is a firearm's officer. The matter was adjourned and another hearing date given on the 20th and 21st February, 2018.

However it did not proceed on 20th February, 2018 because the Judge (Wakiaga, J) was writing a judgment for an election Petition that was due. The matter was subsequently adjourned to 17th and 18th April, 2018 where Counsel for the accused persons concluded their cross-examination. Court directed that the two remaining witnesses be heard on the 28th June, 2018.

The two witnesses were heard on said date before court directed that the proceedings be typed and the prosecution to confirm closing of case. The matter was given a further date on 15th November, 2018 for hearing and highlighting of submissions and hearing set for 14th February, 2019.

Mr. Joel Mbaluka, Advocate is on record for the Society and the deceased's family.

17. CONSTITUTIONAL PETITION NO. 311 OF 2016 LSK, BRIAN NZENZE AND ERICKSON ALUDA VS THE A.G, DPP AND IG POLICE.

In the exercise of its mandate under Section 4 of the Law Society of Kenya Act 2014 and on the premise of Article 22 (2) of the Constitution, the Society moved to Court seeking orders of ***habeas corpus*** for the production of the 2nd and 3rd Petitioners who had allegedly been arbitrarily arrested by Administration Police officers on 1st, June, 2016. The Petitioners also sought an order of compensation and reparation for violation of the 2nd and 3rd Petitioner's rights under Article 29 of the Constitution. The 2nd and 3rd Petitioners (a pillion passenger and a *bodaboda*/motorcycle operator respectively) were allegedly arrested by three Administration Police officers on the said date around Kawangware area in Nairobi. Efforts by their immediate families to locate their whereabouts were fruitless despite repeated searches at various police stations, chief's camps, hospitals and the City mortuary leading to them recording statements and thereafter filing this instant Petition in the High Court's Constitutional and Human Rights Division.

On 13th April, 2018 **Hon. Justice Edward Muriithi** acceded with the Petitioners and made the following orders:-

1. The order of ***habeas corpus*** is declined as there was no evidence of present custody of the 2nd and 3rd Petitioners by the Respondents.
2. That on a balance of probabilities the Court finds that the 2nd and 3rd Respondents were indeed arrested by the three Administration Police Officers on said date and thereafter disappeared in unclear circumstances, which must be investigated and appropriate action taken.
3. The 3rd Respondent is ordered to pay **Kshs. 5,000,000** each to the 2nd and 3rd Petitioners as compensation for breach of their respective rights under Article 29 of the Constitution.
4. A Judicial Review Order of ***Mandamus*** do issue to the 3rd Respondent to investigate the matter and the 2nd Respondent to consider the outcome of the investigations and prosecute accordingly.
5. In recognition of the 2nd Respondent's independence and authority, no orders for prosecution of any persons implicated in the proceedings are made.
6. Costs of the Petition be paid by the 3rd Respondents to the Petitioners.

Mr. Hannington Amol, Advocate and **Mr. Julius Otieno, Advocate** were on record in the matter.

18. PETITION NO. 171 OF 2018 ADRIAN KAMOTHO NJENGA VS REGISTRAR HIGH COURT & 2 OTHERS.

The Petitioner moved to court to challenge the application of Section 13 (1) (b) of the Advocates Act on requirements of admission as an advocate. The Society applied to be enjoined as an Interested Party which application was allowed. The matter will be heard on 26th November, 2018.

Mr. Cohen Amany, Advocate is on record for the Society.

19. PETITION NO 61 OF 2017 LAW SOCIETY OF KENYA VS THE HON. ATTORNEY GENERAL & 2 OTHERS.

The Society moved to court seeking tax exemption since it is a non-profit making organization. The Petition is premised on discrimination. The Respondent was given 14 days to file their response and the matter was set down for highlighting submissions on 13th March, 2018.

The matter was fixed for mention on 4th July, 2018. Court directed the Society to file and serve submissions upon the Respondent within 14 days. Matter was to be mentioned on 10th October, 2018 which was subsequently gazetted as a public holiday so the matter was set down for mention on 20th October, 2018. The Judge having confirmed that the parties had filed their respective submissions, set down the 19th March, 2019 for highlighting of submissions.

Mr. Chacha Odera, Advocate is on record for the Society.

20. CONSTITUTIONAL PETITION NO. 2 OF 2017 LEGAL RESOURCES FOUNDATION TRUST VS THE ATTORNEY GENERAL AND 2 OTHERS.

The Legal Resources Foundation Trust (LRF) filed a suit against the Attorney General, Inspector General of Police and two others against the illegal, unlawful and unfair levying of fees on members of the general public for acquiring or filling statutory P3 Forms to enable access to justice for victims of assault, sexual harassment, violence, torture and police brutality. The LSK, through **Counsel Abubakar Ramadhan**, acting on pro-bono basis, applied to be enjoined as an Interested Party in the matter.

It will be coming up for mention on 11th December, 2017. Upon mention it was listed for 14th March, 2017 where the Attorney General confirmed that they had not filed their replying affidavit and had no intention of doing so. Additionally, the AG raised an issue with the fact that despite the Council of Governors being made party to the suit, the counties were not involved. The court directed that there be substituted service via newspapers and that the parties file their replying affidavits in 14 days. The matter was set for mention on 25th April, 2018 thereafter it came up on the 18th of June 2018 where directions were taken on the petition. Parties are to file their documents within 30 days and mention will be on 25th September, 2018.

The matter came up on 25th September, 2018 but the AG requested for an extension to file their replying affidavit. The Court granted them an extension and set the matter for mention on 6th November, 2018. On said date the AG indicated that the Ministry of Health intends to prepare a policy and there are documents they wish to rely on. Court therefore granted them 14 days to file their replying affidavit. The Petitioner filed their submissions and the LSK was given 14 days to respond to the same.

The matter now has a mention on 17th December, 2018 for purposes of taking a judgment date. On that date the AG served parties with his submissions and replying affidavit. Parties asked for time to peruse and respond. The court set a further mention date on the 5th March, 2019 to confirm filing of responses and to take a judgment date.

21. CONSTITUTIONAL PETITION NO. 226 OF 2018 LSK VS ATTORNEY GENERAL.

In June 2018 the President of the Republic of Kenya signed **Executive Order No. 1 of 2018** which effectively subjected independent constitutional bodies, envisaged under Chapter 15 of the Constitution, to the control and subordination of Government Departments. The Society thus moved to Court to challenge the constitutional validity of that Executive Order, with the following prayers:-

1. A declaration that Executive Order No.1 of June, 2018 is unconstitutional for being inconsistent with and in contravention of Article 2(4), 10, 132(3), 157(10), 249 and 255 in so far as it purports to designate and appoint the Attorney General as Cabinet Secretary while placing under his portfolio the following institutions and agencies:-
 - i. Kenya Law Reform Commission
 - ii. Council of Legal Education
 - iii. Office of Registrar of Political Parties
 - iv. Assets Recovery Agency
 - v. Kenya School of Law
 - vi. Kenya Copyright Board
 - vii. Victims Protection Board
 - viii. Office of the DPP
 - ix. Independent Elections and Boundaries
 - x. Kenya National Commission on Human Rights
 - xi. Commission on Administrative Justice
 - xii. Judicial Service Commission

- xiii. Parliamentary Service Commission
2. A declaration that Executive Order No. 1 is unconstitutional in so far as it purports to designate and assign the CS Ministry of Interior and Government Co-ordination to direct and co-ordinate the National Police Service Commission, a constitutional commission under Article 248 (2).
3. A declaration that Executive Order No. 1 is unconstitutional in so far as it purports to designate and assign the CS Ministry of Treasury to direct and co-ordinate the following;- ;-
 - i. Commission on Revenue Allocation
 - ii. Salaries and Remuneration Commission
 - iii. Controller of Budget
4. A declaration that Executive Order No. 1 is unconstitutional in so far as it purports to designate and assign the CS Ministry of Education to direct and co-ordinate the Teachers Service Commission, a constitutional commission under Article 248 (2).
5. A declaration that Executive Order No. 1 is unconstitutional in so far as it purports to designate and assign the CS Ministry of Public Service, Youth and Gender to direct and co-ordinate the Public Service Commission, a constitutional commission under Article 248 (2).
6. An order of *Mandamus* directed at the President in accordance with Article 132 (3) (c) of the Constitution to appoint, designate or assign a befitting Cabinet Secretary for the implementation of the following Acts of Parliament:-
 - i. Law Reform Act
 - ii. Legal Education Act
 - iii. Kenya School of Law
 - iv. Judicial Service Act
 - v. Kenya National Commisison on Human Rights ACT
 - vi. Victim Protection Act

Conservatory Orders were issued on 27th June, 2018 pending/staying the implementation of the Executive Order No.1 pending hearing and determination of the Petition. The matter came up on 16th July, 2018 before Lady Justice Onkwany for determination and directions on the application by the Gender Commission to join the Petition. Upon concession by the Petitioner, the Gender Commission was joined as an Interested Party.

The matter came up for hearing on 2nd October, 2018 but did not proceed. The Attorney General had not filed a reply and sought fourteen days to file, citing delay in getting instructions. Accordingly, the Court Ordered the AG to file a Replying Affidavit in 14 days, and the Petitioner a similar period to file any Further Affidavit. The matter was set down for hearing on 4th December, 2018 but he Attorney General sought occasion to file submissions in the matter. The Court (Lady Justice Okwany) granted 21 days to do so, and hearing shall now be on 8th March 2019. That was the earliest date available.

In the meantime, the Conservatory Orders continue in force.

Mr. Miller Bwire, Advocate is on record for the Society.

22. CONSTITUTIONAL PETITION NO. 222 OF 2018 LSK VS ATTORNEY GENERAL.

The President of the Republic of Kenya assented into law the Computer Misuse and Cybercrimes Act 2018. There are some controversial sections within that legislation including **Section 14** on unauthorized access which limits the freedom under Article 33 to seek, receive or impart information or ideas. The Act also creates offences that overlap, ranging from: "unauthorised access" (**section 14**); "access with intent to commit further offence" (**section 15**); "unauthorised interference" (section 16); "unauthorised interception" (**section 17**); "computer forgery" (**section 25**) and "computer fraud" (**section 26**).

Section 22 on false publications and **Section 23** on publication of false information limit the freedom of speech and expression of the members of the public by the use of broad and vaguely worded laws that the government can use against its critics and dissenting voices.

The matter came up in court on 1st October, 2018 and was scheduled for a mention on 5th November, 2018 before Justice Chacha Mwita. The matter came up for mention together with Petition 206 of 2018 (Bloggers Association of Kenya v AG). Due to the similarities, the court directed that the LSK Petition be withdrawn and the LSK be joined as 3rd Interested Party to Petition 206 of 2018. Court also directed that the Interested Parties be given 14 days to file and serve responses and submissions to Petition 206 for hearing on 16th March, 2019.

Mr. Waikwa Wanyoike, Advocate and **Mr. Ochieng Dudley, Advocate** are on record for the Society.

23. PETITION NO. 331 OF 2018 KATIBA INSTITUTE & ANOR VS ATTORNEY GENERAL & ANOTHER.

Katiba Institute went to court to challenge executive appointments to various Parastatal boards. The Attorney General instructed the firm of Iseme Kamau and Maema Advocates to represent him as external counsel, an appointment which was immediately objected to by the Petitioners on grounds that the Attorney General is precluded from engaging external counsel.

The Society applied to be enjoined as *amicus curiae* or as an Interested Party as part of execution of its mandate under Section 4 of the LSK Act and additionally due to the fact that the objection relates to practice matters. LSK was enjoined as *amicus* and was directed to file the brief within 14 days. A ruling on the Preliminary Objection to the Attorney General appointing external counsel was to be delivered on 21st September, 2018 but was not ready and was set down for delivery on 16th October, 2018. The Ruling was delivered on 2nd November, 2018 by Hon. Justices W Lesiit, C Mwita and L M Njuguna and dismissed the Preliminary Objection, finding that Section 25 (2) of the Attorney General Act allows the A.G to procure services of persons other than the Solicitor General or subordinate staff to represent his office/national government in litigation. This procurement however must be done in accordance with the stipulations under the Public Procurement and Asset Disposal Act.

The hearing of the main petition was scheduled for 26th October, 2018 but did not proceed since some judges were not available. The hearing was subsequently adjourned to 31st January, 2019 but was then again scheduled for mention on 28th February, 2019 for purposes of taking directions for hearing of the matter. In the meantime parties were directed to file their responses to the petition.

Mr. Tom Macharia, Advocate is on record for the Society.

24. SUPREME COURT APPLICATION NO. 20 OF 2018 LAW SOCIETY OF KENYA VS ATTORNEY GENERAL VS & COTU.

Following the operationalization of the Work Injuries Benefits Act in 2007, the Law Society filed a petition on 14th April, 2008 pursuant to **Section 84** of the former Constitution and **Rule 12** of the Constitution of Kenya (Supervisory Jurisdiction and Protection of Fundamental Rights and Freedoms of the Individual) High Court Practice and Procedure Rules, 2006 contesting the constitutional validity of various provisions of the Act.

Specifically, the Society contended that some nine sections of the Act offended various provisions of the Constitution in the following manner;

- a) **section 7(1)** which compels an employer to obtain and maintain an insurance policy from an insurer approved by the Minister of Labour and Human Resource Development, in respect of such liability as an employer may incur towards employees; and subsection 4 that makes it a criminal offence to fail to obtain and maintain such an insurance cover were said to be contrary to **section 80(1)** of the former Constitution as they deprived the respondents' members of the freedom to take out insurance policies for their employees with any licensed insurance company of their choice; that the obligation imposed on the 1st respondent, to commit additional funds for obtaining and maintaining the insurance policy constitutes a taking of the Petitioner's property, contrary to **section 75(1)** of the former Constitution; and that the criminal offence created by the Act is not a legitimate exercise of the State's police power.
- b) **section 10(4)** of the Act creates liability on the part of an employer "without fault" even where the employee is demonstrated to be at fault; that the section purports to deprive the 1st respondent of its constitutional right to raise the defence that the incident arose from the employee's criminal actions, negligence, or from unauthorized activity; that it violates the employer's entitlement to fair trial in accordance with **section 77(1)** of the former Constitution; and that it authorizes unlawful acquisition of property, contrary to **section 75(1)** of the former Constitution.
- c) **Section 16** of the Act prevents an employee from instituting a court action for recovery of damages in respect of injuries arising from an accident or disease. The 1st Respondent understood this to mean that all court actions which were pending hearing and/or delivery of judgment at the time of the passage of the Act would be adjourned generally and decrees from judgments already delivered could not be executed. As a result, its members whose legal practices depend wholly or substantially on personal injury claims, would be adversely affected.
- d) Section of the Act requires an employee to bring to the attention of an employer and the Director of any occupational accident. **Section 21(1)** which was impugned by the learned Judge does not exist and was not among the sections challenged in the petition.
- e) **section 23(1)** of the Act confers upon the Director of Occupational Safety and Health Services (the Director) the power to make decisions on any claim. In the 1st respondent's view this section seeks to divest judicial powers from the courts and confer them exclusively in the Director in contravention of **section 60** of the former Constitution. In the event an employer fails to provide particulars to the Director he would be liable to a criminal charge. These, the respondent claimed, undermined

sections 60, 77(9) and 77(10) of the former Constitution because judicial power rests with the courts of law, the Director is not “independent and impartial” arbiter.

- f) **section 52(1) and (3)** of the Act requires the Director upon receipt of an objection to give a written answer to the objection, varying or upholding his decision and giving reasons for the decision objected to. The objector is entitled to lodge an appeal to the Industrial Court against the decision of the Director with no corresponding right to the affected person. It was submitted that this amounts to discriminatory treatment contrary to **section 82(1)** of the former Constitution, and finally.
- g) **Section 58(2)** of the Act requires that claims instituted prior to the commencement of the Act were deemed to have been lodged under the Act. The 1st respondent maintained that this provision seeks to take away the right to legal process, in respect of matters covered by the new statute as it seeks to convert suits pending in Court into claims under the Act in contravention of **section 75(1)** of the former Constitution to the extent that it purports to take away property rights, without due process.

For these reasons, the 1st Respondent asked the High Court to declare that all the sections identified in the foregoing paragraphs to be inconsistent with the former Constitution, null and void. The 2nd Respondent applied by chamber summons on 30th April, 2008 to be admitted in the suit as an Interested Party on the basis that it had a public mandate to protect the interests of workers who may be affected by policy making and legislation. Consequently, the 2nd respondent persuaded the Court below that it had compelling case to make in respect of the Act. On the basis of this, the application for joinder was allowed.

The appellant on the other hand denied that the impugned sections of the Act are in violation of the Constitution and argued that they do not breach any of the individual rights enshrined in Chapter V of the former Constitution; that the laws in question are balanced and beneficial to both the employer and employees, in so far as they promote development that is consistent with the fundamental principles and rights at work; cultivate transparent and accountable governance in order to facilitate the expeditious and efficient resolution of labour disputes and minimize the risk of competition; foster accessibility of the labour laws to the social partners; promote freedom of association and the effective recognition of the right to collective bargaining; eliminate all forms of forced or compulsory labour; ensure the effective abolition of child labour; and ensure the elimination of discrimination in employment.

Justice J.B Ojwang proceeded to declare as inconsistent with the provisions of the Constitution **sections 4; 7(1) (2); 10(4); 16; 2(1); 23(1); 25(1) (3); 52(1)(2); and 58(2)** of the Act.

The Appellant (Attorney General) challenged that decision arguing broadly that the learned Judge erred in law in declaring the nine sections of the Act inconsistent with the Constitution. The *Court of Appeal – Justices P. N. Waki, Asikhe-Makhandia and W. Ouko* on 17th November, 2017 allowed the appeal to the extent that they set aside the learned Judge’s orders declaring **sections 4, 16, 21 (1), 23(1), 25 (1) (3), 52 (1) (2) and 58(2)** to be inconsistent with the former Constitution. The result is that only sections 7 (in so far as it provides for the Minister’s approval or exemption) and 10 (4) are inconsistent with the former and current Constitution.

The Society applied to have a Consent Order recorded and adopted allowing an extension of time to file and serve a Notice of Appeal to the Supreme Court and a ruling on the application was delivered on 21st December, 2018. The Court in a unanimous decision allowed the application and granted an extension of time to file and serve the appeal before 4th February, 2019.

Mr. Charles Kanjama, Advocate is on record.

24. CONSTITUTIONAL PETITION NO. 235 OF 2017 EUNICE NGANGA AND ANOTHER AND THE LAW SOCIETY OF KENYA AND TWO OTHERS.

The Petitioners moved to court seeking a declaration that Sections 22(1)(b) and (c), 23 of the Advocates Act, Section 7 Law Society of Kenya Act and Rule 10 and 11 Advocates (CLE) Regulations 2004 be declared unconstitutional and therefore invalid. Their claim was premised on the said Sections contravening Articles 27 and 33 of the Constitution on equality before the law, full and equal enjoyment of all rights and fundamental freedoms and freedom to seek, receive or impart information or ideas and academic freedom.

The matter was mentioned on 5th December, 2017 and the parties are in the process of finalizing submissions and responses. The Response to the Petition was filed and served on 22nd January, 2017 and was set down for hearing on 22nd May, 2018 however our

advocates were engaged in other matters on said date therefore an adjournment was granted and the hearing was rescheduled to 21st November, 2018. Judgment will be delivered on 8th March, 2018.

Mr. Fred Ojiambo, SC, Mr. Charles Kanjama and Mr. Wambua Kilonzo are on record for the Society.

26. CONSTITUTIONAL PETITION NO. 8 OF 2018 DR. PETER MBAE VS NATIONAL ENVIRONMENTAL MANAGEMENT AUTHORITY & 4 OTHERS.

The Petitioner moved to court seeking orders to the effect that an Environmental Impact Assessment and a Social Audit be undertaken on the 4th and 5th Respondents' dams within Patel Farm. This is to be done essentially as a precautionary measure to avoid future calamitous releases from these old dams reminiscent of the unfortunate Solai Dam tragedy of May this year.

The Society is an Interested Party in the matter due to its Public Interest nature. The matter was scheduled for a mention on 17th July, 2018 for directions where court directed that all Respondents together with the Interested Parties file their documents within 14 days and the Petitioner granted leave to file any additional documents.

The matter was coming up for further mention for directions on 15th November, 2018. **Mr. Mackton Wekhomba, Advocate** is on record.

27. CONSTITUTIONAL PETITION NO. 215 OF 2018 ESTHER GATHONI VS DPP, DCI & IG.

The Petitioner, an advocate, moved to Court on grounds of harassment and threats in the discharge of her lawful duties. The Society, by virtue of its mandate under Section 4 of the Advocates Act and since the issues raised in the Petition relate to matters of practice and independence of the legal profession, applied to be an Interested Party. The application dated 24th July 2018 was also allowed by consent of the parties and the LSK became the 4th Interested Party.

The Court, Hon. Lady Justice W. Onkwany, proceeded to make the following directions;

1. The Petitioner to amend and serve the amended Petition within 7 days.
2. The Petitioner's replying affidavit to the application dated 4th July, 2018 was deemed abandoned.
3. The Respondents and the Interested Parties to respond within 14 days of service with corresponding leave to the Petitioner to file a Supplementary Affidavit within 14 days after service.
4. Mention on 31st October 2018 to confirm compliance and for further orders/directions.
5. The interim orders in favour of the Petitioner were also extended.

The matter was mentioned on 31st October, 2018 to confirm the filing of the Affidavits. The court directed that the case be mentioned on 5th December 2018 to confirm the filing of the responses and for further directions.

The matter was mentioned on aforementioned date and the other parties were afforded liberty to file any additional affidavits and submissions before the next hearing date fixed for 8th May, 2019.

Mr. Dennis Muriithi, Advocate is on record for the Society.

28. ELRC NO. 540 OF 2018 NAIROBI ERASTUS GITONGA & 4 OTHERS VS NATIONAL ENVIRONMENTAL MANAGEMENT AUTHORITY (NEMA).

The claimants, all employees of NEMA, moved to the Employment and Labour Relations Court seeking payment of non-practising and prosecutorial allowance. The Society, exercising its mandate under Section 4 of the LSK Act, applied to be enjoined in the matter as an Interested Party due to the nature of the case touching on matters of professional practice and welfare of in-house counsel.

The application was allowed on 3rd December, 2018 and the court observed that since the dispute consisted of purely legal issues, the matter should be canvassed by way of written submissions. The claimants were therefore directed to file their submissions on or before 20th January 2019 while the Respondent and the Interested Party to file their submissions on or before 20th February 2019. The matter will be mentioned on 6th March, 2019 for purposes of confirming compliance and for further directions.

Mr. Elijah Macharia Njeru, Advocate is on record for the Society.

29. PETITION NO. 46 OF 2018 EVERLINE SANDE, MARY WAMBUI AND GEORGE NJOROGE NJOKI VS KENYA URBAN ROADS AUTHORITY AND 7 OTHERS.

The Petitioner moved to court to challenge the proposed resettlement of persons living in Deep Sea informal settlements by the Kenya Urban Roads Authority via *Petition No. 263 of 2018 Everline Sande Ngulam & Others vs Kenya Urban Roads Authority*. The matter was then transferred to the Environment and Land Court Division as the aforementioned petition where LSK was enjoined as an Interested Party due to the public interest nature of the matter.

The matter, before Hon. Lady Justice Loice Komingoi, comes up for delivery of a ruling on 6th September, 2018 for grant of interim conservatory orders staying the implementation and enforcement of the decision made/communicated by the 1st Respondent but it was not ready on said date and it will be delivered on notice.

The Ruling delivery notice was issued for 18th October, 2018 where Lady Justice Komingoi dismissed the application for lack of merit. The hearing of the main Petition is yet to be given a date.

Mr. Luseka Bemih Kanyonge, Advocate is on record for the Society.

30. PETITION NO. 8 OF 2018 KIPKOECH NG'ETICH VS INSPECTOR GENERAL OF POLICE, CS MINISTRY OF TRANSPORT, NTSA, KENHA AND ATTORNEY GENERAL.

The Petitioner, a motorist arrested along Kericho - Nakuru Highway and charged with over-speeding, moved to court seeking redress against what they term as crafted and malicious offences due to improper use of allegedly faulty speed guns by malicious traffic police officers.

The Law Society is an interested party in the matter and it is coming up for hearing on 29th October, 2018 but did not proceed because the judge was away. The matter is scheduled for 11th March, 2019.

Mr. Erastus Orina, Advocate is on record for the Society.

31. PETITION NO. 307 OF 2018 LAW SOCIETY OF KENYA VS ATTORNEY GENERAL, CHIEF JUSTICE OF KENYA.

The Law Society moved to court seeking orders of *Mandamus* directed at the President of the Republic of Kenya, sued through the 1st Respondent (Attorney General), to swear in Hon. Justice Mohammed Warsame (1st Interested Party), who was elected to represent the Court of Appeal in the Judicial Service Commission on 9th March, 2018. However, there has been inordinate delay in gazetting the 1st Interested Party after the President purported to forward his name to the National Assembly for vetting and approval, an action which was challenged in court vide **Petition No. 106 of 2018** consolidated with **Petition No. 119 of 2018** and it was subsequently held that the 1st Interested Party was not subject to Parliamentary approval.

The Petitioner relies on Article 171 (2) (c) of the Constitution and Sections 15 (2) (a) and (b) of the Judicial Service Act which contain provisions on the constitution of the Judicial Service Commission. The matter came up in court on 2nd October, 2018 but the 1st Respondent was yet to enter appearance and file a response to the Petition. Hearing was scheduled for 26th November, 2018 where the AG had filed and served his written submissions and grounds of opposition. The AG mainly raised three issues: that the prayer for mandamus is only limited to claims of violation of the Bill of Rights; that the Petition was *res judicata* the earlier Petition and that the court was incapable of granting any effective relief in the circumstances.

The Petition was then heard to completion and judgment reserved for 18th January, 2019. Hon. Justice E. C Mwita, in his judgment delivered on 18th January, 2018 agreed with the Society and held as follows;

- i. A declaration is hereby issued that the President's failure to appoint the 1st Interested Party as required by section 15 (2) (b) of the Judicial Service Act 2011 is in violation of Articles 1, 2 (1), 3 (1), 10, 47, 73, 75 (1), 131 (2), 132 (4) (a), 171 and 172 of the Constitution and is, therefore, unconstitutional and invalid.
- ii. A declaration is hereby issued that the 1st Interested Party, a state officer elected to serve a second term based on his re-election, is exempted under Section 40 (1) of the Judicial Service Act, 2011 from retaking the oath of office before assuming the office the of Commissioner in the Judicial Service Commission.
- iii. A declaration is hereby issued that the 1st Interested Party, having been duly elected Commissioner of Judicial Service Commission as required by the Constitution and the law, and the President having failed to appoint him in violation of mandatory timelines set by Section 15(2) of the Judicial Service Act, the 1st Interested Party be and is hereby deemed to have been appointed and is at liberty to take his position as a Commissioner of the Judicial Service Commission, representing Judges of the Court of Appeal.

- iv. An order of mandamus is hereby issued compelling the 2nd Respondent and the 2nd Interested Party to take immediate measures and/or steps to enable the 1st Interested Party take office as a Commissioner of the 2nd Interested Party and discharge his constitutional mandate.

Mr. Ochiel Dudley, Advocate is on record for the Society.

32. PETITION NO. 334 OF 2018 LSK VS AG, SPEAKER NATIONAL ASSEMBLY AND COMMISSIONER GENERAL – KRA.

The Petitioner moved to court seeking conservatory orders suspending the coming into force of Sections 13, 32 (b) (i), 32 (b) (ii), 32 (b) (iv), 50, 85 and 86 of the Finance Act and a declaration that the said sections are unconstitutional due to violations of Articles 10, 94, 115, 118 and 201 of the Constitution on principles of public participation, legislative authority of Parliament and openness and accountability in financial matters.

The matter came up on 1st October, 2018 before Justice Chacha Mwita and he directed that the Petition be served on Respondents immediately and responses be filed within 7 days. Petitioner will have 7 days after service to file and serve a supplementary affidavit if any. The matter was set down for directions on 24th October, 2018 and hearing scheduled for 20th November, 2018.

The matter was coming up for hearing of the 1st Respondent's application dated 19th November 2018. The application is to consolidate this Petition with Petition 353/2018 and 366/2018 and stay the consolidated petitions. The Court was informed that in Petition 366/2018 a notice of appeal had been lodged at the Court of Appeal against a ruling issued by the Court, which ruling was yet to be delivered. Hearing of the application was thereafter adjourned to await the ruling from the Court of Appeal and the matter was set down for hearing on 5th December, 2018.

The matter came up for hearing of the 1st Respondent's application dated 19th November 2018. The application is to consolidate this Petition with Petition 353/2018 and 366/2018 which was dismissed by the court for want of merit. Court also ordered parties to comply with directions issued earlier on filing of submissions and marked Petition 437 of 2018 as withdrawn. The Petitioner in the said petition was enjoined as an Interested Party in this petition and the matter was set down for 15th February, 2019 for hearing.

Ms. Mercy Mutemi, Advocate is on record for the Society.

33. HCCC NO. 482 OF 2004 STEPHEN OKERO OYUGI VS LSK & SANJEEV KHAGRAM.

The Plaintiff, a member, sued the Law Society for defamation after the Society allegedly wrote a letter dated 17th March, 2004 addressed to the City Council of Nairobi stating that he did not have a practicing certificate for the years 2003 and 2004. Mr. Kenneth Akide, SC was on record for the Society in the matter but due to potential conflict of interest owing to the fact that he served as a Chairperson for the Society for a term of 2 years, he applied to cease acting via Application dated 22nd October, 2015. The application was allowed on 20th June, 2017.

The parties were scheduled to take down a mention date at the Registry on 25th October, 2018. Court reserved 5th December, 2018 as a mention date and certified the matter as ready for hearing. 11th December, 2018 was set down for a further mention for purposes of setting a hearing date.

Mr. Henry Faraji, Advocate is now on record for the Society.

34. JUDICIAL REVIEW APPLICATION NO. 364 OF 2018 FRANCIS ANDREW MORIASI VS ATTORNEY GENERAL.

The Petitioner has moved to court seeking Judicial Review Orders of Certiorari and Prohibition against Guidelines D, H and L in the Respondents' Circular dated 1st March, 2018 titled 'Guidelines on Provision of Legal Services by the Office of the Attorney General and Department of Justice'.

The matter was mentioned on 21st November, 2018 and court directed that parties file their responses to the Notice of Motion application dated 26th October, 2018 as well as the written submissions which shall be highlighted on 11th February, 2019.

The Law Society is an Interested Party in the suit since it relates to matters of practice and **Mr. Tom Macharia, Advocate** is on record for the Society.

35. PETITION NO. 310 OF 2018 WANGILA WALIAULA VS LAW SOCIETY OF KENYA AND ATTORNEY GENERAL.

The Petitioner moved to court challenging the constitutionality of Section 43 (2) of the LSK Act on eligibility for re-election of

persons who had served in the Council of the Society under the repealed Act as well as introduction of motions that have been unlawfully tabled contrary to Section 16 of the Act.

The Petitioner filed his submissions on 19th November, 2018.

Mr. Nzamba Kitonga, SC is on record for the Society.

36. PETITION NO. 418 OF 2018 PROF. TOM OJIENDA SC VS KRA AND LSK.

The Petitioner moved to court seeking orders to compel the 1st Respondent to issue the Petitioner a tax compliance certificate for the year 2018/2019 and an order compelling the 2nd Respondent to accept the nomination papers of the Petitioner for the position of the Law Society of Kenya male representative to the Judicial Service Commission 2019-2023.

The JSC nominations were set to close 10th December, 2018 and in a ruling delivered by Lady Justice Hon. Wilfrida Okwany, KRA was ordered to immediately issue the Petitioner with the tax compliance his certificate not later than Thursday, 6th December, 2018 pending determination of the case.

The 1st Respondent via an application on 5th December, 2018 appealed to the Court of Appeal to set aside the ruling issued and the consequential orders and be substituted with a judgment dismissing the Petitioner's application for conservatory orders.

Mr. Paul Muite, SC is on record as lead counsel assisted by **Mr. Stephen Mwenesi, Advocate** and **Mr. Olando Olembo, Advocate** on record for the Society.

37. CIVIL APPEAL NO. 426 OF 2018 CIVIL APPEAL 426 OF 2018 A.G VS LSK (APPEAL FROM JUDGMENT OF THE HIGH COURT BARRING NATIONAL ASSEMBLY FROM VETTING JUSTICE WARSAME).

The Respondent (Attorney General), being dissatisfied with the judgment of the High Court in Petition No. 106 and 119 of 2018 lodged an appeal to the Court of Appeal challenging said judgment.

The matter is yet to be given any dates due to the court recess.

Mr. Ochiel Dudley, Advocate is on record for the Society.

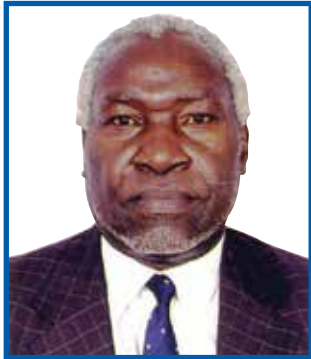
LIST OF DECEASED ADVOCATES IN THE YEAR 2018

	Name of Advocate	P105 No.	Date of Death	Last known Area of Practice
1.	Catherine Karimi Riungu Koyier	7725/09	11-Nov-2017	Nairobi
2.	Ronald Haron Nyabundi	3786/98	12-Nov-2017	Nairobi
3.	Dennis Deus Munene Mwaniki	13258/16	22-Nov-2017	Nanyuki
4.	Judith Achieng Ekin	9530/12	30-Nov-2017	Nairobi
5.	Violet Kadenyi Kibera Kimotho	4232/00	08-Dec-2017	Nairobi
6.	Sarah Jepkosgei Kisang Chesang	3182/96	10-Dec-2017	Nairobi
7.	Rustam Moti Hira	165/56	22-Dec-2017	Nairobi
8.	Munyua Gachomba	777/75	26-Dec-2017	Nairobi
9.	John Kithome Tuta	3315/96	28-Dec-2017	Nairobi
10.	Ngala Kibichy	2089/91	06-Jan-2018	Eldoret
11.	Sobhagchand Hirji Shah	343/61	15-Jan-2018	Nairobi
12.	Daniel Nyarangi Mabera	8931/11	26-Jan-2018	Nairobi
13.	Godfrey Rioba Nyamboga	9390/12	27-Jan-2018	Molo
14.	Dennis Nyangweso Omari	5656/04	01-Feb-2018	Mombasa
15.	Hon. Justice Joseph Louis Onguto	1924/89	01-Mar-2018	Judiciary, Nairobi
16.	Kwame Nkrumah Onyango	4631/01	12-Apr-2018	Nairobi
17.	Samuel Gathungu Mugambi	2911/95	20-May-2018	Nairobi
18.	Henry Kiplagat Koros	6439/06	04-Jun-2018	Eldoret
19.	Lemmy Gacheche wa Miano	2986/96	12-Jun-2018	Kerugoya
20.	Glory Gakii Mwika	12081/16	08-Jun-2018	Nairobi
21.	Aboge Aloys Obunga	1093/80	02-Jul-2018	Kisumu
22.	Kioga M'nkamata Mburugu	674/73	18-Jul-2018	Meru
23.	Mburu Stephen Kariuki	4203/00	27-Jul-2018	Nairobi
24.	Gathirwa John Baptist Solomon	1826/88	18-Aug-2018	Nairobi
25.	Fred Kiveu Namisi	995/78	23-Aug-2018	Nairobi
26.	Anthony Khamati Huka	885/77	28-Aug-2018	Nairobi
27.	David Wainaina Gachuki	1050/79	10-Sep-2018	Nairobi
28.	Hon. Justice Samuel Ndungu Mukunya	929/78	14-Sep-2018	Judiciary, Kerugoya

THE ADVOCATES BENEVOLENT ASSOCIATION

Report of the Board of Management

From 1st October, 2017 to 30th September, 2018



Steven R. Adere
Board Member



Sophie C. Chirchir
Board Member



Janet N. Wekesa
Board Member



Dorcas S. Kitaa
Chairperson



Allen W. Gichuhi
President, LSK (ex-officio)



Harriet Chiggai
Vice President, LSK (ex-officio)



Mercy K. Wambua
Secretary/CEO, LSK (ex-officio)

What We Are

The Advocates' Benevolent Association is an association of Advocates whose objective is to help distressed members of the Association, pay a token of last expenses of deceased members and support the education of children of deceased members subject to limits set by the Board from time to time.

Constitution of the Board:

The Association is managed through a Board of Management consisting of four (4) elected members and 3 Ex-officio members. The Board Members are elected every two (2) years during the Annual General Meeting of the Association

The current office bearers are:

- | | |
|-----------------------------|------------------------|
| a. Dorcas S. Kitaa (Ms.) | Chairperson, |
| b. Steven R. Adere (Mr.) | Board Member |
| c. Sophie C. Chirchir (Ms.) | Board Member |
| d. Janet N. Wekesa (Ms.) | Board Member/Treasurer |

Ex-Officio Members

- | | |
|---------------------------|----------------------|
| a. Allen W. Gichuhi (Mr.) | President, LSK |
| b. Harriet Chiggai (Ms.) | Vice- President, LSK |
| c. Mercy K. Wambua (Ms.) | Secretary/CEO, LSK |

Membership

The membership consists of every Advocate who is a member of the Law Society of Kenya (LSK) by virtue of Section 22 (b) and Section 23 of the Advocates' Act and any advocate admitted to membership by the Board under Rule 16 of the Advocates' Benevolent Association Rules.

As at 30th September 2018, there were **1,140** Active Life Members and **8,382** Active Non-Life Members.

Management of the Association

The Association is managed by a Board of Management, the members of which are elected after every two years during the relevant Annual General Meeting. The Board consists of the Chairperson and three (3) members who assist in the discharge of the Association's mandate. The President, Vice President and Secretary of the LSK are ex-officio members of the Board.

The Board directs investment of income and distributes the funds of the Association. It also deliberates on all applications for relief as well as the eligibility of applicants, the levels of such relief, the mode of affording relief and generally, to conduct the business & operations of the Association. It also has powers to make rules and regulations for the management of the Association. The offices of the Board are based at the Law Society of Kenya Secretariat.

The Association operates on a lean staff of one Programme

Officer and an Accountant (shared with LSK).

Subscriptions

Currently, the annual subscriptions are KShs. 3,500 and KShs. 150,000 for Life Member subscriptions. (This is a one-off payment).

Annual subscriptions are payable in advance by latest 31st January each year upon payment of the annual practicing certificate.

Applications for Assistance

In the Year Ended 30th September, 2018, the Board gave education assistance to the families of Ninety Four **(95) deceased Advocates**. These are:

P:105/998/78	Hawala, Naphtally
P:105/1253/82	Sereje, Lucas Victor
P:105/530/69	Waweru, William Babu
P:105/2420/92	Ochola, James Aloo
P:105/2024/90	Gachora, Samuel Phinehas
P:105/3822/98	Wanambisi, Simiyu R.
P:105/1789/88	Rebiro, James Nganga
P:105/3165/96	Mbaye, John
P:105/2535/93	Musambai, Simon Boze
P:105/3921/98	Bodo, Donald Eugene
P:105/3158/96	Okello, James Ayub
P:105/581/70	Onjala, John Aggrey
P:105/1516/86	Onganga, Jasper Mokaya
P:105/3312/96	Ondimu, Douglas Mosoti
P:105/5104/03	Mwanzia, Augustine Wambua
P:105/1283/82	Kibuthu, Kamau Moses
P:105/1860/88	Kandie, Philip Kimaiyo
P:105/4263/00	Sang, Joel Kimutai
P:105/2629/93	Maari, David Tom
P:105/3524/97	Nyakundi, Samson Mayieka
P:105/4371/00	Nyangwara, Robert Ouko
P:105/4434/01	Mutahi, Joseph Ichau
P:105/2306/92	Momanyi, Washington Omari
P:105/2858/95	Awino, Grace
P:105/5161/03	Wekesa, Domiano Nanyende
P:105/3906/98	Njenga, Steven Njomo
P:105/2508/93	Nyanyuki, Elijah Kefa Ondieki
P:105/2943/95	Nyakeno, Thomas
P:105/2802/95	Mbugua, Robert Mburu
P:105/4814/02	Getembe, Jared Machuka
P:105/1899/89	Mbugua, Samuel Njenga
P:105/4976/03	Maende, Joseph Nangambo Muchinyi
P:105/1614/87	Thiongo, Nganga
P:105/3139/96	Onguso, Gibson Morara

P:105/5234/03	Ogonya, Omondi Stephen
P:105/534/69	Muttu, Kihara
P:105/3407/97	Onditi, Thomas Collins
P:105/1346/84	Ngunjiri, Antony Nahashon
P:105/7389/09	Muhiri, James Wambura
P:105/7537/09	Chebet, Nicholas Chelimo
P:105/3160/96	Okeyo, Griffin Ochieng
P:105/2904/95	Muindi, John Bosco
P:105/3061/96	Bonyo, Peter Onyango
P:105/4357/00	Kariuki, Peter Mundia
P:105/1612/87	Wainana, George Wambuu
P:105/1553/86	Mwangi, Ngugi Muhindi
P:105/2574/93	Chebet, Irene Metto
P:105/5697/05	Watta, Kenneth Omondi
P:105/2505/93	Kimani, Paul Ndumbi
P:105/2887/95	Gitau, James Kariuki
P:105/3218/96	Wanyama, Peter Wanyonyi
P:105/1273/82	Simani, Peter Ldhituachi
P:105/3516/97	Ngetich, Samuel Kipkorir
P:105/2723/94	Kenzi, Munyao
P:105/3143/96	Ouma, Roy Bobby
P:105/7198/08	Ogola, Collins Okoth
P:105/6466/06	Murungi, Dishon Mwiti
P:105/652/72	Kamonde, Geoffrey Harun Muchichu
P:105/3688/98	Minda, Cyrus Onserio
P:105/4033/99	Oruru, Samuel Erastus
P:105/5856/05	Kurgat, Job Kiplagat
P:105/2596/93	Muthusi, Charles Kioko
P:105/5212/03	Oriaro, Geoffrey
P:105/6566/07	Odhiambo, Antony Shem Otieno
P:105/5690/05	Mbaabu, Robert Mugambi

P:105/6176/06	Miso, Janice Cherop
p:105/3336/97	Michael, Wandera Wanjala
P:105/8148/10	Okindo, Douglas Obed
P:105/4101/99	Ongechi, Danvas Abere
P:105/8677/11	Mumia, Gladwell Vurakwa
P:105/2820/95	Raha, Jilo Mwambela
P:105/8201/11	Nyawira, Grace Wangari
P:105/2969/95	Kioko, Joshua Kiume
P:105/3073/96	Amusavi, David Kahi
P:105/4717/01	Lubya, Ronald Joseph
P:105/6699/07	Mokua, Jared Ratemo
P:105/3880/98	Kariuki, Francis Gichure
P:105/1478/85	Maosa, Thomas Maranga
P:105/3838/98	Ndungu, Alex Karanja
P:105/2507/93	Calvin Onyari Samba
P:105/3889/98	Titus Muthui Kimani
P:105/3520/97	Nduati March Charagu
P:105/4876/02	Khaminwa, Albert Shihemi
P:105/5929/05	Cheptanui, Elizabeth
P:105/7725/09	Riungu, Catherine Karimi
P:105/806/76	Okwach, Joe Wandago
P:105/2089/91	Ngala, Kibichy
P:105/7555/09	Miencha, Richard Oigoro
P:105/1924/89	Onguto, Joseph Louis Omondi
P:105/9390/12	Rioba, Godfrey Nyamboga
P:105/6439/06	Kiplagat, Henry Stanley Koros
P:105/4631/01	Onyango, Kwame Nkrumah
P:105/2986/96	Miano, Gacheche Wa
P:105/1093/80	Aboge, Aloys Obunga
P:105/4203/00	Mburu, Stephen Kariuki

Twenty Eight (28) Advocates passed away in the Year 1st October, 2017- 30th September, 2018. These Advocates are:

	Name of Advocate	P105 No.	Date of Death	Last known Area of Practice
1.	Catherine Karimi Riungu Koyier	7725/09	11-Nov-2017	Nairobi
2.	Ronald Haron Nyabundi	3786/98	12-Nov-2017	Nairobi
3.	Dennis Deus Munene Mwaniki	13258/16	22-Nov-2017	Nanyuki
4.	Judith Achieng Ekin	9530/12	30-Nov-2017	Nairobi
5.	Violet Kadenyi Kibera Kimotho	4232/00	08-Dec-2017	Nairobi
6.	Sarah Jepkosgei Kisang Chesang	3182/96	10-Dec-2017	Nairobi
7.	Rustam Moti Hira	165/56	22-Dec-2017	Nairobi
8.	Munyua Gachomba	777/75	26-Dec-2017	Nairobi
9.	John Kithome Tuta	3315/96	28-Dec-2017	Nairobi
10.	Ngala Kibichy	2089/91	06-Jan-2018	Eldoret
11.	Sobhagchand Hirji Shah	343/61	15-Jan-2018	Nairobi
12.	Daniel Nyarangi Mabera	8931/11	26-Jan-2018	Nairobi

Name of Advocate	P105 No.	Date of Death	Last known Area of Practice
13. Godfrey Rioba Nyamboga	9390/12	27-Jan-2018	Molo
14. Dennis Nyangweso Omari	5556/04	01-Feb-2018	Mombasa
15. Hon. Justice Joseph Louis Onguto	1924/89	01-Mar-2018	Judiciary, Nairobi
16. Kwame Nkrumah Onyango	4631/01	12-Apr-2018	Nairobi
17. Samuel Gathungu Mugambi	2911/95	20-May-2018	Nairobi
18. Henry Kiplagat Koros	6439/06	04-Jun-2018	Eldoret
19. Lemmy Gacheche wa Miano	2986/96	12-Jun-2018	Kerugoya
20. Glory Gakii Mwiki	12081/16	08-Jun-2018	Nairobi
21. Aboge Aloys Obunga	1093/80	02-Jul-2018	Kisumu
22. Kioga M'nkamata Mburugu	674/73	18-Jul-2018	Meru
23. Mburu Stephen Kariuki	4203/00	27-Jul-2018	Nairobi
24. Gathirwa John Baptist Solomon	1826/88	18-Aug-2018	Nairobi
25. Fred Kiveu Namisi	995/78	23-Aug-2018	Nairobi
26. Anthony Khamati Huka	885/77	28-Aug-2018	Nairobi
27. David Wainaina Gachuki	1050/79	10-Sep-2018	Nairobi
28. Hon. Justice Samuel Ndungu Mukunya	929/78	14-Sep-2018	Judiciary, Kerugoya

The number of children who were brought under the Education Assistance Program from these Deceased Advocates are Twenty Eight (28) (see list below). There are some families who are yet to apply for assistance, others who see no need of applying for assistance, others who opt out of applying for assistance, whereas others did not have any school going children.

	Name of Child	Name of Parent
1.	Koyier, Nikita Sally Akinyi (Deceased)	Catherine Karimi Riungu Koyier
2.	Koyier, Derall Odhiambo	Catherine Karimi Riungu Koyier
3.	Ngala, Shalom Mercy	Ngala Kibichy
4.	Ngala, Ephraim Kiboi	Ngala Kibichy
5.	Ngala, Abigael Chebet	Ngala Kibichy
6.	Nyamboga, Shabana	Godfrey Rioba Nyamboga
7.	Maikara, Austine	Godfrey Rioba Nyamboga
8.	Onguto, David Rudyard	Hon. Justice Joseph Louis Onguto
9.	Onguto, Louisa Atieno	Hon. Justice Joseph Louis Onguto
10.	Onguto, Walter Akoth	Hon. Justice Joseph Louis Onguto
11.	Onyango, Samara Suzanne Mbele	Kwame Nkrumah Onyango
12.	Onyango, Cindy-Ashley Atieno	Kwame Nkrumah Onyango
13.	Onyango, Zehna-Tara Akinyi	Kwame Nkrumah Onyango
14.	Onyango, Imani Kaluu	Kwame Nkrumah Onyango
15.	Gathungu, Muthoni Sandra Elon	Samuel Gathungu Mugambi
16.	Gathungu, Mugambi Githinji	Samuel Gathungu Mugambi
17.	Koros, Lydia - Trina Chepchirchir	Henry Kiplagat Koros
18.	Koros, Shalom Jepakalya	Henry Kiplagat Koros
19.	Koros, Meek Jebet	Henry Kiplagat Koros
20.	Gacheche, Optasia Waruguru	Lemmy Gacheche wa Miano
21.	Gacheche, Duncan Miano	Lemmy Gacheche wa Miano
22.	Aboge, Sandra Sarah Akinyi	Aboge Aloys Obunga
23.	Aboge, Joseph Aboge	Aboge Aloys Obunga
24.	Aboge, Aloys Obunga Aboge Junior	Aboge Aloys Obunga
25.	Kariuki, Michelle Wangari	Mburu Stephen Kariuki
26.	Kariuki, Emmanuel Mwangi	Mburu Stephen Kariuki
27.	Kariuki, Maxwel Mburu	Mburu Stephen Kariuki
28.	Huka, John Anthony Khamati	Anthony Khamati Huka

The total number of children who received school fees assistance in the Financial Year was **One Hundred and Ninety-Six (196)** broken-down as follows:

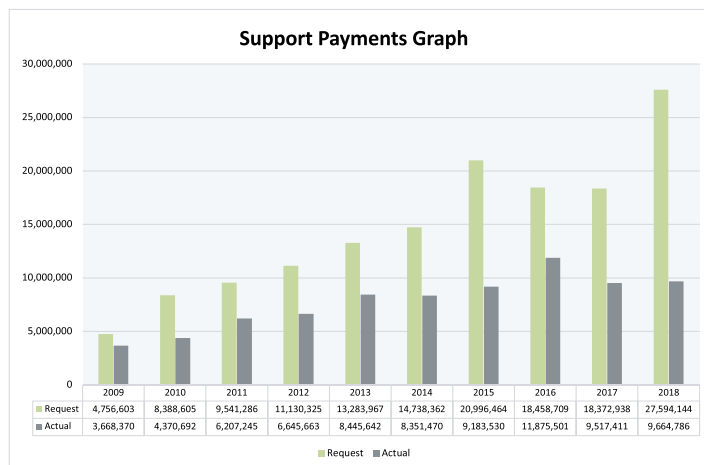
✓ Nursery	10 Children
✓ Primary	70 Children
✓ Secondary	73 Children
✓ Tertiary	42 Children
✓ Kenya School of Law	1 Scholarship

The level of assistance as shown in the Accounts provided up to 30th September, 2018, amounted to **KShs. 9,664,786.05/=**.

For purposes of comparison, the figures reflected in previous Accounts over the last three (3) years for payment of school fees are as follows:

2017	KShs. 9,517,411
2016	KShs. 11,875,501
2015	KShs. 9,183,530

The graph below shows the amounts requested and the support provided by the Association to dependants of deceased Advocates:



The level of **Medical Assistance** as shown in the Accounts provided up to 30th September, 2018, amounted to **KShs. 35,000/=**. This assistance was paid to the medical institution in which the following Advocate was hospitalized:

	NAME OF ADVOCATE	P.105 No.
1.	Aloys Obunga Aboge	1093/80

The level of **Last Expenses Assistance** as shown in the Accounts provided up to 30th September, 2018, amounted to **KShs. 550,000/=**. This assistance was paid to the duly nominated Next of Kin of the following Deceased Advocates.

	NAME OF ADVOCATE	P105 No.
1.	Ngala Kibichy	2089/91
2.	Godfrey Rioba Nyamboga	9390/12
3.	Hon. Justice Joseph Louis Onguto	1924/89
4.	Kwame Nkrumah Onyango	4631/01
5.	Samuel Gathungu Mugambi	2911/95
6.	Henry Kiplagat Koros	6439/06
7.	Lemmy Gacheche wa Miano	2986/96
8.	Aboge Aloys Obunga	1093/80
9.	Mburu Stephen Kariuki	4203/00
10.	Fred Kiveu Namisi	995/78
11.	Anthony Khamati Huka	885/77

Scope of Assistance

The Board assisted in payment of school fees for children of deceased members, in Y2018 within the following parameters.

Nursery	Kshs. 40, 000/=
Primary	Kshs. 55, 000/=
Secondary	Kshs. 80, 000/=
Tertiary	Kshs. 60,000/=
Kenya School of Law	KShs. 190,000/=

The amount of Medical Assistance given is capped at **KShs. 35,000/=** whereas the Last Expenses Assistance is capped at **KShs. 50,000/=**.

Performance and Progress of Some of the Children supported by the Association:

The Board of Management is pleased to report that some of the students within its purview performed well in the National Examinations and were admitted to Secondary Schools as shown in the Table below:

	NAME OF CANDIDATE	ADMITTED TO	MARKS
1.	Wangechi, Nina Peninah	Bishop Gatimu Ngandu Girls High School	420
2.	Koros, Shalom Jepkalya	Sacho High School	352
3.	Kiplagat, Nelly Chepchumba	MaryHill Girls High School	403
4.	Ombura, Fiona Kwamboka	Bishop Gatimu Ngandu Girls High School	420
5.	Ichau, Peter Ruoro	St. Mary's School, Nyeri	394
6.	Onditi, Benjamin Odhiambo	Friends School Kamusinga	408
7.	Machuka, Cassianus Aluku	Lukenya School	364
8.	Karanja, Allen Ndungu	Nairobi School	380
9.	Ongechi, Henry	Kisii High School	349
10.	Onyango, Zehna-Tara Akinyi	Our Lady of Mercy Secondary School South B	335

Twenty (20) students sat for their KCSE exam in Y2018 and have already proceeded to various Tertiary institutions across the country.

Seven (7) students completed their Tertiary education in Y2018 and have exited the Association's education assistance program.

Investments

The Board invests its surplus funds accrued within the financial year in Treasury Bills and Treasury Bonds as outlined in the Financial Accounts. The Board invests in safe and secure investments.

Meetings

The full Board met held Eleven (11) Meetings during the Financial Year. These meetings were held on the following dates:

- 28th September, 2017;
- 9th November, 2017;

- 7th December, 2017;
- 25th January, 2018;
- 6th February, 2018;
- 12th March, 2018;
- 21st March, 2018;
- 5th April, 2018;
- 24th May, 2018;
- 27th June, 2018; and
- 11th September, 2018

Administrative Matters

The Kenya School of Law Scholarship

The Board awards the scholarship to children of deceased advocates enrolled for the Advocates' Training Program at the Kenya School of Law. In the Financial Year 1st October, 2017 to 30th September, 2018, one scholarship was awarded to Nganga Louis Thiongo S/o The Late Nganga Thiongo, Advocate (P.105/1614/87).

Recognition Awards

During the ABA AGM, ABA Board recognized Law firms and individual Advocates who had been involved in sponsorship and mobilization of funds for needy students at the Kenya School of Law. Those recognized were:

- a) Wamae and Allen Advocates;
- b) Hamilton, Harrison and Mathews (HH&M);
- c) MMC Africa Law;
- d) Archer and Wilcock Advocates;
- e) Dunstan Omari Mogaka;
- f) Ann Konuche;
- g) Jacqueline Okeyo Manani;
- h) Jane Odiya; and
- i) Becky Mogire.

ABA Board and Staff Retreat

The Board of Management and Staff held its retreat on 18th – 22nd April, 2018 at the Serena Beach Hotel, Mombasa in which it held discussions about strategizing and mapping out activities for the year, mapping of organizations relevant to the Association, mapping of Beneficiaries, exploring possible partnerships, capacity building for the Board Members and staff as well as training on fund raising and Corporate Governance.

During the retreat, the Board invited Mr. Lumatete Muchai, Senior Counsel and a Practising Advocate in Mombasa as well as Clarice Osore, a young Advocate also practicing in Mombasa to share their views and thoughts. The Board also hosted Branch and Council Members for a Luncheon at Whitesands Hotel.

Branch Visits

The Board together with the Law Society of Kenya Council Members conducted Branch Visits during the Financial Year. The following Branches were visited and represented by the Board Members as indicated:

- **Friday 8th June, 2018 South Eastern Branch** - Mr. Steven R. Adere.
- **Thursday, 28th June, 2018 Mt. Kenya Branch** - Ms. Janet N. Wekesa.
- **Friday 6th July, 2018 Coast Branch** - Ms. Sophie C. Chirchir.
- **Friday 7th September, 2018 North Rift Branch** - Ms. Janet N. Wekesa.

During these visits, the representatives of the Board presented to and interacted with Members about the issues affecting the Advocates' welfare at the Branch level as well as the programs that are currently in place.

Continuous Professional Development Seminars

During the Financial Year, the Board presented on the Role of the Advocates' Benevolent Association at the following LSK

CPD Seminars and was represented by the Board Members as indicated:

- **Kisumu CPD Seminar on 19th January, 2018** - Ms. Dorcas S. Kitaa.
- **Mombasa CPD Seminar on 26th January, 2018** - Mr. Steven R. Adere.
- **Eldoret CPD Seminar on 2nd February, 2018** - Ms. Sophie C. Chirchir.
- **Nakuru CPD Seminar on 16th February, 2018** - Ms. Janet N. Wekesa.
- **Nyeri CPD Seminar on 23rd February, 2018** - Ms. Dorcas S. Kitaa.
- **Busia CPD Seminar on 2nd March, 2018** - Mr. Steven R. Adere.
- **Machakos CPD Seminar on 2nd March, 2018** - Ms. Dorcas S. Kitaa.
- **Meru CPD Seminar on 13th April, 2018** - Ms. Dorcas S. Kitaa.
- **Bungoma CPD Seminar on 13th April, 2018** - Ms. Janet N. Wekesa.
- **Nakuru CPD Seminar on 27th April, 2018** - Mr. Steven R. Adere.
- **Migori CPD Seminar on 27th April, 2018** - Ms. Dorcas S. Kitaa.
- **Kisumu CPD Seminar on 4th May, 2018** - Ms. Sophie C. Chirchir.

Members of the Board also presented to newly admitted Advocates at the Induction Courses that were held in Nairobi, Kisumu and Mombasa.

These seminars proved to be valuable forums to create awareness and receive feedback from members about the Association.

Other Fora

The Board of the Association was invited by the Higher Education Loans Board (HELB) to their AGM which was held on 19th May, 2018 and was represented by Mr. Steven R. Adere. During this forum, Mr. Adere shared insights on how the Association runs its benevolent fund and was also accorded the opportunity to preside over the HELB AGM elections.

The Board of the Association held a meeting with representatives of the Retirement Benefits Authority (RBA) on 12th June, 2018 in which meeting discussions about setting up a Pension Scheme were held. Ms. Dorcas S. Kitaa, on the invite of the Advocates Complaints Commission (ACC) and Disciplinary Tribunal represented the Board on the workshop that was held on 15th June, 2018 for its newly elected members. Members of the Board also met with various service providers during the Financial Year in a bid to negotiate various attractive packages for ABA Members.

Recruitment of ABA Program Officer

The Board of Management placed two advertisements in the local dailies during its recruitment for a Program Officer. A total of Twenty Eight (28) applications were received from these two advertisements at the Law Society of Kenya Secretariat. The Advocates Benevolent Association sub-committee shortlisted Twelve (12) applicants for the main interview. The main interview was carried out on the 20th August 2018, where Eight (8) of the Twelve (12) applicants turned up for the interview.

Upon conclusion of the recruitment process the Board of Management appointed Ms. Esther Muriuki as its Program Officer.

Recap of the Programs Currently In Place

The Board of Management has the following policies and programs in place to advance benefits to members:

- a) The Education Assistance Policy;
- b) The Medical Assistance Policy;
- c) The Last Expenses Policy; and
- d) The Lawyers Assistance Programme (LAP).

Partnerships in place

- Hillpark Health and Fitness Centre based in Nairobi and Tiwi beach, Kwale County;
- Ashley's Kenya.

New partnerships:

- The Kenya Counseling & Psychologists Association (KCPA);
- Premier Gym;
- AMREF; and
- Pride Inn, Mombasa.

Ongoing Negotiations:

- National Hospital Insurance Fund (NHIF);
 - Higher Education Loans Board (HELB); and
 - Pension.
- e) The Board has developed the **Donor Policy** which sets out the Board's mandate in regards to Donor funds.
 - f) The Board is in the process of coming up with its **Board Charter**.
 - g) The Board has also come up answers to the various Frequently Asked Questions (FAQs) which can be accessed on the Association's website.

Testimonials from Some of the Beneficiaries of the Association

Hearty greetings from the Njomo family. We as a family wish to thank you, the Advocates' Benevolent Association for your continued support. May God bless you abundantly.

- Jane Makobu (Spouse to the Late Njenga Steven Njomo)

Happy New Year to you all!

I wish to thank The ABA Board for your approval and prompt processing of Y2019 School Fees and also to express our gratitude for your continued support and assistance towards my children's education.

- William Kiptanui Sang (Spouse of the Late Janice Cherop Misoi)

Words cannot explain how grateful I am. Only God can reward you.

- Juliet Gathigia (Spouse of the Late Samuel Mugambi Gathungu)

I am greatly humbled to have been associated with your esteemed Association. Without your assistance, the world was very bleak.

- Ann A. Aloo-Hawala (Spouse of the Late Naftally Hawala)

Thank you for Leila's school fees. May God bless the ABA.

- Isaiah Konyelo Wekesa (Guardian to the Late Michael Wandera Wanjala's children)

To The Advocates' Benevolent Fund

This comes to convey all the gratitude for what you've done and helped when it was needed the most. Thanks a lot.

- Daki Barako Guyo, KSL Scholarship Recipient Y2016

LOOKING FORWARD

- ✓ Establishing and managing the HELB Revolving Fund;
- ✓ Overseeing the Pension Scheme;
- ✓ ERP implementation
- ✓ Developing programmes that are specific to the issues of distressed Members; and
- ✓ Beneficiary mapping.

ABA PHOTO GALLERY



ABA Board of Management with various Council Members and Branch Chairpersons during the The Board of Management and Staff Retreat held on 18th – 22nd April, 2018 at the Serena Beach Hotel, Mombasa.



ABA Board Member Steven R. Adere during the Higher Educations Loans Board (HELB) AGM which held on 19th May, 2018.

ABA PHOTO GALLERY



Board Member Sophie C. Chirchir and Dorcas S. Kitaa (not pictured) took part in the CSR activity at Born Again Children's Home during the LSK Annual Conference held at the Leisure Lodge Beach & Golf Resort in Diani, Kwale County held on 8th - 12th August, 2018.



A quote on the wall of Born Children's Home, Diani.

ACTIVITIES IN PICTURES



Former Chief Justice, Willy Mutunga issuing the Award on Distinguished Service on Administration of Justice awarded to Chief Justice David Maraga which was received by his wife Mrs. Yucabeth Maraga during the LSK Annual Dinner and Dance 2018. Looking on is Justice Mohammed Ibrahim, Mr. Pravin Bowry, Advocate and LSK CEO, Mercy Wambua amongst other guests.



LSK CEO Ms. Mercy Wambua with a section of members of the Mathare Justice Social Center who were awarded the Father John Anthony Kaiser Human Rights Award during the LSK Annual Dinner and Dance 2018 at the Intercontinental Hotel.



Former LSK President Isaac E. N Okero handing over the scale of justice to the incoming President Allen Gichuhi during the LSK Annual Dinner and Dance.



The 1st biennial national forum on Gender and Extractives in Nyahururu. From left to right, Ms. Suzy Kimutai (SIRD Project Manager), Ms. Faith Pesa (Ministry of Mining), Ms. Maria Mbeneka, Council Member and Ms. Mercy Wambua, LSK CEO.



The LSK President Allen Gichuhi unveiling the plaque at the Born Children's Home where the LSK conducted a CSR activity by drilling of a borehole.



The LSK President Allen Gichuhi and Chief Justice Maraga during the unveiling of the Bar Bench Committee guidelines, Mentorship programme for Young Lawyers and the LSK Law Firm Management Manual during the Annual Conference in Diani, Kwale.

ACTIVITIES IN PICTURES



Ms. Harriette Chiggai, LSK VP, Mr. Allen Gichuhi, LSK President and Mr. Paul Muthaura, CEO Capital Markets Authority (CMA) during the inaugural in-house counsel caucus held at the Michael Joseph Centre, Safaricom House.



LSK President Allen Gichuhi flanked by LSK CEO Ms. Mercy Wambua, Mr. David Njuguna and Council Member pose for a photo with winners of the Pro-Bono/Public Interest Jurists Award.



Advocates during the LSK Annual cocktail held at the Intercontinental Hotel.



Advocates during the LSK Annual Cocktail from left, Ms. Mercy Wambua, CEO LSK, Ms. Florence Muturi, Deputy Secretary, LSK and Ms. Njeri Mutitu, Advocate.



Members at the 2018 LSK Annual Cocktail at the Intercontinental Hotel, Nairobi.



Herine Kabita, Council Member, LSK President Allen Gichuhi, Vice President Harriette Chiggai and Carolyn Kamende, Council member all smiles after the swearing in ceremony.

Notes

A series of horizontal blue lines providing space for taking notes.





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