



Review of Norwegian Support to the Kenya Human Rights Commission (KHRC)



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Nordic Consulting Group (NCG)

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Photo: C. Ørnemark, NCG

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Abbreviations

BHRR	Biannual Human Rights Review
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CRADLE	The Children's Foundation
CREAW	Centre for Rights, Education and Awareness for Women
CAT	Civic Action Team
CBO	Community Based Organisation
CSO	Civil Society Organisations
EPA	Economic Partnership Agreements
EU	European Union
FIDA-K	Federation of Women Lawyers- Kenya
GALCK	Gay & Lesbian Community of Kenya
GJLOS	Governance Justice Law and Order (Reform Programme)
HRE	Human Rights Education
HURINET(s)	Human Rights Network(s)
ICC	International Criminal Court
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICJ-K	International Commission of Jurists – Kenya Chapter
IDP	Internally Displaced Person
IHRD	International Human Rights Day
KANU	Kenya African National Union
KHRC	Kenya Human Rights Commission
KHRI	Kenya Human Rights Institute
KNCHR	Kenya National Commission of Human Rights
KPTJ	Kenyans for Peace Truth and Justice
KSC	Kenya Stakeholder Committee (for UPR)
LGBTI	Lesbians, Gays, Bisexuals, Transgender and Intersex
M&E	Monitoring & Evaluation
MUHURI	Muslims for Human Rights
NEPAD	New Partnership for Africa's Development
NGO	Non-Governmental Organisation
RAT	Research & Advocacy Team
RBM	Results Based Management
SO	Strategic Objective
SRHR	Sexual and Reproductive Health and Rights
TJRC	Truth, Justice and Reconciliation Commission
UPR	Universal Periodic Review

Executive Summary

(i) Niche placement and strategic positioning

Established as the *pioneer and trailblazer in human rights* protection and advocacy in Kenya, and having maintained this focus consistently since its inception in the early 90's, has earned KHRC undisputed leadership in the human rights sector. This grounding has made it possible for KHRC to also address and secure *controversial and politically incorrect human rights issues*, particularly in its cutting edge work in the areas of extra-judicial killings by the police, and lesbians, gays, bisexual, transgender and intersex (LGBTI) rights.

With the changing human rights situation in Kenya since the end of the Moi era, KHRC has *gradually expanded its mandate* and areas of engagement primarily as a response to gains in civil and political rights, which enabled both a new focus on economic, social and cultural rights as well as a shift from traditional documenting and reporting on human rights to advocacy for legal, policy reform and capacity-building for rights defence on the ground. KHRC now needs to review its mandate as a result of various developments:

- a) the emergence of *other actors* in the field of human rights advocacy and protection, and the resultant risk of duplication of efforts and with more stiff competition for funding,
- b) the creation of the *Kenya National Commission of Human Rights (KNCHR)*, an autonomous national human rights institution established by an Act of Parliament in 2002 with core mandate is to act as a watchdog over the Government and with a non-restrictive focus, which includes civil, cultural, economic, political and social rights,
- c) the promulgation of the new constitution in August 2010 with an expanded *Bill of Rights* which guarantees a wide range of both civil, political social, economic and cultural rights¹ and the creation of new duty bearers in terms of counties and various constitutional commissions.

An area where KHCR has been on the forefront is to root human rights in communities, and to support the formation of civil society grassroots networks. However, it has not provided leadership in bringing the various human rights civil society actors together in national dialogue process to maintain the national human rights movement – a concept which is articulated and emphasised in its Vision 2012.

Given its long history and undisputed legitimacy in the Kenyan human rights scene – coupled with the new reality in which it operates – KHRC needs to be even more specific about its strategic choices and the roles it wants to play in the future using its comparative advantages strategically.

(ii) Selection of areas of evidence-based engagement

In general, there is a logical disconnect between the strategic and operational plans which makes it difficult to track gradual progress towards the intended results as they are outlined in the strategy. This disconnect extends to the rhetoric of the strategic plans which put a lot of emphasis on supporting long-term community-based processes, and the budget allocations which go primarily towards national research and advocacy campaigns that are executed by KHRC.

¹ In Articles 19 to 57 of the Constitution

Solid contextual analysis of new areas of KHRC engagement, or on regional priorities on issues emerging from HURINETs is often lacking, including the establishment of relevant baselines and the clear identification of strategic entry-points for KHRC in relation to other actors.

Recent Bi-annual Human Rights reports² and research reports seem to be based more on secondary data gathered mainly from desk research and newspaper reports, and most of the time, no primary data is collected³. The Kenya Human Rights Institute (KHRI), an off-shoot to KHRC, has the potential to more systematically gather primary and secondary data, possibly also through greater involvement of local networks. However, this Institute is currently understaffed and not adequately resourced.

(iii) Results from advocacy and stakeholder engagements

There is general consensus that the work of KHRC has been effective in producing key results and this is not only documented in the various reports and evaluations, but also confirmed by stakeholders. For example:

International level (including engagement with monitoring committees on human rights conventions): KHRC was part of Kenya Stakeholders Coalition (KSC) around the UPR procedure and joint submissions were done together with a number of other CSOs and interest groups (including with the lesbian and gay community). Outcomes and follow-up at national levels are harder to track and do not seem to be integrated in KHRC's own priority setting or strategic objectives. It is the impression of the review that the Constitution and its follow-up among stakeholders overshadows the UPR review of Kenya.

National level: At the normative and institutional level, the visibility of KHRC programmatic processes and advocacy has contributed to firmly putting the human rights agenda on the constitutional and institutional radar, and brought human rights into the sphere of the home and the community. At a practical level, KHRC has extended the boundaries of human rights protection to those that are normally outside reach, by defending new and contested rights. It has also entrenched the concept and processes of accountability in the public domain through campaigns against impunity through redress and reparation for victims. One success has been the advocacy for and profiling of the International Criminal Court (ICC) process on the post election violence that has been spearheaded by the Kenyans for Peace Truth and Justice (KPTJ) coalition led by KHRC among others. A number of guidelines and publications on the ICC process have been produced and disseminated, as well as fora held to monitor and lobby for action by the government. However, opportunities still exist for maximising results in KHRC's engagement with government and partners. This includes with the Ministry of Education for work on incorporating human rights education in the school curriculum; Ministry of Land on implementation of the National Land Policy; work on transitional justice with the Ministry of Justice, National Cohesion and Constitutional Affairs; and work with the Ministry of State for Planning, National Development & Vision 2030 on issues of regional inequalities. Strategies for influence and engagement vary depending on the political sensitivity of the concerns raised.

Community level: Innovative facilitation and engagement with regional human rights networks (HURINETs) made up of various community based organisations has resulted in the increased ownership of human rights initiatives at community level, increased demands for human rights protection and accountability. New local structures have emerged as networks and organisations to

² A deterioration was detected in the quality of primary data currently gathered across a wide range of rights, as opposed to when KHRC was focusing more specifically on empirical evidence gathering around civil and political rights violations.

³ This shift away from documenting and reporting has also been noted internally. A proposed solution is to more rigorously fact-find in human rights emergencies.

take some of these issues further and try to build its own funding base (e.g. on the Coast and in Isiolo). The community groups however noted that there are various areas in need of improvement in their engagement with KHRC, including longer term commitment and support to change processes with both technical and process facilitation inputs needed.

Timely technical inputs and relevant evidence was called for both at national and community levels⁴. KHRC needs to move beyond putting human rights on the agenda to providing technical inputs in the realisation of the rights, which is an area that KHRC will now be required to develop a niche in.

KHRC needs to have more structured engagement with HURINETs, in various respects. One is their effective participation in building evidence of issues at the community level to guide the community's identification and prioritisation of human rights violations. Secondly is the need for focused and comprehensive interventions rather than one-off activities. This will now be particularly crucial for HURINETs as they engage with county governments. Thirdly is the more technical assistance to HURINETs in the identified areas of need where more specialised training and legal assistance is required.

While it is appreciated that as the demand grows for more activities and support, this will motivate the networks to then transform and transit into stronger organisations which can support themselves, KHRC in its model of community engagement needs to further conceptualise and harmonise the empowerment and programmatic interface, and also hold more frequent dialogue with the HURINETs on their respective expectations.

(iv) Implementation according to stated goals and operational plans

In general there is coherence and logic in the reporting with a good level of detail on individual activities mentioned in the operational plans. Deviations are usually accounted for. However, activities are not clustered, aggregated or measured against the 'expected results' and indicators set out in the Vision 2012. It is therefore impossible to tell whether and to what extent they are contributing towards the goal fulfilment in the Vision. Although most activities mentioned in the Operational Plans seem to have been undertaken as planned during the review period, the Review noted that follow-up activities at grassroots levels to the People's Manifestos and Scorecards had been downscaled compared to original plans in all visited locations. Overly ambitious planning at the outset, the lack of resources for logistics and poor capacities to undertake the task by HURINET members themselves seem to be part of the reason why. Overall, it is possible to detect considerable contributions and examples of activities that are in line with the strategic objectives, however, which indicates that a majority of activities in the Operational Plans have been carried out according to plan.

(v) Management, decision-making structures and the role of the Board

Previous reviews⁵ from 2007 have been fairly critical about the lack of institutionalized systems for decision-making in the organisation, which has made it susceptible to dominant views of key individuals on its Board and/or individuals in the management team in the past. Some weaknesses still prevail, particularly in the area of setting up and *linking results-based management systems to*

⁴ Thematic research reports, though detailed and broadly considered relevant and of high quality, are released very seldom, and do not provide timely and regular inputs into policy debates. For instance, the detailed report on EPAs "Trading our Lives with Europe" was released in late 2010 even though the engagement in this area through the Stop EPA Campaign has been ongoing for a couple of years already.

⁵ Primarily based on observations in the 2007 Annual Institutional Review of CSO Partners under the Danida Kenya Good Governance Programme, KGGP (April 2007), and A Mid-Term Evaluation of KHRC Strategic Plan 2004-08 (May 2007) as well as broader context analyses of civil society support funded by the Norwegian Embassy (2007, 2008).

priority-setting in relation to operationalising strategic objectives. Yet, overall, there has been good progress in institutionalizing KHRC policies and processes in relation to management, financial decision-making, gender mainstreaming and human resource development.

This has clearly had positive influence on staff morale, and a phase of *institutional stabilization* (2008 onwards) seems to have followed a phase dominated by lack of team-work, internal competition and top-down management. Structures for more decentralized decision-making on programmatic issues are now in place, with staff representation in the Management Committee and extensive staff involvement in planning processes.

KHRC has a Board consisting of high-profile members in the Kenyan human rights sector, who take an active interest in KHRC's strategic development. This is clearly a strength due to members' individual commitment, valuable insights and connections. Several stakeholders interviewed for this review questioned the fact that the founders still hold the Chair and other key positions on the Board, however – something which was perceived to affect its working tactics and prioritization. KHRC has drafted governance guidelines (2007) that clearly outline Board composition along with its role and responsibilities. The guidelines also introduce an Annual General Meeting where Board members of long duration are obliged to seek re-election. These guidelines are still pending approval and implementation. The review strongly recommends these guidelines to be approved and made publicly available on the website, together with the KHRC statutes.

(vi) Policies and procedures for implementation

The recent phase of institutional stabilization has seen the development of a number of organisational policies and procedures, such as a gender policy, human resource and finance policy and procedures manual. *Procedures for staff performance and reporting* are also now in place. For instance, all financial decisions have to go through and be signed off by the Management Committee. Although this seems fairly 'heavy' as a structure, it may be prudent in the Kenyan context and in line with KHRC's own anticorruption efforts and internal policy. The challenge remains on how to effectively translate some of the programmatic policies, such as the gender policy, into practice on the ground.

In the area of gender mainstreaming, the review confirmed concerns about weak staff capacities to translate the policy into the context of the work of community networks and programmes⁶. Although KHRC has gone far in the analysis and efforts to formulate its gender policy, hands-on support in practically working with gender issues in day-to-day human rights realities and to *monitor gender outcomes of community interventions* is needed. Gender still tends to be treated as a separate women's rights issue, rather than a truly cross-cutting issue of how men and women's rights fulfilment is affected differently across all areas.

There is some evidence of cross-fertilisation of ideas between the two main programmatic areas of KHRC (Research & Advocacy and Civic Action). However, *links between national research/advocacy and local activities and priorities by the HURINETs* are not always clear and could be made more strategic. It is the view of the review team that KHRC is very well placed to create influential, evidence-based advocacy where such internal linkages are made and fully explored, and where KHRC uses its grassroots networks in the gathering of community evidence. This is an area recommended for increased focus and capacity investment in the future.

Such programmatic linkages are also important in light of staff limitations and to avoid over-stretching of personnel, which has been a problem in the past. The review noticed a *tendency to 'projectise'* issues and initiatives according to the funding source, with the risk of setting up parallel processes and systems (e.g. in the area of protection of human rights defenders) rather than

⁶ KHRC has recognised this weakness themselves in their Strategic Plan 2008-12.

integrating concepts and operations into KHRC's ongoing work and policies. This is to a certain extent replicated at grassroots levels⁷ and has a correlation to the shift of many donors towards specific programme funding (rather than core funding)⁸. Another reason is the fact that KHRC may be called upon to respond to emerging human rights concerns beyond its strategic or operational plans. The challenge is for KHRC to combine these emerging responses and programmes with their ongoing work so that lessons can be streamlined and incorporated into activities within their operational plans.

(vii) Results-based management and planning

At the time of the review, work had recently been initiated to address some of the weaknesses observed in previous reviews in the field of M&E with the appointment of a part-time Senior Programme Officer for M&E (Nov. 2010). The results of these recent efforts can only be expected to be visible after some time and were too early to fully assess at this point. Covering the review period (from 2005), it was noted that *coherent linkages are missing* in the cumulative chain and intervention logic from one level of operations to the next. Operational plans are too focused on a multitude of activities with a poor connection to the objectives and intended results outlined in the Strategic Plan. Moreover, programme contributions towards the intended results are not consistently monitored.

In an effort to be specific on results, the quantification of some issues becomes meaningless, making results very difficult and burdensome to report on. Quantified indicators and targets are generally *not based on solid baseline data* which also make them less relevant for performance monitoring. Detailed data from thematic concept notes, fact finding missions, thematic reports or UPR monitoring are not systematically put to productive use for monitoring progress.

Overall, the review suggests that a *largely simplified and realistic results framework focusing on key change processes* is drawn up that can inform strategic priority setting and help to identify good practices. Such a results framework should focus on the *identified change processes and targeted human rights outcomes* from KHRC's engagement in these processes. The corporate strategy on KHRC's own sustainability and position to fulfil these objectives should be kept separate.

Methods to track progress within the results framework should mix and tailor different results-based management (RBM) and learning approaches by combining them into *one common tool* to replace the scattered approach that is applied today (which draws on different approaches without having properly tailored and combined them into a workable framework for KHRC). The use of alternative RBM approaches focusing on most significant change stories and learning is good and should be further developed to track also outcomes in terms of behavioural and attitude changes among key stakeholder groups⁹. Applying three parallel systems as is currently the case, risks overburdening the monitoring process, however.

It is furthermore important that such a simplified and results framework is made useful for programme officers so that monitoring becomes an *integrated function across operations* with strong linkages to planning – not something that is the responsibility of one or two staff members responsible for external reporting¹⁰. Recent reports¹¹ show that there is an increasing capacity

⁷ E.g. with no official KHRC position on how to work with protection of human rights activists associated with the HURINETs, and whether they are also considered as 'human rights defenders' entitled to identification or protection, or with community members referring to the HURINET 'water project' in community focus group discussions outside Isiolo.

⁸ E.g. in the case of protection of human rights defenders.

⁹ Inspiration could come from e.g. Outcome Mapping methodology, pathway analysis etc.

¹⁰ There is an inherent risk for this to occur by having one person specifically hired to be in charge of M&E and resource mobilisation in the same position.

¹¹ Referring to the Mid-Year Report to KHRC Core and Programme Grantmakers, October 2010.

among programme officers to *'think result-oriented'* and to document statements with evidence. These skills should be further harnessed and extended to HURINET members.

Intermediate results, beyond activities and outputs, should be better documented and tracked. These are typically changes in attitudes, perceptions and behavioural patterns among duty-bearers and/or rights holders, even before real 'impact' is noticeable at any larger scale. It would help to demonstrate whether KHRC has successfully transferred the human rights agenda to others and whether positive or negative alignment of actors is occurring around a specific rights area.

Solid data (preferably involving community evidence or qualitative feedback) from *human rights monitoring undertaken in the context of inputting into or following-up on specific treaty body recommendations*, as well as research undertaken for the Biannual Human Rights Review (BHRR) should be put to better use also for internal (programmatic) monitoring mechanisms. Key indicators could, where possible, be aligned to the Office of the UN High Commissioner for Human Rights indicators, structuring them into structural, process and outcome indicators for each respective rights area. KHRC's added value and comparative advantage could be to provide the *local dimension* of the same indicators and highlight regional differences in the progressive fulfilments of rights between different parts of Kenya and between different communities and marginalised groups.

(viii) Financial management, budget allocations and sustainability

Financial procedures and management has assessed to be *sound and stable*, with sufficient staff capacity in place. This has also been confirmed by other recent reviews.

Being largely dependent on donors and other grant-making institutions¹², and with many donors earmarking or providing programme support instead of core funding, KHRC always runs the risk of having some of its operational plan *underfunded*. During field visits to HURINETs, the review team noted a number of regional activities having been put on hold or scaled down as a consequence. This calls again for more *solid systems of prioritization* against the strategic objectives in order not to get pulled 'off track' in areas that do not have any specifically earmarked funds. This is particularly important for donors providing core support for institutional strengthening since underperformance and underfunding in one of KHRC's 'core' areas could undermine KHRC's legitimacy and credibility – especially in view of raised expectations in the communities.

Donors should therefore avoid 'crowding in' on certain narrow policy areas since KHRC's ability to proactively act and react on a broad front, including in the regions, have historically been and continues to be KHRC's main strength. In addition to the results produced, this in itself has a symbolic importance which was reinforced by KHRC taking a lead role on human rights abuses related to the post-electoral violence in 2007/08 and around the ongoing ICC process.

KHRC, on its part, has *successfully tapped into joint donor basket funds*¹³ to support implementation of parts of its strategic plan. The ability to tap into upcoming opportunities to further diversify the funding base in line with Strategic Objectives should be further encouraged and would also benefit from better results monitoring systems being in place (which would add quality of funding proposals).

In terms of budget allocations, the *biggest increase* has been in the field of transitional justice since 2008, followed by the area of trade and business. In the current budget (2010-11), funding allocations under Strategic Objective 2 (research and advocacy) are by far the largest with Kshs 67.3 million compared to Kshs 37 million for Strategic Objective 1 (civic action). KHRC's monitoring of

¹² 86% of the total income is expected to come from grants in the 2010-11 budget.

¹³ Amkeni (UNDP), Uraia etc.

human rights violations through the legal clinics, violations database and biannual human rights report represents a fairly small share in comparison, with its budget having remained constant at around Kshs 3.8 million annually since 2007.

(ix) Overall conclusion

The overall conclusion of this Review is that the KHRC is in line with the Norwegian policy for development aid. The review strongly recommends that *Norway should keep the core funding modality* while keeping a regular dialogue with KHRC to ensure that sufficient investment is allocated to relevant evidence-gathering at community as well as national level for monitoring purposes and in order to inform future priority-setting for national, large-scale campaigns and initiatives.

Alternatively, a limited amount of earmarking could be considered for currently underfunded areas, such as follow-up on the People's Manifestos and scorecard initiatives, and/or inclusive policy- and action research on human rights areas that have been identified as high priority in the regions¹⁴.

¹⁴ The review team observed that similarly to the research and policy work undertaken on citizenship rights in the northern region, KHRC's involvement in the coffee sector in the central/Mt Kenya area and around land issues on the coast would benefit from more in-depth technical analysis and policy options to constructively guide the work of HURINETs and bring issues to national attention in a constructive manner.

1. Background and context

The Terms of Reference (TOR)¹⁵ set out the main question to be answered by the review as: “*With Norwegian support since 2005, has the KHRC been able to reach its stated goals in the Strategic Plan 2008-12, and the Operational Plans both for 2008/09 and for 2009/10?*”

The way and extent to which KHRC engages and influences processes at different levels by linking and working with other actors were also specified to be of interest, namely:

- Interaction between the KHRC and multilateral organisations (i.a. the UN) and treaty bodies,
- Interactions with public institutions and initiatives for good governance and judicial sector reforms, and relevant CSOs,
- The expectations of beneficiaries at community level and among grassroots CSOs, and to what degree their expectations are met.

Finally, the TORs specify a keen interest in how the funding from Norway interacts with that of other donors, and how funding relations with donors affect organisational priority setting. Given that the grant from Norway is core support as opposed to being earmarked for a particular area of programmatic work, the process of strategy development and internal priority setting is emphasized as a key focus of the review. The full TORs are included in Annex I.

Since 2005, the Norwegian Embassy has supported KHRC with core funding amounting to a total of NOK 7,465 million for the period up to end 2010. Initially support went towards developing the Strategic Plan 2004-2008 after which implementation of the plan was supported. Norway also made core contributions towards the Operational plan 2008/09 (NOK 1.5 million) and the Operational Plan 2009/10 (NOK 2.165 million).¹⁶

Overview of KHRC

KHRC’s overall approach is “*to adequately root human rights and democratic values in all communities, in order to enable them to claim and defend their rights*”. The reference to ‘communities’ refers both to communities in the traditional sense of groupings of inhabitants, but also more widely to communities of interests or special needs, e.g. the LGBTI community. Central to KHRC’s change theory is that communities themselves must define, claim and defend their rights. KHRC sees as its role to facilitate, stimulate and support such efforts, and to link communities into networks for the emergence of wider ‘movements’.

Since 2004, KHRC’s focus on human rights centred governance has been interpreted widely, moving KHRC from focusing primarily on violations of civil and political rights to engage also in the progressive fulfilment of social and economic rights, including labour rights, fair trade practices, land struggles and sexual and reproductive health rights. In doing so, KHRC also aims to link local community struggles with national and international spaces, complemented by analysis and lobbying action. This direction of KHRC’s work has been summarised in its *Vision 2012*, which has two tenets:

- (i) To work towards establishing a state that respects, protects and promotes all human rights for all individuals and groups, and
- (ii) To mobilise and organise people’s groupings into powerful advocacy networks that can lay the basis for creation of a social movement.

¹⁵ Norad, October 2010

¹⁶ TORs, October 2010

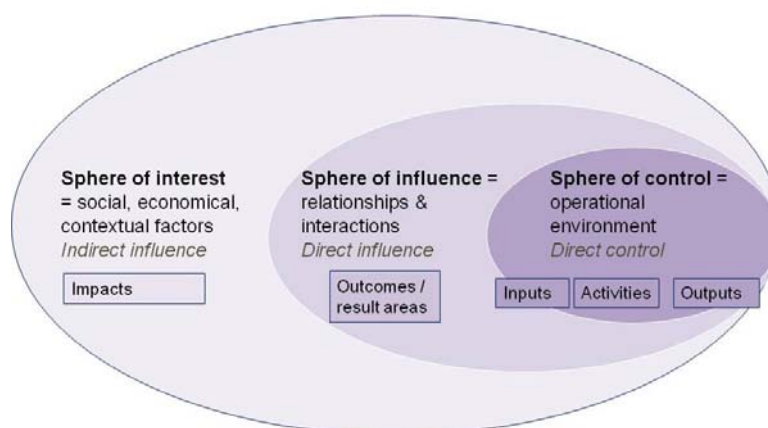
Following the 2004-2008 Strategic Plan to implement this vision, the 2008-12 Strategic Plan aims to consolidate experiences and go further in the area of citizen-led reforms towards a Kenyan society based on a respect for human rights. It organises programmatic work into five Strategic Objectives (SO); each with a number of corresponding strategies and identified results by 2012. A summary of SOs, strategies and intended results by 2012 is included in Annex III.

The Management Team and Programme Teams (Civic Action Team, and Research and Advocacy Team) are responsible for the implementation of the strategic plan which is operationalised through annual operational plans. At grassroots level, implementation is carried out by human rights networks (HURINETs) of local organisations and individuals “with the facilitation, collaboration and pragmatic solidarity of KHRC staff”.¹⁷

2. Approach and methodology

Overall approach

Given the general nature of Norwegian funding towards KHRC’s strategic plan, dating back to the development of the previous strategy (2004-08) and subsequent Operational Plans, the review adopted a broad perspective in data gathering and analysis in relation to both operational management issues, observable results and strategic priority setting of the organisation. The below model¹⁸ was used to organise information, and as a framework for analysis. It was also used to analyze where and by what means KHRC captures and documents results at different levels:



The ‘*sphere of interest*’ covers the broader social change processes that KHRC seeks to influence as one of many actors with contesting interests. This is where KHRC has an indirect influence, e.g. by starting processes or where its symbolic presence and legitimacy as a human rights watchdog body with grassroots anchoring is of importance. This is usually where longer term impacts are noticeable, where a multitude of spin-off initiatives take place, and where agendas are successfully transferred to actors other than KHRC itself. However, it is also an area where broad assumptions tend to prevail without having documented evidence or a clear picture of the long term, bottom line human rights outcomes. Key questions treated were the selection of which strategic areas to engage in according to expected impact, niche placement and comparative advantage in these areas and the extent to which processes and momentum has been successfully transferred to other actors or initiatives.

¹⁷ KHRC Strategic Plan 2008-12.

¹⁸ The model was developed and adapted from efforts to strengthen results-based monitoring in support to civil society support in Western Balkan, funded by Sida, drawing on Outcome Mapping techniques (C. Ørnemark, 2010)

The '*sphere of influence*' relates to KHRC's ability to engage and interact with other actors in areas where they seek to exert a direct influence. A key question is how KHRC is developing such relationships – both at national and local levels – and how they are able to use them to influence the change processes they have selected to engage in. The type and forms of relations and interactions between KHRC and other stakeholders could involve:

- those who help them *drive* the agenda (typically other CSOs, CBOs, individual human rights defenders at grassroots levels),
- those who *underpin and validate* the change agenda with relevant facts and figures (policy research institutions, academics, community-based institutions for local data gathering),
- those who *open up space* for engagement around a particular human rights issue (e.g. champions of change from within institutions and government agencies, donors through political dialogue, other strategically placed CSOs), and
- those who *implement* the agenda (typically all sorts of duty-bearers).

Intermediate results, beyond activities and outputs, where new relations, patterns of behaviour or attitudes are observable relate to this level (e.g. increased willingness of local Councilors to sign and refer to People's Manifestos, even if they have not yet been able to deliver on the commitments, i.e. long term impact is not yet manifested in action).

The selection of strategic priority areas (for long term impact) is closely related to the ability to form the necessary relationships in these areas. Findings related both to KHRC's ability to strategically form relationships and to select areas for potential impact are therefore treated together in this report (Section 3).

Finally, in the '*sphere of control*' the review has looked at KHRC's ability to produce tangible results against strategic priorities, and the mechanisms in place for operationalising objectives and plans. This is the area where KHRC is entirely in control as an extended system of the Board, management and staff, and how it adapts and responds to various programming challenges and learning. Issues in this area include the internal planning process and the way KHRC operationalises their strategic plan through appropriate budget allocation and fundraising, appropriate staffing (in relation to both skills and level of effort at different levels), financial management and the implementation of organizational policies, e.g. on gender mainstreaming.

Methodology

Several previous organizational assessments and reviews have been carried out of KHRC during the period in which Norway has provided financial support (2005-2010). These existing reviews have served, to the extent possible, as a baseline against which to assess the current status and recent progress of KHRC's operations. A mid-term evaluation of KHRC's Strategic Plan 2004-08 was undertaken in May 2007¹⁹, and an institutional assessment of KHRC was undertaken for the Kenya Good Governance Programme funded by the Danida at around the same time²⁰. Furthermore, the role of civil society in enhancing democratic governance and human rights in Kenya²¹, and the role of civil society in the post-amendment context²² were undertaken in late 2007 and early 2008 on behalf of the Norwegian Embassy. These reviews and studies give a detailed picture of KHRC and its operating environment during the first years of Norwegian core support (2005-07/08).

¹⁹ By Mutahi Ngunyi, May 2007

²⁰ Review report of KHRC as part of the 2007 Annual Institutional Review of CSO Partners, Kenya Good Governance Programme (2005-2010), Danida

²¹ Mutahi Ngunyi, Nov. 2007

²² Both studies were undertaken by Mutahi Ngunyi on behalf of the Norwegian Embassy in Kenya in November 2007 and June 2008.

This review has made extensive reference to these previously existing reviews (up to 2008), and compared them to more recent reviews, and primary observations and information gathered by the review team.

A literature review was carried out of strategies, operational plans (with a focus on those 2008/09, 2009/10 and the current plan for 2010/11), annual and mid-term reports and other internal planning and programme documents (such as thematic concept papers, progress reports) as well as outputs (thematic reports, People's Manifestos and Scorecards etc.).

During the period 8-19 November 2010, the review team conducted interviews in Nairobi which included focus group discussion with KHRC staff as well as interviews with KHRC management and Board members²³. A selection of other donors supporting KHRC as well as key stakeholders such as partners and UN agencies were also interviewed (see Annex III for list of interviewees). During this period, three site visits to local human rights networks (HURINETs) that receive KHRC support were also undertaken, namely in Isiolo, Nyeri and Mombasa. The Nairobi HURINET was also visited and interviewed, covering a total of four HURINETs as a sample for the review. The sites visited are within the Eastern Region, Coastal Region and Northern Region according to KHRC's clustering of sites and allocations between programme officers.

Local HURINETs were identified by the review team in order to cover as many, and as wide a range as possible of human rights issues within the given time allocation for in-country and field work in Kenya. All site visits to local HURINETs consisted of a separate discussion with the network coordinator, followed by focus group discussions with representatives of the participating CBOs and a focus group discussion with community members (end beneficiaries).

3. Findings at relational and impact level: Strategic priorities & areas of influence

3.1 Niche, mandate and strategic positioning

a) Opening New Frontiers in Human Rights Advocacy

Detentions and political trials, torture, arbitrary arrests and police brutality in Kenya were the norm during President Daniel arap Moi's tenure in the 1980's and 1990's. Human rights were generally regarded by his KANU²⁴ government as alien and Eurocentric conceptions inconsistent with African values and culture. In addition pro-democracy and human rights advocates in Kenya were regarded as unpatriotic, disloyal, and ungrateful individuals influenced by what he called foreign masters. Champions of human rights and multiparty politics were detained under inhuman conditions and without trial. Other human rights champions sought asylum in foreign countries to avoid being jailed.

Constitutional amendments provided for the removal of the security and tenure of the Attorney General, the Controller and Auditor General, the judges of the High Court and the Court of Appeal. Parliament, which at this time was under the control of the executive arm of the government, did not resist these amendments. Both Parliament and the Judiciary ceased to have the constitutional rights

²³ The Review team was unable to conduct an interview with the Chair of the Board who is based in the US and indicated that he was only available to answer questions via email. However, two Board members based in Nairobi were interviewed.

²⁴ KANU is the Kenya African National Union and was the only legal political party at the time.

to control the excesses of the executive. There were no checks and balances on the President's personal authority.

Foreign and donor pressure augmented the local activism and resulted in the repeal of the infamous Section 2A of the Constitution which made Kenya a *de jure* one-party state. When Kenya entered the second multi-party era it was assumed that by allowing opposition to exist, the government would create an enabling environment for its citizens to freely exercise their constitutionally guaranteed rights. What resulted, however, was continuity in human rights violations by the police, arbitrary arrests, detentions, and the practice of the interference of the judiciary by the executive. The government went as far as instigating ethnic violence in order to portray the multi-party system as inappropriate for Kenya. Ethnic cleansing was introduced in order to eliminate opposition in "KANU-only zones." The use of militia to instigate violence on behalf of KANU and the government began with the 1991-1993 ethnic clashes²⁵.

It is in this context that the Kenya Human Rights Commission was founded in 1991 by the foremost leaders and activists in struggles for human rights and democratic reforms in Kenya, and acquired a niche as the *pioneer and trailblazer in human rights* protection and advocacy in Kenya. It has been rightly pointed out that KHRC started operations during a period when fighting against human rights abuses was fraught with danger to life and limb, and that having maintained this focus consistently over the years has earned it undisputed leadership in the human rights sector. This grounding has made it possible for KHRC to also develop the niche of addressing and securing the *controversial and politically incorrect human rights issues*, particularly in its cutting edge work in the areas of extra-judicial killings by the police, and lesbians, gays, bisexual, transgender and intersex (LGBTI) rights.

KHRC and other stakeholders also point out that it is also a *groundbreaker in strategic planning and outcomes* in the human rights sector and the NGO sector as a whole. After reflection on its experiences in human rights work in Kenya, KHRC developed a blueprint and roadmap (Vision 2012) that has guided the logical flow of its strategic objectives since 2004. Closely related has been its innovative *nurturing and organising of grassroots communities* through a process of awareness and collective actions as one of its strategies. These aspects of KHRC activities will be elaborated upon in the next sub-section and in the section on KHRC's programmatic interventions.

One area however in which the review found that KHRC's leadership has not been fully harnessed is in organising and facilitation of fora for engagement on human rights at national level. While various thematic human rights networks and *ad hoc* alliances exist at national level, and KHRC has facilitated the development of regional human rights networks, there is no overall platform that exists where these various networks dialogue or engage. For example there is an opportunity with the National Coalition of Human Rights Defenders which already exists, and which could be further strengthened. This would be an area where KHRC is expected to provide leadership, given its experience and credibility in the human rights sector, and also given the strategic importance of such a platform for advocacy purposes and for sustaining the human rights movement.

b) An Expanding (or Shrinking) Mandate?

Throughout its existence, the core mandate of the Commission has been campaigning for the entrenchment of a human rights and democratic culture in Kenya. While initially the focus was on the traditional civil and political rights, and understandably so given the historical context of KHRC's

²⁵ For a more detailed analysis of the human rights history in Kenya during President Moi's regime please refer to Korwa G. Adar and Isaac M. Munyae 2001. "Human Rights Abuse in Kenya under Daniel Arap Moi 1978-2001. *African Studies Quarterly* 5(1): 1. [online] URL: <http://web.africa.ufl.edu/asq/v5/v5i1a1.htm> and Makau wa Mutua, 1994 "Human Rights and State Despotism in Kenya : Institutional Problems", *Africa Today*, Vol. 41, No. 4, Kenyan Politics: What Role for Civil Society? (4th Qtr., 1994), pp. 50-56

activities, there has also been an incorporation of social and economic rights and particularly a focus on capacitating communities in this respect. KHRC explains this shift thus:

“In our formative years (1992-1997), we focused on monitoring, documenting and publicising human rights violations. In this phase, we established ourselves as a vibrant advocate for civil and political rights in Kenya, through direct action protests and offering support for redress to victims and survivors of human rights violations. We also distinguished ourselves by linking human rights struggles with the need for reforms in political leadership and institutions.

From 1998-2003, we expanded our advocacy strategy to include social and economic rights. We made a radical shift in approach in this phase that led us to begin developing capabilities of those affected by human rights problems to advocate for their rights. To do this, we invested in community based Human Rights Education (HRE) and shifted our advocacy approach from *‘reactive, ad-hoc, one-off’ activism to more nuanced processes, with more strategic design, participation of those affected by specific human rights violations and targeting reforms at policy and legislative levels...(emphasis ours)*

In the 2004-2008 Strategic Plan, we focused on strategies and actions aimed at enhancing community driven human rights advocacy, through building of the capacities of citizens to deal with their immediate human rights concerns as well as engage in strategic actions to transform structures responsible for human rights violations. Human rights-centred governance was the overriding theme of this strategic plan, under the banner of rooting human rights in communities. This phase thus also saw the Commission engage in “neo-rights” programming focusing on trade, business, investment, natural resources, labour rights and sexual and reproductive health rights...”²⁶

From this account KHRC’s mandate appears to have been influenced by other factors other than the content of the rights, namely the strategies and processes employed to achieve the desired results as highlighted in the above excerpt. A number of developments in the human rights sector since the formation of KHRC present a key challenge: should KHRC be expanding or shrinking its mandate in order to attain focus and achievable outcomes?

The first development is the emergence of other actors in the field of human rights advocacy and protection, and the resultant risk of duplication of efforts. While it was evident that a division of labour is emerging among the human rights actors²⁷, and that collaborative activities are undertaken in networks and other partnerships, duplication was still manifest in certain respects. For example in the Human Rights Defenders training initiatives that KHRC is undertaking with other human rights organisations they are targeting the same groups, and at community level similar training/awareness raising initiatives to those of KHRC have been undertaken by other CSOs (especially on the issue of devolved funds). A multitude of CSO actors engaging the same local human groups with capacity building efforts is not necessarily negative, as long as it forwards the local change processes and does not distort cohesion among grassroots groups in their strife towards common local objectives or a locally set human rights agenda. To make sure that positive alignment²⁸ of actors is happening, some degree of coordination or regular monitoring would be needed, focusing on gradual shifts in mind-sets and/or behaviours that will allow for the closing of capacity gaps between duty bearers and rights holders to occur.

²⁶ The KHRC Strategic Plan 2008-2010 pgs 1-2

²⁷ For example there seems to be an understanding among human rights organizations that FIDA-K will focus is on women’s rights, ICJ’s focus is on access to justice and judicial reforms, CRADLE on children’s rights, the Land Alliance on land rights and KHRC focuses on the mainstream rights.

²⁸ As opposed to ‘negative alignment’ where perverse aid incentives distort endogenous processes or priority setting, see e.g. David Ellerman, ‘Helping self-help: The fundamental conundrum of development assistance’, The Journal of Socio-Economics 36 (2007) 561-577, or Elinor Ostrom et al ‘Aid, Incentives and Sustainability: An Institutional Analysis of Development Cooperation’, Sida Studies in Evaluation 02/01.

For KHRC and its donor partners this also makes the attribution and contribution to results and impact difficult to assess.

The second development was the creation of the Kenya National Commission of Human Rights, an autonomous national human rights institution established by an Act of Parliament in 2002. Its core mandate is to act as a watchdog over the Government in order to further the protection and promotion of human rights in Kenya and it has a broad and non-restrictive focus, which includes civil, cultural, economic, political and social rights. KNCHR has a policy of collaborating with human rights NGOs and community based groups, who are the links between KNCHR and individuals or groups who are politically, socially or economically marginalised. For example KHRC and KNCHR have been collaborating on the protection of witnesses of extra judicial killings and of the 2007 post election violence who are expected to give evidence at the International Criminal court.

Given that the KNCHR has a clear legal mandate and responsibilities and receives public funding to discharge this mandate, this should also have a bearing on KHRC as it considers its mandate and focus, especially as realising adequate funding is still a challenge. A more nuanced analysis on KHRC's complementary role in relation to KNCHR would be desirable (see also table below), which would also help to clarify confusion among the public about the roles and responsibilities of the two bodies²⁹. Where KHRC perceives KNCHR to be failing in the realisation of its mandate, KHRC could take a stronger lead role, which has been the case e.g. in relation to speaking up on issues around the LGBTI community. This does not preclude collaboration in certain respects in areas where KHRC has the comparative advantage or expertise, but will serve to ensure that KHRC maintains enough distance and space to be able to question KNCHR in areas where it needs to be accountable³⁰. This role is important for KHRC and should be reflected in their core strategy – especially in this politically volatile period before the next elections.

The third development has been the promulgation of the new constitution with an expanded Bill of Rights which guarantees a wide range of both civil, political social, economic and cultural rights³¹ and the creation of new duty bearers in terms of counties and various constitutional commissions. This makes the previous suggestions on division of labour and the role of KNCHR in this regard even more critical, as it will be beyond the capability and capacity of any human rights NGO to be able to effectively monitor the observance and fulfilment of all these rights and actors.

The implications of the developments discussed in the foregoing are in terms of KHRC's mandate related to content. KHRC needs to clearly identify priority thematic or subject areas, as well as gaps that are not currently being addressed by other actors in the human rights sector. This is at two levels: at national level where priorities will be affected by the national mandate and priorities of the KNCHR; and at the sector level where KHRC needs to maximise on its strengths and leadership niche and provide more sophisticated technical responses to the emerging human rights issues. The table below attempts to provide some suggestions as to the strategic interventions by both KNCHR and KHRC in this respect.

²⁹ For instance both bodies have a complaints mechanism and legal clinics.

³⁰ KHRC has recently played a positive role in trying to moderate recent disputes between the KNCHR Chair and the Commissioners.

³¹ In Articles 19 to 57 of the Constitution

Areas of Interventions	Strengths and Competencies	
	KNCHR (National Level)	KHRC (Sectoral Level)
Promotion of Human Rights	<p><i>Legal Mandate:</i> Specific constitutional mandate to promote respect for human rights and develop a culture of human rights; gender equality and equity and protection, and observance of human rights in public and private institutions;</p> <p><i>Comparative Advantage:</i></p> <ul style="list-style-type: none"> • Well placed to establish, strengthen and manage cooperative relationships with national and county governmental and civil society agencies, and processes of developing and delivering promotional and public education activities. • Setting of standards and benchmarks on the content and application of human rights (e.g. through publication of handbooks and training manuals) • Promoting understanding and recognition of human rights and human rights based approaches among state organs both at national and county level. 	<p><i>Legal Mandate:</i> A constitutional human rights framework that includes guarantees of political, civil, economic, social and cultural rights including the constitutional rights to organize (assembly, demonstration, picketing and petition), to expression and information.</p> <p><i>Comparative Advantage:</i></p> <ul style="list-style-type: none"> • Facilitating the emergence of a new leadership cadre and opportunities for meaningful engagement in human rights issues on the part of community activists. • Ensuring representation of alternative perspectives on important human rights issues and ensuring that these perspectives are heard; • Effectiveness in identified areas of expertise especially in terms of leadership, innovation, and approach. • Operation in areas not covered or not well covered by KNCHR and other CSO programs, filling gaps that these actors may not be able or willing to fill and reaching out to neglected communities, or social groups.
Protection of Human Rights	<p><i>Legal Mandate:</i> Specific constitutional mandate to receive and investigate complaints about alleged abuses of human rights and take steps to secure appropriate redress where human rights have been violated.</p> <p><i>Comparative Advantage:</i></p> <ul style="list-style-type: none"> • Ability and powers to formally deal with human rights violations and to invest in formal systems and procedures of investigation and complaints-handling frameworks. • Capacity to address systemic violations of human rights which have broad causes and effects arising from the way society is organized politically, socially and economically, and proposing systemic solutions. • Ability to promote the justiciability and enforcement of human rights through sensitisation of the judiciary, legal profession and paralegals. 	<p><i>Legal Mandate:</i> A constitutional enforcement mechanism that allows for interventions by CSOs on their own others behalf and in the public interest.</p> <p><i>Comparative Advantage:</i></p> <ul style="list-style-type: none"> • Legitimacy as a result of a history of rights-based claims, the expertise and experience that they bring to the table and their relationship with primary constituents at community level that also puts them in good stead in bringing the gender and marginalised perspectives to the table. • Ability to organise CSO to work together for advocacy work and policy dialogue through membership-based platforms or, or through networking at community level and to hold strategic consultations to share information on specific issues and develop joint strategies to address them. • Ability to tap into international networks and organizations, and to strengthen their capacity to address national or international human rights issues.

Areas of Interventions	Strengths and Competencies	
	KNCHR (National Level)	KHRC (Sectoral Level)
Monitoring Observance of Human Rights	<p><i>Legal Mandate:</i> Specific constitutional mandate to monitor, investigate and report on the observance of human rights in all spheres of life in the country, including observance by the national security organs and act as the principal organ of the State in ensuring compliance with obligations under treaties and conventions relating to human rights;</p> <p><i>Comparative Advantage:</i></p> <ul style="list-style-type: none"> • Mandate and responsibility to develop an overall framework for monitoring human rights in order to identify and bring to focus appropriate indicators, targets and approaches. • Undertake national baselines on human rights • Lead discussions, analysis, and preparation of timely reports to various human rights treaty bodies on the extent to which Kenya is meeting its obligations under international human rights instruments. • Publish and disseminate regular public reports that review performance in the promotion and protection of human rights. 	<p><i>Legal Mandate:</i> Values and principles that bind all persons and institutions in the application and interpretation of the constitution which include public participation, human dignity, equity social justice, equality, inclusiveness human rights, non discrimination and protection of the marginalised.</p> <p><i>Comparative Advantage:</i></p> <ul style="list-style-type: none"> • Capacity to organise and monitor on a programmatic basis and to mobilise community efforts that create coherence with wider national and international human rights agenda. • Specialisation such as in the housing or security sectors, and capacity to engage with relevant state organs specializing in these sectors not only at the national level but also at county levels to monitor implementation status. • Experience in mechanisms for enhanced participation in public expenditure monitoring and independent assessments of development outcomes, and collaboration with specialized CSOs conducting such assessments. • Experience in leading engagement with human rights treaty bodies at both national and international level.

c) Strategic Positioning

KHRC currently sets strategic objectives through processes of organisational and community consultations and reflections. This commences with the preparation of the Strategic plans which propose the key strategic objectives, which are then implemented by annual operational plans. The key strategic objectives are identified by process of intellectual engagement between the Board and programme staff, and are also determined by the priorities set in Vision 2012 (which was also developed in a similar manner). The activities in operational plans are mainly sourced from the regional human rights networks, which are prioritised in terms of their fit into KHRC strategic objectives.

KHRC Vision 2012 is very clear on KHRC mandates and priorities in terms of process and strategy, which is first, to stimulate and support grassroots people's movements to fight for their human rights; and second, to advocate for a Kenyan State built on pillars of accountability and human rights-centred governance. The 2004-2008 Strategic Plan had as its goal the rooting of human rights and democratic values in all communities in order to enable them to claim and defend their rights while the strategic choices in the Strategic Plan of 2008-12 were based on the urgent need for comprehensive reforms towards human rights-based governance, accountability and democratic values.

The mid-term evaluation of KHRC 2004-2008 Strategic Plan³² noted that while KHRC is very clear in its implementation of the Vision 2012 tenet of rooting the human rights movement in the grassroots, it does not articulate how solidarity making with the middle and upper classes and imbuing values of human rights and democracy will be undertaken. The four programmatic strategic objectives in the 2008-2012 Strategic Plan have addressed these concerns and are cross-cutting with respect to the Vision 2012 tenets,³³ and it is now possible for interventions to be developed to implement these tenets. The review however still found that whereas the strategic positioning of KHRC in terms of processes is not in doubt, especially in terms of community mobilisation and civic action, what is still not clear is how KHRC strategically positions itself in maximising impact with respect to the other tenets of vision 2012. There are certain comparative advantages that KHRC possesses that it could use strategically in order to achieve greater impact either politically or programmatically:

- Flexibility in mandate
- Its unique and distinctive history gives it credibility with government and opportunities to enter into dialogue;
- Strategic partnerships with the donor community, KNCHR and civil society;
- Its relationship with communities;
- Its networks at regional and global levels; and
- Its experience generating, and disseminating knowledge to enable the production and sharing of cutting-edge knowledge in human rights;

Even though KHRC has been engaging with some state actors on policy and legal reforms, policy advocacy at national level was one area that was identified by stakeholders where KHRC could be more strategic in terms of identifying and making good use of entry points. Key opportunities that were cited that KHRC – for different reasons – did not effectively engage with despite possessing the technical competence were GJLOS and the security sector reforms processes. With government now talking the language of reforms, KHRC and other human rights CSOs need to develop mechanisms of cooperative engagement, while still maintaining a social distance that will allow them to disengage if need be or to monitor government activities at the same time.

3.2 Selection of programmatic areas of engagement

a) Analytical, Identification and Prioritisation processes

The review also found that the analytical progression from the strategic objectives in the current Strategic Plan to their implementation in the Operational Plan difficult to follow. This had also been noted in the mid-term evaluation of the 2004-2008 strategic plan which found that KHRC had not effectively translated its strategic intentions of Vision 2012 to programme edibles, and that there was a logical disconnect between the strategic and operational plans. The review noted that both the Strategic Plan and Operational Plans have a contextual analysis on which the strategic objectives and interventions are based. While the connection between the analysis and the strategic objectives is quite clear in the current Strategic Plan, this however does not follow through to the operational plans.

For example in the April 2009 – March 2010 Operational plan, it is stated that the goal is reforms, accountability and justice, and that this goal is developed from the Strategic Plan and the contextual

³² Mutahi Ngunyi, Mid-term Evaluation of the KHRC Strategic Plan, May 2007

³³ These are (1)Civic action for human rights;(2) Accountability and human rights-centred governance; (3) Leadership in learning and innovation in human rights and democratic development in Kenya; and (4) Mainstreaming equality, non discrimination and respect for diversity;

analysis detailed in the Operational Plan. Key interventions are then identified to achieve these goals namely constitutional and institutional reforms, partnerships, research and documentation, responses to emerging human rights issues, support to human rights defenders, the rule of law, responsive legislation and respect for the rights of minorities. However no linkage is made between the analysis in the operational plan and the strategic objectives in the Strategic Plan in terms of the needs and priorities identified, and how they should be addressed. It is therefore not clear what the bases of selection of the interventions in the operational plan are (for a summary of the 2008-12 Strategic Plan and intended results, see Annex IV).

There also seems to be differences in the approaches used to identify interventions in the operational plan. For some of the strategic objectives (SO) specifically SO 1 on civic action for human rights; and SO 5 on organisational sustainability, the projects/strategies are identified and different activities to implement each project or strategy then developed. For other strategic objectives, particularly SO 2 on accountability and human rights-centred governance and SO4 on mainstreaming equality, non discrimination and respect for diversity, certain thematic areas are first identified³⁴, and the strategies then employed in relation to each thematic area. The annual report for 2009-2010 however emphasizes the strategies approach and lists the key strategies as research; monitoring and documentation of human rights violations; capacity building of Human Rights Networks (HURINETs); publicity and media, especially with local radio stations; working with the State and advocating with regard to legislative and policy reforms and public interest litigation to provide redress. Activities are then identified in each strategy under the different SOs.

But this still begs the question of how specific interventions to be implemented are prioritised. Other than selection of activities by the regional human rights networks, it would seem that the actual prioritisation then depends on the initiative interest and understanding of individual programme officers, and standard programmatic guidelines are needed on this aspect.

b) Grounding interventions on an Evidence Base

The starting point in the identification of programmatic interventions is a *robust situation assessment and analysis* that includes all stakeholders at national and community level, and which identifies immediate, underlying, and basic causes of human rights violations/development problems. The following are some of the questions to be asked in the situational analysis at both national and community level:

- What are the rights violations and denials, which rights are not being realized?
- Who are the poorest and most vulnerable communities and individuals and how can we find out?
- What is the legislative, policy and practice environment that has led to the denial of these rights?
- What are the immediate, underlying and basic causes of development problems?

It has been pointed out by informants that KHRC was very effective in collecting this type of empirical evidence when it was monitoring civil and political rights violations, and there is evidence of its human rights reports being relied on by both national and international organisations (e.g the Human Rights Watch reports on Kenya extensively utilised KHRC quarterly reports). Recent Bi-annual Human Rights reports and research reports seem to be based more on secondary data gathered mainly from desk research and newspaper reports, and no primary data is collected. The exception has been

³⁴ For example some of the thematic areas identified in SO 2 are Transitional Justice, Constitutional Reform, Security Sector Reforms, Labour Rights Advocacy, Stop EPAs campaign, Maua Mau Reparations Campaign and Legal Aid. In SO 4 the identified thematic areas are Gender, HIV/AIDS and LGBTI rights.

certain baseline surveys conducted for some of the regional advocacy initiatives³⁵. The KHRC Human Rights Institute which has the potential of undertaking this process is currently understaffed and not adequately resourced.

The key importance of the situation analysis is that it identifies the problems and needs that will be addressed by the programme objectives, and also in making the strategic objectives realistic and achievable. It is at this stage that partnerships are also established and actively engaged in the process.

3.3 Results from advocacy, and engagement with stakeholders and constituencies

There is general consensus that the work of KHRC has been effective in producing key results and this is not only documented in the various reports and evaluations, but also confirmed by stakeholders. The review has highlighted the key results at international, national and community levels in terms of the structural changes that have occurred, and is also making certain proposals, based on observations, on how our KHRC can further harness its potential and competences to maximise impact.

a) At International level (including UPR and international treaty bodies)

With the exception of the treaty on protection of migrants and their families, Kenya has ratified the core human rights treaties with its optional protocols. Kenya was reviewed by the Human Rights Council in Geneva in the course of the Universal Periodic Review in May 2010. Informants both the KHRC and outside the organization emphasize that KHRC is involved as stakeholder and participant in the reporting to the treaty bodies and the UPR mechanism.

Regarding the outcome and follow up of the UPR review, the documentation³⁶ suggests that the KSC contributed to moving the Government to accept 20 recommendations from the review, and establishing monitoring tools. An assessment of the relevance of these recommendations, or the recommendations not accepted by the Government (abolition of death penalty and protection of sexual minorities), is not presented in the documentation. There is therefore little evidence to suggest a thematic link between the human rights violations addressed in the reporting to UPR, and the current Strategic Objectives of the KHRC. The Review acknowledges two reasons for this, a) the UPR review took place in May 2010, whereas the Strategic Objectives were worked out in February/March, b) the current Constitution was ratified in August the same year. The new constitutional order contains most international human rights standards. It is the impression of the team that the Constitution and its follow-up among stakeholders overshadow the UPR review of Kenya. The resources used for Constitutional reform (Strategic Objective no. 2) and the corresponding activities and results indicate that KHRC has been instrumental in a 'yes' vote for the Constitution.

While actively engaged in providing inputs into the UPR process, there is less obvious alignment of strategic priorities and indicators in monitoring government commitments and recommendations afterwards. This weakness is something that many of the partners in the Kenya Stakeholders Coalition (KSC) is grappling with and is not specific to KHRC. Yet, KHRC could – because of its potential strengths in socializing evidence at the grassroots levels – play a more significant role in the

³⁵ For example the *Kenya Governance Human Rights And Peace Building Programme Baseline Survey Report*, November 2009 and the *Baseline Survey On Coffee Concerns In Nyeri District – Tetu Constituency* (undated)

³⁶ Mid-year report from KHRC presented to grantmakers, October 28 2010. Page 15.

follow-up and ongoing engagement around treaty body recommendations in order to guide duty bearers as to where the gaps are, based on relevant evidence.

It can be argued that the national use of the treaty bodies, especially the Convention on Civil and Political Rights (ICCPR), the Convention on Social, Economic and Cultural Rights (ICESCR), the Conventions on the Rights of the Child (CRC), and the Convention against all forms of Discrimination against Women (CEDAW), is important in implementing international human rights obligations and can be used to support implementation of the new human rights provisions in the Constitution. The Review finds the same pattern as in the UPR – context; KHRC is involved in reporting to the treaty bodies, notably the CEDAW committee, the CESR Committee and the Convention Against Torture, and were also invited to validate the report to the ICCPR by the Ministry of Justice and Constitutional Affairs in 2010. KHRC also has in place a conceptual framework to guide its international advocacy. However, in general there is little evidence showing how treaty body observations are used in a strategic context for the KHRC.

To give one example: one relevant point of reference for follow up from the KHRC might have been the concluding observations from the Committee on Economic, Social and Cultural Rights of November 2008³⁷, since they touch core activities for the KHRC. This seems to be a missed opportunity for the KHRC.

The Review acknowledges that the treaty bodies of the mentioned conventions can be perceived to be absorbed and integrated into the UPR mechanism.

b) At national level

At the normative and institutional level, the visibility of KHRC programmatic processes and advocacy has contributed to firmly putting the human rights agenda on the constitutional and institutional radar, and brought human rights into the sphere of the home and the community. This has been through the creation of institutions such as the KNCHR and the Truth and Justice Commission, reforms that have included a wide range of rights in the constitution and the policy and action plan on human rights. KHRC has also been active in ensuring Kenya fulfils its obligations under international human rights instruments. This has been through participation in the preparation of both government and shadow reports to United Nations human rights institutions, and participation in the Universal Periodic Review (UPR) process and NEPAD Peer Review mechanism. It was also noted by government officials that many policies in the national Human Rights Policy and Action Plan were influenced by the recommendations of the Human Rights Council after the UPR process.

KHRC has extended the boundaries of human rights protection to those that are normally outside reach, by defending new and contested rights. It brought politically sensitive rights violations to the fore particularly those that targeted particular ethnic groups or were perpetrated by state agencies, it has pushed for multinational corporations to be held morally and legally accountable when their actions or omissions deprive people of their basic human rights, and it has defended the rights of marginalised groups such as LGBTIs.

KHRC is also largely credited for introducing and entrenching the concept and processes of accountability in the public domain through its consistent focus and demands on redress for impunity in the various areas and communities that it works with. Of particular effectiveness in this regard has been the advocacy for police accountability in relation to the extra judicial killings of the *Mungiki* vigilante group, the Mau Mau veterans reparations and the violation of workers' rights in flower farms.

³⁷ UN Economic and Social Council Geneva 3-21 November 2008

KHRC partnerships and alliances and community engagement have resulted in the visibility and awareness on various thematic areas, particularly transitional justice, constitutional reforms and implementation and local accountability. One success story in this respect has been the advocacy for and profiling of the International Criminal court process on the post election violence, that has been spearheaded by the Kenyans for Peace Truth and Justice coalition led by KHRC. A number of guidelines and publications on the ICC process have been produced and disseminated, as well as fora held to monitor and lobby for action by the government.

The partnerships and alliances have also produced a large pool of human rights defenders. We are using the term human rights defenders in an inclusive manner, to refer to anyone, regardless of their occupation, and whether individuals, groups of people or organizations who promote and protect human rights through peaceful and non-violent means. The review noted that KHRC programmes on human rights defenders currently focus on human rights workers under explicit threat, and KHRC partners at community level were of the opinion that they were not regarded as human rights defenders and were not receiving adequate support in this respect. The issue of human rights defenders needs more attention by KHRC in terms of its own conceptualisation and programmes, and also a more integrated support to this group of actors.

As indicated earlier, opportunities still exist for maximising results in KHRC's engagement with government and partners – though there has been positive engagement with among other the Ministry of Education for work on incorporating human rights education in the school curriculum; Ministry of Land on implementation of the National Land Policy; work on transitional justice with the Ministry of Justice, National Cohesion and Constitutional Affairs; and work with the Ministry of State for Planning, National Development & Vision 2030 on issues of regional inequalities.

Firstly KHRC can work to enhance state capacity while simultaneously challenging the existing culture, will and practices, without lending support (and/or legitimacy) to undemocratic forces, attitudes and beliefs within the state and government. Paying greater attention to processes is based on the recognition that the manner in which issues are addressed can either impact positively on underlying conditions and patterns, or can exacerbate them and undermine the change desired and a process orientation is valuable as it can give people experiences of 'doing things differently'. As such, it helps with imagining what *can* be, rather than basing behaviour and attitudes on what is or what *has been*. A key example here is KHRC's history of non-engagement with the security forces at a policy level. KHRC has collaborated with the security sector at various other levels, for example in the training of security services and consultations to discuss matters of rights concerns, but the reforms that are now needed most urgently and are a constitutional priority is on the accountability of the sector, and which is an area where KHRC has previously decided not to engage.

"We need groups like KHRC to tell us what we can do and where the gaps are, based on credible evidence and research – not just where we have gone wrong in the past".
(Stakeholder respondent, duty-bearer)

More effort should be made by KHRC to facilitate discussion and interaction between those who are supposed to deliver (the state) and those whose right it is to benefit, to ensure that there is a constant engagement on why change is needed, what change is needed and how it can be achieved. Such pressure from outside can also assist in monitoring the pace, scope and contents of reform. Secondly great opportunities now exist for building capacity of government institutions both at national and county level on not only the content of the rights as provided in the constitution and indicators for realisation,, but also on the human-rights based approaches to development.

Thirdly KHRC stands in comparative good stead because of the respect it commands in the sector and its competence, to strengthen its leadership of, commitment and strategic direction to partnerships. At the moment partnerships seem to be working very well with what we may refer to as "like-

minded” organisations (the congruency emanating either from the organisation’s leadership or mandate) as in KPTJ, but not with those who do not seem to have had a history of working with KHRC or international NGOs. Although KHRC sits on the Legal Resources Foundation’s Board at their request, and regularly works with CREAW on rights issues affecting women, cooperation and collaboration on the ground seemed to be more limited in the Dutch-funded Human Rights Defender intervention between the four agencies working on the project (Release Political Prisoners, Citizens against Violence, Legal Resources Foundation and CREAW). In KHRC’s operational plan, it is also mentioned that KHRC should seek to collaborate more with the service delivery-oriented INGOs that are active in the communities targeted by the HURINETs. However, the Review did not note any significant progress or evidence of this happening in the very limited number of communities visited³⁸.

c) At Community level

KHRC innovative facilitation and engagement with regional human rights networks (HURINETs) made up of various community based organisations has resulted in the increased ownership of human rights initiatives at community level, and increased demands for human rights protection and accountability by communities. There are various examples of HURINETs bringing local issues to national level - the Narok HURINET helped influence the recognition of ancestral lands in the new constitution and helped ensure compensation was incorporated in the draft Wildlife (Management and Conservation) Bill 2007; the Eldoret HURINET presented the case of a girl who was denied a position in the army on claims that she was pregnant to the relevant parliamentary select committee; and HURINETs participate in national issue-based networks such as the one on Internally Displaced Persons rights. KHRC also uses information from communities in all its research and advocacy work and in this way gives voice to community concerns at national level as well as through engagement with the media.

There is evidence of social movements having contributed to creation of new structures, with new organisations having been formed that have carved out a niche for themselves in the larger environment of other organizations pursuing similar objectives, as well as initiated productive relationships with media, funders, the and government. An example is the MUHURI which started as a network and is now a CSO in its own right that is active in advocating for human rights in the coast region of Kenya . A similar organisation has been registered as a community based organisation in Isiolo.

Awareness on human rights issues at local and national level has been raised by both KHRC and the human rights defenders in the various HURINETs. Specific training by KHRC has been conducted at both national and community levels, and reflections on the human rights situation at community level held with the HURINETs. In addition to raising awareness at community level on human rights and accountability issues through the People Manifesto and score card initiatives at constituency level, the human rights defenders are normally approached to give legal and other assistance in cases of human rights violations or demands for accountability at local level.

The community groups however noted that there are various areas in need of improvement in their engagement with KHRC. It was noted that the limited resources availed and the focus on *ad hoc* activities at the community level were constraining impact and KHRC should consider fewer but more long term interventions at community level. They also expressed the need for community groups to graduate to more sustainable organisations through provision of more specialised training

³⁸ The Review visited communities and HURINET members in three locations – Nyeri, Isiolo and Mombasa (Coast).

knowledge and skills, and more technical assistance from KHRC particularly in the land disputes the communities were encountering.³⁹

Community groups indicated strongly their wish to be helped by trained lawyers to secure their title to land and housing.⁴⁰ The Review has the impression that the complexity of these issues was not always fully comprehended by the groups. The outcome of possible legal action would not necessarily be in line with their expectations, or solve further constraints regarding fulfilment of their rights. Information and clarification in this regard seemed to be called for.

Views about KHRC mobilization techniques for Civic Action at community level

“The nature of mobilization of community members, especially in Isiolo and Siaya adopted the workshop approach. In Isiolo, for instance, all community meetings took place at a hotel. This created a workshop atmosphere that served to encourage participants to speak as they would in a workshop and give a ‘polished/rehearsed’ rather than ‘true/accurate’ responses .(...) This type of mobilization also meant that only participants who could travel long distances with a night out were reached. We noted women face difficulties for time out to attend such meetings, and more so to sleep out of their homes.”

(Final Gender Audit Report for KHRC, Aug. 2007, undertaken by SATIMA Consultants Ltd.)

“There is a need to take these human rights trainings and meetings out of hotels and back out to the communities. We should be doing training of trainers, not in expensive hotels, but in the slums where the most severe human rights issues are.” (Focus group discussion member, Mombasa HURINET, Nov. 2010)

KHRC clarified that they consciously and deliberately decided on a set-up that would not make them either a sub-granter to the HURINETs or work in the regions through the model of offices. Instead KHRC’s model of working with the community expects the HURINETs to learn how to fundraise for the work they want to do, and to institutionalize themselves because of internal demands for the same. This it is hoped will facilitate the creation of human rights leaders and organisations at community level, but is also attendant with some challenges. Working with communities at grassroots level has the advantages of avoiding elite capture, and engaging with partners who understand the local circumstances and politics and who are strong mobilizers. However it also presents the challenge of inadequacy of the skills required in forming strong organisations. KHRC has assisted some of the communities with training in this respect.

There is therefore a cycle of working with individuals, who then form networks, which then undergo cohesion challenges, and as the demand grows for more activities and support, this is what motivates the networks to then transform into organisations which can support themselves. The demands and frustrations witnessed by the HURINETs is therefore a necessary step in their transit into stronger organisations.

It is the review’s opinion that so long as programmatic priorities are being set at community level, and financial resources are being channelled to the HURINETs to implement these priorities, KHRC will need to address the impact and accountability issues that this programmatic modality presents. This could be through provision of technical assistance which does not require financial outlays, and also facilitating linkages with other organisations that could provide similar assistance. It would also appear that KHRC in its model of community engagement needs to further conceptualise and

³⁹ In several locations visited, the Review team noted that communities had overly high expectations on KHRC providing a lawyer and that issues could be easily settled that way, while in fact, the nature of the problems were more complex and structural in nature. Communities could clearly benefit from more paralegal training and assistance in order to fully grasp the nature of the issues and what is possible to solve by legal means.

⁴⁰ Community visit Isiolo November 2010, and Mombasa Hurinet November 2010. Approx 100 participants on each occasion.

harmonise the empowerment and programmatic interface, and also hold more frequent dialogue with the HURINETs on their respective expectations.

Implementation according to stated goals and operational plans: In general there is coherence and logic in the reporting with a good level of detail on individual activities mentioned in the operational plans. Deviations are usually accounted for. However, activities are not aggregated or measured against the ‘expected results’ set out in the Vision 2012. It is therefore impossible to tell whether and to what extent they are contributing towards the goal fulfilment in the Vision. Although most activities mentioned in the Operational Plans seem to have been undertaken as planned, the Review noted that follow-up activities at grassroots levels to the People’s Manifestos and Scorecards had been downscaled compared to original plans in all visited locations. Overly ambitious planning at the outset, the lack of resources for logistics and poor capacities to undertake the task by HURINET members themselves seem to be part of the reason why.

Nevertheless, overall activities seem to have been carried out according to the Operational Plans and there are examples of contributions towards goal achievement, even if these are not systematically tracked or reported on. Some such examples are included in the table below.

Table: Examples of contributions to goal achievements against OP 2008/09, OP 2009/10

Strategic Objectives	Operational plan 2008/09	Operational plan 2009/10
<p>Strategic objective 1: Civic Action for Human Rights <i>To facilitate community struggles, through organising and action on specific human rights issues to hold duty bearers accountable for human rights fulfilment and protection. Thus, the respective communities will gain and exercise their power of agency and promote community-wide support for collective commitment to building a culture of respect for HR.</i></p>	<ul style="list-style-type: none"> - Raised level of demand for accountability of decentralised funds - Community-based contributions to TJRC - Follow-up of People’s Manifestos with a focus on reconciliation, equality and non-discrimination on ethnic grounds in particular 	<ul style="list-style-type: none"> - Technical and institutional capacity building led to some HURINETs (in Rift Valley, Baringo, Laikipia) attracting external funding to undertake activities. - Around 400 network members across the five regions were involved in KHRC supported trainings and events.
<p>Strategic objective 2: Accountability and human rights-centred governance <i>To reduce impunity and increase accountability of state, government and powerful non-state actors by initiating, participating and contributing in ongoing anti-impunity campaigns (...).</i></p>	<ul style="list-style-type: none"> - Technical inputs into Kenya National Dialogue Reconciliation - Leading role in KPTJ and other civil society coalitions feeding into various mechanisms to address impunity around post-electoral violence - Work on cases for torture survivors and Mau Mau Verteran’s Association - Campaign against EPAs 	<ul style="list-style-type: none"> - Engagement with the State on: State reporting under the UPR, constitutional review, formulation of National Policy on Human Rights (NAP), transitional justice (TJRC), the Strategic Plan for the Ministry of Northern Kenya. - Examples of HURINETs working with the Kenya police force, district peace committees, engagements with MPs - Protection of human rights defenders including the method of risk assessment
<p>Strategic objective 3: Leadership in learning and innovation in human rights and democratic development in Kenya <i>To develop the Commission’s leadership role through strategic human rights research and dissemination of reports, evidence-based human rights programming and action at community,</i></p>	<ul style="list-style-type: none"> - Research by KHRI into organized crime and the Mungiki - Documentation and distribution of newsletter Mzizi ya Haki (Roots for Rights), produced by and distributed to the 21 HURINETs (2,000 copies in 2008). - Baseline surveys of human 	<ul style="list-style-type: none"> - Produced a Termination Handbook to respond to labour related cases were the majority of cases in legal aid clinic. - Launch of final report on monitoring of the IDP resettlement programme “Out in the Cold” which informed the

Strategic Objectives	Operational plan 2008/09	Operational plan 2009/10
<i>national and international levels.</i>	rights situation in Isiolo, Wajir - Publication of “Foreigners at home: the dilemma of citizenship in northern Kenya”	Legal Protection Group under the auspices of UNOCHA. - Research on HR abuses in tea sector, harmonisation of decentralised public funds etc.
Strategic objective 4: Mainstreaming equality, non-discrimination and respect for diversity <i>To influence legal, policy, attitudes and practice changes at community and institutional levels to secure the human rights of women, LGBTIs, persons with disabilities, people living with HIV/AIDS and excluded groups like ethnic minorities.</i>	- Research, engagement and advocacy around the issue of citizenship in Northern Kenya - Contribution to Kenya’s first Gender Festival together with FIDA Kenya. - Established collaboration with Kenyan gay and lesbian community (GALCK)	- Ability of HURINETs to respond to LGBTI case (Coast) thanks to collaboration with Gay and Lesbian Community of Kenya (GALCK); internship arrangement with GALCK to assist in KHRC programming - Staff trainings on gender mainstreaming
Strategic objective 5: Organisational sustainability of KHRC <i>To invest in diverse strategies to secure our sustainability in respect to financial self-reliance, effective governance and management, competent staff capacity and functional community networks.</i>	- Update of financial and personnel policies	- Almost 100 per cent of the budget of the Operational Plan was raised despite shifts by several grant-makers from multi-year to annual funding and core to project funding.

3.4 Key Recommendations at ‘relational’ level of strategic engagement

(a) The review confirms KHRC leadership and immense contribution to the human rights agenda and sector in Kenya, and also that it has been strategically engaging with rights holders and duty bearers to ensure effective responses to emerging human rights issues. There are however a number of areas where the review noted that certain improvements could be made by KHRC to optimize impact: KHRC needs to identify priority thematic or priority human rights issues of focus through an objective assessment process that involves key actors and beneficiaries. Such an assessment would address the following questions:

- Is it a systemic issue? Would there be benefit from sectoral change?
- Is this issue in the broad public interest?
- Will addressing the issue clearly benefit vulnerable or marginalized people?
- Will it address “glaring unfairness”?
- Is the issue the result of legislation, regulation or policy?
- Is there another body better placed to address the issue?

The selected thematic areas/issues should form the basis of integrated implementation strategies and actions under each strategic objective, for greater impact and synergy. This will lead to better analysed and more strategic interventions as well as enhanced ownership by the communities KHRC engages with.

(b) Situation analyses needs to be undertaken as far as is possible in relation to each of KHRC’s strategic objectives, and data is collected at both the macro and micro levels, and where possible and relevant, disaggregated by gender, age, disability, ethnicity, income and geographical location. Issues of inequity and discrimination will be more easily uncovered through the use of disaggregated data. In terms of participation both duty bearers and rights holders should be included in the situational assessment to ascertain the multiple dimensions of non-realisation of human rights. Communities and government officers should be provided with the relevant findings of the situational analysis to both triangulate the findings and to engage all parties in the proposed interventions.

- (c) KHRC needs to move beyond putting human rights on the agenda to providing technical inputs in the realisation of the rights, which is an area that KHRC will now be required to develop a niche in. This will be in various ways: (i) the development of critical engagement processes, with quality information and strategic thinking and input in the various ongoing policy and reform processes, (ii) follow-up on the state's international and constitutional obligations and in cultivating effective partnerships with a multitude of development actors to monitor these.
- (d) KHRC needs to have more structured engagement with HURINETs, in various respects. One is their effective participation in building evidence of issues at the community level to guide the community's identification and prioritisation of human rights violations. Secondly is the need for focused and comprehensive interventions rather than one-off activities that have greater impact on the realisation of specific prioritised rights. This will now be particularly crucial for HURINETs as they engage with county governments. Thirdly is the more technical assistance to HURINETs in the identified areas of need where more specialised training and legal assistance is required.

4. Findings at operational level: Management and governance

4.1 Management, decision-making structures and the role of the Board

a) Stock-taking of literature & previous reviews

Board and management systems: Previous reviews⁴¹ from 2007 have been fairly critical about the lack of institutionalized systems for decision-making in the organisation, which has made it susceptible to dominant views of key individuals on its Board and/or individuals in the management team in the past. Even today, there is a tendency to refer to the founders for strategic policy directions or if there is disagreement in terms of the organisation's strategic direction among Board members.⁴² The active involvement and commitment of Board Members has been an asset to KHRC since it has provided both stability and hands-on guidance to the organisation in turbulent political times and guarded against fragmentation that other CSOs and NGO committees suffered from in the period under review. Board members have also been seen to be 'approachable by staff'⁴³ at any time, knowing their shared commitment and engagement in this field of work. Yet, the lack of established governance procedures with fixed terms for Board Members has been previously criticized. Public documents such as the KHRC's organisational by-laws and Constitution are not easily available⁴⁴ and have not been updated since the organisation was formally registered in Kenya in 1993.

External reviewers⁴⁵ have previously noted that KHRC's Vision 2012 is broadly the 'vision of the KHRC founding members' and that it does not have the same level of ownership among staff or by targeted communities (whether they are physical communities or interest communities), even though its overall objective is to "*adequately root human rights and democratic values in all communities in*

⁴¹ Primarily based on observations in the 2007 Annual Institutional Review of CSO Partners under the Danida Kenya Good Governance Programme, KGGP (April 2007), and A Mid-Term Evaluation of KHRC Strategic Plan 2004-08 (May 2007) as well as broader context analyses of civil society support funded by the Norwegian Embassy (2007, 2008).

⁴² Based on Board member interview for this review.

⁴³ Feedback from interviews.

⁴⁴ For instance, they are not downloadable from their website.

⁴⁵ Mutahi Ngunyi, Mid-term Evaluation of the KHRC Strategic Plan, May 2007

order to enable them to claim and defend their rights” with the aim of social movement building as a central feature.⁴⁶

A more recent assessment⁴⁷ undertaken of UN implementing partners by Price Waterhouse Coopers (PWC, 2010) is less critical of internal oversight and decision-making structures. In this assessment – which is labeled a ‘micro assessment’ and which does not contain extensive analysis – KHRC’s Board and management structure is positively reviewed for containing qualified and high profile members with the required level of diversity. This indicates that there have been some positive developments in this area in the last few years, which was also confirmed by this review.

Staffing & staff culture: As for the staffing of the Commission, recent reviews have pointed out that it has failed to fill some key management positions for a long period of time, such as the Programme Coordinator/Deputy Director position where one of the senior programme officers still officially holds the position as ‘acting’. Another senior position that is pending for recruitment is the Dean for the Kenya Human Rights Institute. Several documents in the background literature also refer to the need for a dedicated M&E person on staff (a position which has now been filled, but the person will also be in charge of resource mobilization and fundraising). Staff qualifications have otherwise been assessed to be good. These views largely concur with observations from this review.

The detailed planning process with broad involvement of staff in the development of annual Operational Plans has been noted as an area of organisational strength in the 2010 UN/PWC assessment. Other assessments⁴⁸ point towards the tendency of the Commission to ‘over-plan’ in terms of being too ambitious, both in the number and spread of activities foreseen for each operational year, without realistic links to budgets, internal capacity and clear milestones. This has been linked to the lack of having a structured M&E system in place (see also Section 4.2).

Internal competitiveness and lack of team work seems to have characterized the staff culture in KHRC in the past, with an identified need to move “from building fiefdoms towards building teams”⁴⁹. The 2007 year reviews also criticize the top-heavy (and top-down) management and control mechanisms in the organisation, which left little space for innovation, learning and coordination responsibility of Senior Programme Officers and other professional staff. This is another area where progress and positive change have taken place in recent years.

b) Recent developments & current status

Internal decision-making and management structures: Overall, internal management of the KHRC since 2007 seems to have benefitted a lot from reorganization of staff into teams, and the appointment of an external Executive Director⁵⁰, giving renewed energy and stability to the organisation’s leadership in a critical time for the human rights situation in Kenya. This is evidenced both by the fact that recent reviews are more positive in their assessments of KHRC’s internal management structures (broadly concurring with observations from this review), and – more importantly – by the fact that KHRC managed to take on a leading role in civil society on some of the processes and issues emerging around the post-electoral violence in 2007-08 and its aftermath. There have also been a number of developments in terms of institutionalizing governance and

⁴⁶ It was noted that KHRC suffers from ‘founder’s syndrome’ and that “as a public organisation, the Commission would best not continue appearing as a private members’ club”. (KGGP assessment, April 2007)

⁴⁷ Micro Assessment of UN Implementing Partners, PWC June 2010

⁴⁸ Mid-term Evaluation, 2007

⁴⁹ The creation of ‘personal fiefdoms’ within the organisation was referred to in both external reviews undertaken in 2007.

⁵⁰ During the time of the 2007 assessments, a Board member had stepped in to take on the Executive Director position in a transitional phase.

creating teams and transparent management structures since 2007 with new organisational policies and procedures in place, and with broader staff representation in the Management Committee.

Developments at staff level: Internal management procedures have been strengthened with more coordination responsibility now at the level of different programme teams and senior programme officers, compared to earlier practice, when everyone reported straight to the Deputy and Executive Director.⁵¹ Another such positive development is the move towards operating in teams with three main teams now operating as Civic Action Team (CAT), Research and Advocacy Team (RAT) and Finance and Administration Team (FAT). There is also a cross-cutting team on gender action in place (GAT), though the extent to which this team has sufficient human resources to truly work horizontally across operations is questionable.⁵² The teams of the two programmatic pillars (CAT and RAT) are each led by a Senior Programme Officer. Another Senior Programme Officer was recently appointed in charge of monitoring and evaluation (M&E) and resource mobilization with one programme officer also assigned to M&E. Senior Programme Officers (SPOs) have team coordination responsibilities and decision-making responsibilities related to their respective team activities.

Concept notes on how to operationalise strategic objectives are developed at team-level. Individual performance objectives are then developed for each staff member. All financial decisions have to first go through the Management Committee.

Although staff is now organized in teams, which is seen as a positive development in recent years, some teams still seem under-staffed compared to the scope of activities and the areas in the operational plan they are supposed to cover.

Developments at Board level & Board-staff interactions: Many of the earlier raised criticisms against the board in previous reviews are being addressed in the Draft Governance Guidelines of KHRC, prepared in September 2007. These guidelines would, among other things, institutionalize an Annual General Meeting where Board Members whose term has exceeded 5 years would need to seek re-election. The guidelines furthermore sets out the terms for the relationship between the Board and management, as well as staff, and provides criteria against which Board performance will be regularly reviewed. These guidelines have also been referred to in the operational plans both for 2008/09 and 2009/10. It is therefore unclear why they are still in draft format, and it is the view of this Review that they should be approved and made publicly available on the KHRC's website as soon as possible.

Staff as well as Board members feed into quarterly reflection sessions and an annual strategic retreat (and AGM when the new governance guidelines will be implemented). However, it was made quite clear from interviews conducted with staff that strategy development still is seen to be the responsibility of the Board, with staff being responsible for the execution of the strategy. This does not seem to have changed from before, with previous reviews also noting the dominance of Board members in strategy development and ongoing strategic direction.

With a shift away from a dominant focus on civil and political rights to increasingly focus also on social and economic rights (since 2004), there was a strong feeling among some stakeholders that KHRC's approaches and ways of engagement need to change accordingly, and that the Board composition and expertise need to reflect this strategic shift both in terms of thematic orientation and ways of working. Board members, whose personal views are heavily relied on for strategic

⁵¹ This was one of the managerial weaknesses highlighted in the 2007 mid-term evaluation of the KHRC strategic plan.

⁵² The team met one programme officer in the civic action team who was the gender focal point. She was also the coordinator for regional activities in one of the five regions.

direction, may not always reflect realities on the ground, past lessons from implementation and the capacities of KHRC staff to deliver.

Some stakeholders at national level referred to the issue of KHRC having a “high profile board, but with the same Chairman since its inception” as a mixed blessing, lending both ‘weight’ to the institution, but also making it seem archaic in its own governance while pressing for transparent governance by others. Several interviewees also felt it affected KHRC’s ways of working by applying the same tactics as in the early 90’s when new and innovative approaches are needed for proactive engagement.

c) Policies and guidelines for implementation

Former reviews have pointed to a general lack of internal policies and procedures to guide implementation. There is a positive development also in this area since 2007, with the formulation of a gender policy, a human resource policy and a finance policy and procedures manual. The problem now lies in translating these policies into operations. For instance, in the 2008-12 Strategic Plan it is recognized in relation to the gender policy that:

“Weak staff capacities to translate the policy on gender mainstreaming in the context of the work of community networks and programmes led to gaps in reaching the goals of mainstreaming. Despite good will and internal mainstreaming capacities, we still need capacity building to be able to apply mainstreaming tools effectively in community programming contexts.” (KHRC Strategic Plan, 2008-12)

Staffing and procedures for programme execution: In terms of the day-to-day execution of the operational plan, staff members have their own individual work plans which are derived from the annual operational plan. Quarterly reports are provided, and operational decision-making is done at the Management Committee level which consists of the Executive Director, the Deputy Director, the Finance Officer, a Gender Focal Point and a Staff representative. It was noted that all financial decisions have to go through and be signed off by the Management Committee. Although this seems fairly ‘heavy’ as a structure, it may be prudent in the Kenyan context, and in line with KHRC’s own anti-corruption efforts and internal policy.

The review also noted that internal decision-making has become more inclusive of staff views and less centralised compared to previous reviews carried out in 2007. This also seems to have had positive effect on staff motivation and team spirit. It was also the impression of the Review Team that programme staff is very committed and feel ownership of the current strategic plan and approach. The drawback to having moved away from a culture of ‘personal fiefdoms’ to one of a more inclusive staff involvement in planning and programme execution means that some areas have been less well tended to since previous staff left. For instance, the Kenyan Human Rights Institute (KHRI) – which was set up to be a leading educational and knowledge-generating institution in the area of human rights in Kenya – literally only has one staff member left, and the appointment of a Dean to give the Institute the ‘academic weight’ and influence that was intended is long over-due.

At present, the KHRI has a limited amount of funding from KHRC while its registration as an educational trust and the appointment of a Dean is in the pipeline. At present, there is only one staff – a Programme Associate – hired to follow up on the KHRI matters, which is clearly insufficient. As a consequence, several stakeholders consider the KHRI to be a ‘dormant’ institution, even though many stressed its potential importance in making more evidence-based and concrete policy proposals from a human rights perspective in the many ongoing government reforms.

Another staff area of potential shortage is the Gender Action Team (GAT), which mostly consists of one gender focal point whose responsibility it is to help oversee the integration of gender aspects

into all programmes while also acting as a full-time programme officer for one of the regions under the Civic Action Programme. Although there is a budget line for gender mainstreaming in the 2009-10 budget, there are no personnel costs indicated for gender. Although KHRC has gone far in the analysis and efforts to formulate its gender policy, hands-on support in practically working with gender issues *in day-to-day human rights realities* and to *monitor gender outcomes of community interventions* is needed.

Gender still tends to be treated as a separate women's rights issue, rather than a truly cross-cutting issue of how men and women's rights fulfilment is affected differently across all areas. Gender specific indicators tend to focus on women's participation (number of women trained, number of women participating in meetings) rather than to look at gender outcomes in terms of evidence and examples of changed power relations, strengthening of women's/girls, men/boy's agency to claim or protect their rights. Focus group discussions at the Coast (Mombasa) highlighted the need to provide more analysis, data and support for advocacy around the situation of boys at risk of sexual exploitation, which is a controversial issue and where 'outside' support from KHRC would be valuable.

So far, gender-related activities tend to be more stand-alone than integrated in the regular human rights work, or highlighting human rights aspects of gender in the broader development agenda. Examples of activities undertaken include: holding the first ever Gender Festival bringing together feminist and gender-focused groups; sensitisation sessions on LGBTI issues with grassroots human rights organisations; commemoration of International Women's Day; conducting a two-day forum on gender with new staff and interns etc.

Inter-team synergies and collaborations: There are some concrete examples of cross-fertilisation of ideas and synergies between the different programmes and staff teams, for example between the civic action team and the research team where information from grassroots activities feed into and inform specific research topics or set the national advocacy agenda. An example is the work around citizenship rights in the Northern region, where KHRC in partnership with the Wajir HURINET commissioned research that examined the extent that communities in this region have been affected by the denial of citizenship related rights.⁵³ This was directly linked to, and helped inform, community activities on citizen rights in that area.

The link between national research/advocacy and local activities via the HURINETs is not always very clear, however, and could be made more strategic. Based on past experience, it is the view of the Review that KHRC is very well placed to create influential, evidence-based advocacy where such internal linkages are made and fully explored. Compared to other human rights organisations in Kenya, KHRC has a unique position in this area since it has the potential to tapping into community views and operations as a means of 'taking the pulse' on the momentum for popular support around certain reform or rights issues of national importance.

Yet, from analyzing the operational plans, it is unclear how human resources are mobilized to deliver on the different strategic objectives, and how cross-team synergies are contributing to different result areas. In fact, based on information from staff interviews, the review noted a tendency to 'projectise' issues like being in charge of preparations and follow up on the UPR process, which seems to fall almost exclusively on the Programme Officer for Legal Resources instead of being something that all programmes and initiatives are concerned about. Such role divisions also run the

⁵³ See: "Foreigners at home: the Dilemma of Citizenship in Northern Kenya", KHRC.

risk of having separate stakeholder processes set up for each new 'project area', instead of truly integrating follow up and monitoring across all areas of existing operations and partnerships⁵⁴. On the KHRC website, there is also reference to the KHRC 'gender project' as a way to incorporate gender mainstreaming across operations. The 'projectised way of thinking' could reflect fundraising pressures and the fact that most donor agencies are still ear-marking funds rather than to provide core funding.

At the time of the review, programmatic staff distribution was equally distributed between the Civic Action Team (6 programme officers) and the Research and Advocacy Team (4 programme officers and 2 programme associates for KHRI and LGBTI issues). Given the emphasis on rooting human rights in grassroots communities, community mobilization and social movement building in KHRC's strategic plan, along with the fact that KHRC has HURINETS in five regions of Kenya covering massive geographic areas, the staff of the civic action team seems relative small for its task. This will particularly be the case when following up on the quite ambitious initiative of drawing up People's Manifestos in a number of constituencies, and in terms of monitoring progress through the scorecard initiative and social auditing. These are not only labour-intensive processes, but will need massive coaching and hands-on support to set up local data gathering systems and ways to systematically collect, and use such community information to inform other KHRC reports and fact finding missions. At present, KHRC does not have any salaried staff based outside its head office in Nairobi, and there is a limit to how many times centrally based staff can visit activities and provide continuous support to HURINET activities in the regions.

The appointment of a Senior Project Officer for M&E and Resource Mobilisation took place very shortly before the Review. Given the high profile and importance of building long-term institutional memory into the management of M&E, the Review noted with some concern that the newly appointed SPO for M&E seemed fairly inexperienced in Kenya and in the country context (rather than tapping into and building local expertise in this field). There is also the danger of the M&E function being 'allocated' to one organisational unit instead of investing in processes that integrate this function across operations by all programme staff. The logic of combining M&E and resource mobilization into one job will also have to be reviewed at a later point as there seems to be no clear rationale for this.

Past reviews have highlighted the tendency to list more activities and result areas than KHRC has had the ability to deliver on, with overstretching of personnel as a result. In reviewing the human resources currently available for the programmatic work, this may still be an issue.

4.2 Results-based management and planning

a) Efforts and observations to date

Earlier reviews have pointed to a number of areas that need attention in relation to results-based management (RBM) and reporting, and where there are weaknesses in terms of matching Vision 2012 with clear milestones and results at outcome level. Clearly, some of these observations have been taken onboard by KHRC and are built into the 2008-12 Strategy which tries to be much more specific about intended results by 2012. There is also an effort to formulate much more specific and

⁵⁴ Although the KHRC has engaged extensively around the inputs to the UPR process, follow-up on conclusions are less clearly visible in KHRC operations and priority-setting. Also, when asking about follow up on international human rights commitments and recommendations from Treaty Bodies, the Review team was referred to one person in the RAT team who had followed this closely. It did not seem to be concepts that a large number of staff was familiar with or actively followed up on through their ongoing work.

measurable results compared to previous strategies. However, the Review noted a couple of key concerns in relation to this:

- In the effort to be specific on results, the quantification of some issues become meaningless, making results very difficult to report on, e.g. the intended result for SO1 formulated as: *“At least 1,000 successful civic actions on specific human rights claims by community groups working with KHRC, as a result of its capacity building and facilitation strategies.”* Though this would say something about KHRC’s reach and effectiveness of capacity-building efforts, it would not say anything about the nature of actions and how they advance (or even create conflict or backlash) around specific local human rights issues. Also, the definition of what is a ‘civic action’ is unclear, with different problems requiring different forms of actions. I.e. by focusing on the quantifiable aspects only, the gradual behavioural and attitude changes among key stakeholders to advance an issue is less visible.
- Though it is commendable to try to identify quantifiable indicators in the 2008-12 Strategic Plan, these results targets are not based on baseline data, and are not reported against (probably because they are too difficult to measure with the current level of investment in M&E). In this sense, it would be better to come up with less ambitious results, but that can advance organisational learning in relation work with specific target groups. (E.g. *“A significant rise in number of significant change stories from KHRC-supported HURINETs that indicate improved service delivery from duty bearers as a result of grassroots civic action”*, instead of *“At least 60 percent success rate of improved service delivery from duty bearers as a result of grassroots civic action by communities working in partnership with KHRC”*.)

This Review also concurs with previous observations that the cumulative chain and intervention logic from one level of operations to another towards a long-term objective is not always clearly explained or monitored. There is great level of detail at the level of activities, and there are high level goals defined in line with the mission and vision. But at outcome level (intermediate level) where activities are aggregated and clustered, there is little guidance or indication as to what has been achieved.

Previous reviews have also noted that KHRC’s corporate strategy is implemented under the aegis of programs (Strategic Objective 4 and 5), but that a better practice would be to have the corporate strategy and targets independent of the programme strategy, with the first underpinning and being a pre-condition for delivering on the second.

The separation of what KHRC wants to *be* and what it wants to *achieve* would be a first step towards setting up a clearer and more coherent results framework. The lack of such a unifying framework that mirrors the objectives set out in the Strategy has also been highlighted as a concern in past reviews. However, possibly as a consequence of previous staff shortages in M&E, this is a field where little progress seems to have taken place since 2007.

There is also still a lack of clear linkages between an M&E system and the planning system. Regular reflection meetings are currently held, but there is no systematic way of aggregating information against key indicators or of analyzing and using evidence from such reflection meetings and progress reports to look at trends over a longer time period. There is also no differentiation between different types of indicators (process, structural, outcome) and no written guidelines to staff on how to handle M&E and reporting. Although KHRC has been able to use and learn from the many external assessments and evaluations that have been undertaken of them as an institution or as part of larger programmes, this does not take away the need to look more closely at internal monitoring and learning systems and how they can be more evidence-based (including testimonials and stories of change as a complement to quantifiable evidence).

KHRC has repeatedly been criticized for not sufficiently using baseline and sector data to set internal targets and regularly monitor progress in the areas of change in which it chooses to engage. For instance, solid data from human rights monitoring undertaken in the context of inputting into or follow-up on specific treaty body recommendations, as well as research undertaken for the Biannual Human Rights Review (BHRR) are currently not being used for internal monitoring mechanisms. The People's Manifestos are referred to by KHRC staff as a form of baselines where they have been carried out. Yet they are overall fairly general in nature and do not provide the required level of detail for planning and monitoring of interventions. In the sampled concept notes prepared by HURINET coordinators before starting an activity, there is little reference to useful specific baseline figures, and there is no gender analysis⁵⁵. If HURINET coordinators were getting support and training in how to conduct relevant baselines and report on key indicators to track their own engagement in processes over time, this could greatly improve the quality of information from this level of activities.

International Human Rights Day celebrations 16 Nov. 2010 for Coffee Farmers, Nyeri

The Review team's visit to the Mt Kenya HURINET coincided with their celebrations of the International Human Rights Day where a meeting was held for farmers from different coffee factories across lower Tetu. The meeting was earlier slated for another day, but was changed after fresh fighting erupted at Kangaita Gaaki where over 450 coffee farmers are hawking coffee due to poor management leaving less than 50 members delivering their coffee to the factory. At the meeting, 13 coffee factories were represented with a total of around 50 participants.

The day started with an airing of a documentary on the Mungiki to demonstrate the result of a failed system due to poor governance and social economic problems arising from unemployment. The conflict resolution resource person the network had contracted for the day took the warring parties of factory representatives and farmers through the conflict resolution stages and, among many issues, the following emerged:

(i) that the coffee conflict was deep and does not only emerge from poor prices and mismanagement; farmers also need to understand the by-laws that governs their factories; (ii) that good governance can only come from good leaders as integrity is key to those in management, (iii) that the participation of farmers is key in all stages of the coffee production process, right from the farms to marketing – as opposed to the current situation which gives the factory managements ownership of the coffee from the factory excluding farmers thereafter, (iv) that adherence to by-laws and the co-operative act during the budget reading is important – giving farmers a copy of the proposed budget two weeks before can reduce conflict.

During the meeting, the farmers resolved that before the next factory management elections across Nyeri County, the Mt. Kenya HURINET should visit all eighteen factories in Tetu to sensitize factory management and carry out civic education on farmers' rights, good leadership and to help them identify clauses in the by-laws that denies farmers ownership.

KHRC did not attend the event. Yet, the gathering could have benefitted from technical inputs and analysis as a way of resolving the conflict and more clearly identify who's responsible for what in the longer term process of reviving and revitalising the coffee sector, and to push more structural issues to the next level.

Baselines sourced by KHRC, where they exist, such as the baseline on 'Citizen Empowerment and Government Responsiveness: The Case of Wajir and Isiolo Districts', contains a wealth of useful information. However, it was carried out by a consultancy firm which involved HURINET members as informants and participants instead of building their capacities as active agents of compiling and handling data of relevance for their own long term local change processes. Even with this data now at hand, it is unclear how follow-up will take place, or how resources could be made available for HURINET members to continually track and report on some of the suggested indicators. By outsourcing baselines to a 'neutral' outside agent, references to local human rights struggles also seem to fall away, and there is no obvious way to connect this type of local data with actual human rights incomes in line with international commitments.

⁵⁵ E.g. A Baseline Survey on Coffee Concerns in Nyeri District – Tetu Constituency.

A positive development is, however, that KHRC staff members have “started to think more results-oriented”⁵⁶. This was reflected in the recent Mid-Year Report to core and programme grant-makers in October, 2010, and it was noted and appreciated among donors. However, at present ‘most significant change’ stories seem to be picked up more at random, and from a subjective perspective, than in an institutionalized and systematic fashion as the ‘Most Significant Change’ technique prescribes for increased organizational learning. There is also the risk of leaving out the negative change stories, while overemphasizing the positive changes that programme staff ‘expects’ to see.

An internal prioritization linked to clearly desired change patterns and objectives would make both the allocation of resources and the reporting against results easier to follow for external audiences and potential grant-making institutions. At present, this type of analysis, linking potential results with levels and types of investments in e.g. social movement building, national advocacy or on public litigation cases do not come across very clearly (answering questions such as: How much and what type of investment is needed at grassroots levels?, What types of public litigation is a cost-effective means towards what kind of results?). The Review came across several examples in the regions where a process had been initiated (e.g. exposure of school teachers to good practices in preventing sexual gender-based violence in the school environment) without the necessary funds to fully pursue or follow-up on the process locally. One informant characterized the support from KHRC as an “on-off thing”, raising expectations the KHRC lacked the capacity to meet. The limitations of KHRC should also be communicated to the beneficiaries.

b) Methods and tools

Annual Operational Plans: Operational plans, prepared on an annual basis, are currently the main instrument for internal planning, implementation and follow-up on results. The introduction to the plan contains detailed contextual information and analysis at national, regional and even international levels. However it does not set the stage for prioritization of KHRC’s operations in relation to other players and/or in the focus areas selected locally in the regions. This type of information is instead included in Part Two of the operational plan as an introduction to each Strategic Objective. However, operational plans only refer to main headings of the strategic objectives, and not the more explicit formulations of objectives and results included in the Strategic Plan. The lack of clear reference to the intended results by 2012 for each area in the Strategy, and a set of key indicators to track progress/set a baseline against these results for each operational year is a weakness in this document. The use of these broad strategy headings instead of fully formulated objectives is common in various programme documents. They are:

- Civic action for human rights,
- Accountability and human rights-centered governance,
- Leadership in learning and innovation in human rights and democratic development in Kenya,
- Mainstreaming equality, non-discrimination and respect for diversity,
- Organisational sustainability of KHRC.

The planning matrix takes as a departure the activities to be undertaken rather than the objectives to be achieved. This leads to activity-based, rather than outcome-based (results based) reporting. Often outcomes are vaguely formulated (e.g. the activity to mobilize CSOs on EPAs is indicated to lead to an outcome labeled ‘agenda setting’ in the 2009-10 operational plan). It fails to capture who needs to change in what way to alter *status quo*, or how to create systemic shifts by working across a broad base of stakeholders. In the matrix each activity often has a corresponding outcome, and activities rarely lead to a joint outcome (other ways of doing LogFrames cluster a number of activities under each result area). This leads to having a too many outcomes at too low levels, but with no way of

⁵⁶ Quote from interviewed staff at KHRC.

aggregating results for intermediate-level analysis towards broader processes of change. Activities could be clustered and streamlined more towards a limited number of broader change processes. Taking the desired changes as the point of departure, it would then be possible to map out the pathways of influence for this to occur, going through a limited number of outcomes, and a cluster of activities for each outcome.

The use of terminology in operational plans are confusing with each Strategic Objective having a number of sub-strategies, under which activity areas are labeled 'thematic areas' (e.g. schools outreach) instead of being truly "thematic" in terms of e.g. the type or group of rights targeted. Each strategy has a long list of activities and outcomes which, in the latest operational plan (2010-11) for SO1 alone comes to a total of 52 outcomes and 72 indicators. Clearly, this is impossible to sensibly aggregate and report on.

In the current structure of operational plans, it is easy to lose oversight of strategies vs. end goals (objectives) and what KHRC's specific contribution is to different broader change processes. For example, for the Stop EPA Campaign under Strategic Objective 2, Strategy 4 (Publicity and Media), the activities to be undertaken are 'public campaigns through radio programmes and print media adverts'. The expected outcomes are 'increased awareness' and 'public support for the case'. Indicators are 'radio/TV shows, IEC materials, functional web link, public response'. The obvious question is – to achieve what, for what purpose, as part of what bigger change process and in order to fill what gap in policy/the public debate, and in order to change whose behaviour. Finally also, how will the progressive fulfillment of economic rights be monitored in relation to this (or alternative) trade regimes?

"Which way for Kenya in EPA?" Extract from article published in The Standard (Dec. 2010)

"Last week the warring parties were at it again. The Kenya Human Rights Commission (KHRC), the face of civil society's opposition campaign launched a report titled: 'Trading our lived with Europe' and demanded that the country should discard the EPAs and seek for alternative trade agreements. (...) But according to ... Ministry of Trade, the civil society has been engaging in a propaganda campaign because EPAs are beneficial to Kenya. So what is the way out for Kenya and EAC states? While civil societies are determined to assertively oppose the EPAs ... A study carried out by the Ministry of Trade in 2006 found that its only by negotiating and signing EPAs favourable to Kenya that the country would be able to sustain market preferences, avoid macroeconomic instability and disruption of economic activities, especially in the agricultural sector. Besides, only through EPAs will Kenya be able to increase trade with the EU in accordance with the aspirations of Vision 2030. To mitigate the risks raised by the civil society, the EAC is pushing for limited opening for EU products over a period of 18 years, and exclusion of sensitive products particularly in the agricultural sector."

(by John Njiraini, The Standard)

The idea of having all activities, even at individual HURINET level listed already at the beginning of each year in March also seems restraining rather than having clear outcome objectives that they could work towards (through one or several activities). The idea of engaging in long-term change processes and gradually taking on more of their own planning and monitoring towards desired outcomes should be encouraged at HURINET level. The current operating mode of focusing and reporting only on *ad hoc* activities does not necessarily encourage the required thinking for long-term 'social movements' to take off at that level.

RBM (logical linearity), MSC and ALPS: KHRC has good established systems for planning and regular follow up on programmatic issues through regional consultations, annual planning retreats and regular team meetings led by each team's respective SPO as well as quarterly programme meetings. Concept papers are prepared and adopted for all programmatic interventions, and inter-departmental linkages are encouraged by meeting together with the Civic Action and Research & Advocacy teams. By introducing a tailored monitoring tool, such meetings and interactions could be even more focused. At present, KHRC indicates that it has developed "a three-tier functions monitoring and evaluation system" relying on traditional RBM methods, Most Significant Change

(MSC) techniques and Accountability, Learning and Planning Systems (ALPS). This is combined with Key Result Areas (KRAs) for both individuals and staff committees that are completed at the Operational Planning process and are utilized by respective supervisors and/or conveners of committees to track results.⁵⁷ The advantage and disadvantages for each of these methods are listed, however, the Operational Plan does not explain further how these three methods work in tandem, what tools are practically being used to integrate them into the daily work, or how to aggregate information gathered from each of these methods. Neither is there any plan for how these methods relate to outputs and outcomes indicated in the Operational Planning Matrix or the Strategic Plan.

Clearly this is an area that needs more attention in the next phase of KHRC's operations. Current monitoring and planning practices do indeed fit somewhat with each of the three RBM methods that KHRC refers to – with linear logic and predictability dominating the current Planning Matrix, 'stories of change' captured by project officers during field consultations, and organisational reflection being carried out once a year in an annual retreat as well as through quarterly reflections. However, KHRC needs to see how to create one common results framework, lending from different methodologies, and making this KHRC's own, systematic way of working with results.

Contrary to its present, somewhat scattered focus, the main feature for such a results framework should be to ensure that sufficient relevant evidence is available for planning and learning to continually improve and adjust operations or investments based on past results and challenges against a limited but clearly defined set of objectives and outcomes. It should not, as tends to presently be the case, aim to control partners and co-workers in order to monitor that they fulfill what they set out to do at the beginning of the year. Control should clearly be one function of an organisational results framework/RBM system (which draws on a mix of methods). But in addition to knowing whether KHRC and its staff and partners "are doing things right?", such a system should also answer whether KHRC "is doing the right things?", i.e. if the ongoing prioritization of activities and thematic areas of engagement help to create positive (or negative) alignment of key stakeholders in order to improve certain human rights outcomes.

As has been stated in previous reviews, there is a need to set up a M&E framework that KHRC, its staff and partners "owns", that fit with and inform their ongoing operations, and that give staff and partners the necessary skills and tools to record, communicate and use results data to advance their interests. While MSC and ALPS could be ingredients in such a framework, so could Outcome Mapping which looks more to gradual behavioural and attitude changes within the groups the intervention tries to directly influence (duty bearers and/or rights holders). Such a results framework would need to avoid the pitfalls of MSC of not being systematic and only recording 'change stories' that are positive (or confirms pre-conceived ideas), the risk of ALPS to be very introspective instead of linking with broader systems of change with a multitude of stakeholders and competing interests, and of linear RBM (Logical Framework-style) of adopting a linear way of thinking with a predictability that would be impossible to fit with emerging local struggles and national processes to advance complex systems to progressively fulfill and protect human rights. Donors, and in particular those providing cores funding such as the Norwegian Embassy, could play a vital role in positively support such a process of strengthened monitoring mechanisms and allow for a process of setting up such internal systems to take time and be tested.

⁵⁷ Operational Plan, 2010-11.

c) Suggestions for ways forward on M&E

The issue of how to better capture and visualize results from KHRC's work was recently discussed between representatives of the organisation and the Norwegian Embassy⁵⁸. In these discussions it was agreed to increasingly use existing baseline data on the human rights situation in Kenya to link results from KHRC interventions to broader national change processes as well as the Concluding Observations from the Treaty Bodies under CAT and ESCR in 2008, and the recent Concluding Observations from the UPR mechanism in 2010. Clearly, this strategy also needs to take the recent development of the adoption of a new Kenyan Constitution into consideration, and align, where possible with national processes and indicators to identify gaps in implementation of the new Constitutional provisions, like the Bill of Rights.

By aligning with national and international human rights indicators where possible, and by building the community evidence around these through grassroots mobilization, KHRC could play a key role in monitoring the implementation of the rights provisions in the new Constitution. By systematically building the evidence base 'from below' (in line with the KHRC goal of 'rooting human rights in communities'), it would be able to progressively point to areas where the fulfillment of rights are lagging behind – especially in the area of social and economic rights – while at the same time demonstrating innovative ways to fill these gaps through its own operations.

The ability to extend national monitoring of Kenya's fulfillment of international human rights obligations to truly *localizing evidence-based human rights monitoring* is an exciting area where KHRC – thanks to its historic legitimacy and existing grassroots networks – could make a big impact. It would also create a unique niche for KHRC (with a clear legitimacy and mandate within this field), as compared to development NGOs who apply a rights-based approach to their work for improved service delivery, but who lack the mandate to systematize local human rights monitoring against national and international commitments. This would require a long-term and dedicated investment in local capacities to gather and handle data, with at least someone from each HURINET responsible for data validation and analysis.

Comments from a HURINET focus group discussion: *"Our relations with KHRC are based on separate activities. How do we manage the raised expectations from the community in such a set up? How do we take things forward? How do we ever graduate from forever being seen as just community, community, community... Two day workshops are not sufficient for capacity-building. If at least someone from our network could get long-term training so we could learn how to manage these processes, we could maybe become more self-sustained."*

In the aim to make better use of national data and observations that come out of international treaty bodies and the UPR process, the increased use of established human rights indicators developed at the Office of the United Nations High Commissioner for Human Rights has also been discussed between KHRC and the Norwegian Embassy. The review found this to be a good idea, as long as flexibility is kept to adapt and align also with national indicators and Commission recommendations, and to complement quantitative indicators with those that indicate gradual shifts in perceptions, attitudes and behaviours that could be of significance to take change processes further.

A first step could be to get inspiration from ongoing work by the UN when it comes to monitoring and the formulation of indicators. For instance, the UN is increasingly linking indicators with the normative aspect of human rights while differentiating between three types of indicators (see box below).

• *Structural indicators:* Indicators that reflect the commitment of the State, e.g. entry into force and coverage of the right to adequate food in the Constitution (*e.g. right to food*),

⁵⁸ Meeting Notes on the Mutual Agreement between the Royal Norwegian Embassy and the Kenyan Human Rights Commission, Sept. 1, 2010.

- *Process indicators*: Indicators that relate to the efforts of the State and the progressive fulfillment of a right or process of protecting rights (e.g. access for women and girls to adequate food within the household),
- *Outcome indicators*: Indicators which capture results and reflect the status of realization of the human rights in a given context (e.g. proportion of population below minimum level of dietary energy consumption).

Source: Report on Indicators for Promoting and Monitoring the Implementation of Human Rights, Office of the UN High Commissioner for Human Rights, June 2008

4.3 Financial management and budgets

a) Systems and sustainability

Financial systems and procedures: KHRC has previously been rated as stable and sustainable due to its diverse funding base and its good internal systems and procedures for handling funds. These systems are, according to a recent assessment of Price Waterhouse Coopers (June 2010), “deemed adequate for the size of the organisation”. The Review concurs with these views, and notes a positive also the development of a detailed Finance Policies & Procedures Manual (June 2009) which gives clear instructions to staff in this area, and which leaves little room for misinterpretation or abuse of the system. Staff members seem well aware of these guidelines, and the financial department is adequately staffed to uphold them, also by being present at the Management Team.

Securing financial independence and sustainability: In terms of securing the Commission’s financial independence and sustainability, it has previously been pointed out that “the institutional health and viability of KHRC are only assumed; there is no evidence that they are secured.”⁵⁹ Also this review observed that the diverse funding base has put KHRC in its current situation of being financially stable. Yet it has clearly been affected by donor cuts and more stringent conditions for providing core support with difficulties to meet its yearly budget. This means cutting down on the number of planned activities, and during the field visits to HURINETS the review team noted a number of regional activities having been put on hold or scaled down as a consequence. Without solid systems of prioritization, there is a risk to be pulled ‘off track’ in areas without specifically earmarked funding due to fluctuations in the expected funding levels.

Underfunding in one KHRC ‘core’ area of operations (such as building community voice on human rights) does not only undermine KHRC’s credibility, but also undercut the likelihood for results in the earmarked areas. The issue of continued stable and predictable financial support to grassroots networks and KHRC’s ability to tap into and build the evidence around local human rights issues (an area that is less prone for earmarking of funds by other donors) is seen to be of particular importance in this regard.

Tapping into new aid modalities: KHRC has been able to successfully tap into some of the ‘newer’ funding modalities of joint donor baskets that have emerged in recent years. Examples are the funds they achieve from the UNDP facility Amkeni, which was designed as a flexible funding tool for CSOs active in governance reform. KHRC has also benefitted from the Uraia programme (National Civic Education Programme). The Review found a satisfactory division of tasks and communication between KHRC and other stakeholders and coalitions in the NGO-environment, such as FIDA, KPTJ.

b) Variations in budget allocations and programme ‘investment trends’

In the 2009-10 budget outlined in the Operational Plan, programme personnel costs are more or less evenly distributed between Strategic Objective 1 and 2⁶⁰, which are the two programmatic pillars

⁵⁹ Mid-term Evaluation, May 2007

⁶⁰ In the Operational Plan 2009-10, Programme personnel costs are: SO 1: Kshs 13,485,026; SO2: 11,955,462; SO3: 3,938,688; SO5: 973,816.

which also cover SO4 on mainstreaming (where there is no specific staff budget allocated). In the below table, the 2009-10 budget allocations per result area are compared to allocations in the 2008-09 and 2007-08 budgets with an approximate estimate of staff allocated for each area.

Area of operation and allocated programme budget (2009-10 OP) (excl. salaries) in Kshs	Allocated staff	Changes in operational focus/financial allocations since OP 2007-08	Changes in operational focus/financial allocations since OP 2008-09
Strategic Objective 1: Civic action for Human Rights. Communities hold duty-bearers accountable for human rights fulfillment and protection while gaining and exercising their power of agency, promoting collective commitment and a culture of respect and commitment⁶¹.			
<ul style="list-style-type: none"> - School project: 1,752,500 - Mzizi Newsletter: 1,764,000 - Internship: 2,058,000 - People's Manifestos & Scorecards: 7,258,400 - Regional capacity building: 12,538,200 - Regional advocacy: 12,741,750 - IHRD & planning: 1,075,000 Total: Kshs 39,187,850 = USD 488,322 	<ul style="list-style-type: none"> 5 programme officers (one per region) 1 Senior Programme officer 	<ul style="list-style-type: none"> 2007-08: - Smaller allocation to schools project (Kshs 750,000), - Mzizi (Kshs 1m) IHRD (Kshs 500,000); - Slightly larger investment in People's Manifestos & scorecards (around Kshs, 10m) less on other regional activities (no capacity building). - Regional activities: Kshs 13 m. - Overall less on SO1 (Kshs 26.6m) compared to 2009-10 	<ul style="list-style-type: none"> 2008-09: - Schools project doubled (around Kshs 1.8m), - Mzizi 1.6 m. - Slight decrease in People's Manifesto since previous year (Kshs .7.2m). Increase in regional capacity building (7.6m) and - Regional advocacy Kshs 13,092 - Slight increase from previous year in SO1 (Kshs 33.2m)
Strategic Objective 2: Accountability and human rights-centred governance. Reduced impunity and increased accountability of state, government and powerful non-state actors by initiating, participating and contributing in on-going anti-impunity campaigns, such as the TJRC, constitutional reform,			
<ul style="list-style-type: none"> - Constitutional reform: 550,000 - Security Sector reforms: 805,000 - National Policy on Human Rights (NAP) : 301,000 - Trade, Business & Human Rights: 7,817,200 - Transitional Justice: 24,747,000 - Monitoring of HR violation (legal clinics, violation database, biannual HR report): 3,798,000 - Urgent action (fact finding missions, HR Defenders): 3,000,000 Total: Kshs 41,018,200 = USD 511,130 	<ul style="list-style-type: none"> 4 programme officers 1 Senior Programme officer 	<ul style="list-style-type: none"> 2007-08: - Same budget allocation for monitoring of HR violations and production of biannual HR report (3,8m); - Trade & HR (Kshs 8.6m), - International advocacy, including APRM, Economic, Social and Cultural Rights shadow reporting previously under this SO with 2.5m, - Election monitoring was a focus this year (8.3m), - Transitional justice, half the budget compared 2009-10 (Kshs 10.9 m) Overall: Kshs 38,4m 	<ul style="list-style-type: none"> 2008-09: - Allocations for constitutional reform (500,000), police reform, NAP, Post General Elections activities, Public Participation Bill - Large increase in Stop EPAs campaign (from Kshs 825,000 to 4,869,000) with overall budget for trade around 8m - Transitional Justice increase in budget to around 20m - Biannual HR report: 3.1m
Strategic Objective 3: KHRC plays a leadership role in learning and innovation in human rights and democratic development in Kenya			
<ul style="list-style-type: none"> - International HR Day Lecture: 684,000 - International Advocacy, including inputting into/follow-up on UPR: 1,203,500 - Publicity, Media & Communications for KHRC: 6,729,000 	<ul style="list-style-type: none"> <i>(Based on estimate, not specified in documents)</i> - 1 PO in research and advocacy team (Legal Affairs) - 1 communications officer/resource centre 	<ul style="list-style-type: none"> 2007-08: - UPR monitoring previously under SO2 with double allocation, - Publicity, media & Communications: 3.5 m Kshs (around half of budget in 2009-10), 	<ul style="list-style-type: none"> 2008-09: - KHRI activities Kshs 3.7m - International advocacy: APRM (367,000), Shadow Reporting CESC (292,500), International Travel (1m) = approx. Kshs 1.6m - Int'l HR Day: 500,000

⁶¹ Strategic objectives are summarised from 2008-12 Strategy.

<p>- Resource centre: 1,004,235 Total: Kshs10,375,635 = USD 130,000</p>	<p>responsible? - KHRI staff (one employed in 2010) - Admin support to legal hosting of orgs</p>	<p>- Resource center: Kshs 485,000, (half of budget in 09-10), - Projects hosting: Around 800,000 Overall: 11.2m</p>	<p>- Publicity, media, communications: 3.5m - Resource center – double allocation to previous year (843,312) Overall: 10.2m</p>
<p>Strategic Objective 4: Equality, non-discrimination and respect for diversity is mainstreamed into legal, policy, attitude and practice changes at community and institutional levels to secure the rights of women, LGBTIs, persons with disabilities, people living with HIV/AIDS and excluded groups and minorities.</p>			
<p>- Gender Mainstreaming: 4,812,500 -HIV/AIDS Mainstreaming: 180,000 - LGBTI: 5,650,000 Total: Kshs 5,650,000 = 70,4001</p>	<p>-Gender Focal point in GAT (gender action team) - Mainstreamed across operations, though not clearly indicated how</p>	<p>2007-08: - Gender mainstreaming a much smaller investment of Kshs 908,000 - HIV/AIDS mainstreaming at 230,000 - No allocation for LGBTI</p>	<p>2008-09: - Gender mainstreaming, substantial increase in budget allocation to around Kshs 4m - SRHR 1.4m</p>
<p>Strategic Objective 5: KHRC sustains its financial self-reliance, effective governance and management, competent staff and functional community networks</p>			
<p>Operational planning and donor relations: 1,694,000 Performance Management (incl. quarterly team meetings, monthly monitoring meetings, quarterly reflection meetings, staff development, management info system, M&E training, financial audit): 3,737,141 Board development (incl. Annual Board & staff reflection meeting, Quarterly Board Committee meetings): 362,000 Total: Kshs 5,793,141 = USD 72,200</p>	<p>Management team Board Members</p>	<p>2007-08: - Previously performance management, staff development was under SO4 with a similar budget for performance management (3.6m), and a slightly higher budget for operational planning (2.6m) - No budget line for M&E apart from performance management</p>	<p>2008-09: - Performance management: 4.3m, - Board development 3.1m a budget line which seems to have been drastically reduced in the following year's budget (from Kshs 3.1m to 362,000).</p>

From the above table, it is possible to tell that budget allocations between different areas of operations have been fairly stable over the last few years (since 2007) with a quite broad range of activities and areas covered throughout the period. There has been a gradual increase in funding (and staff) allocations towards SO1, from Kshs 26.6m in 2007 to around Kshs 40m in 2010. However, the People's Manifesto & Scorecard initiative have decreased in funding with around Kshs 3m since they were first initiated whereas budgets for the "school project", Mzizi newsletter and regional capacity building activities have increased.

It is still SO2, concerned with national advocacy and campaigns that have the largest budget out of the operational areas. The biggest single budget post in this field is in Transitional Justice, followed by Trade, Business & Human Rights where the budget for the 'Stop EPA Campaign' rose from Kshs 825,000 in 2007 to Kshs 5m and Kshs 6m in 2008-09 and 2009-10 respectively. The trade & business area had a bigger budget than the entire People's Manifesto & Scorecards initiative across the five regions in 2010.

Shadow reporting and inputs to/follow-up on international reporting mechanisms and the UPR is a considerably smaller budget post, previously under SO2, but now placed under 'international advocacy' under SO3 that sets out for KHRC to play a leadership role in learning and innovation in the

area of human rights in Kenya.⁶² The largest part of this budget line goes to international travel as opposed to domestic activities.

The income (of which 86% is expected to come from grants) and expenditure as at 30 September, 2010, are in line with these observations on the general trends. However, a considerable budget post under SO2 in the 2010-11 budget is towards Human Rights Defenders' Protection (Kshs 30.8m) which is project-funding with earmarked funds from the Dutch and Finnish Embassies. In the Annual 2010/11 year's budget the following allocation is made between the different Strategic Objectives:

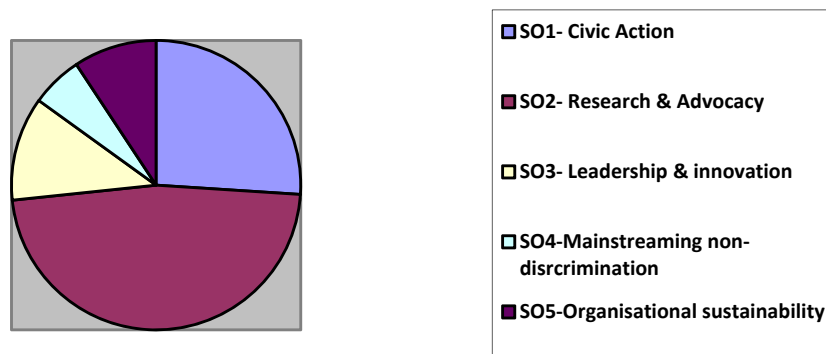


Figure 2: Budget share per Strategic Objective in the 2010/2011 Annual Operational Plan

The graph indicates a fairly large concentration of financial resources towards the SO2 related to national advocacy and campaigns, especially if combined with SO3 which engages in similar activities at present through the publications produced by KHRI.

c) Financial prioritization vs. potential human rights outcomes

Looking at budgets for the period after KHRC was last reviewed (2007 onwards), the prioritization and level of investment in some areas of work can be questioned in terms of potential human rights outcomes. Previous reviews have put great emphasis on the need to further invest in building grassroots social movements⁶³ for human rights within the general aim of rooting human rights struggles in communities. At the same time, there seems to be fairly limited investments in consulting and involving communities in research that create the evidence base that underpin national campaigns and advocacy initiatives. When such linkages to build the community evidence-base does take place (as in the baseline in Isiolo and Wajir and the campaign around citizenship in Northern Kenya), research is generally well received and policy proposals get wide attention by local as well as national legislators. Issues of citizenship, as well as many other rights areas, also have an immediate potential to positively benefit the communities and end-beneficiaries as duty-holders both locally and nationally can contribute and align to find the best solutions for ways forward.

The 'Stop EPA campaign', which is an area of heavy KHRC investment over these last few years, stands out as slightly more at odds with this community-driven and evidence-based approach. Although the debate is relevant especially in relation to the progressive fulfillment of economic rights, it is not clear how it can be linked to other areas of KHRC support. Moreover, opinions as to whether there are credible alternatives to EPAs are divided, technical, and beyond the grasp of many both at the lowest grassroots level or within the 'general public' at large. Yet, the campaign takes a populist approach with use of strong images from a more 'classical' human rights domain (people in

⁶² The reason why this area of work is moved to the 'KHRC leadership' objective instead of being under 'Accountability and human-rights centered governance' is unclear as it would appear to be more about holding duty-bearers accountable to international commitments than it is about KHRC and its role in the international processes.

⁶³ See e.g. Mutahi Ngunyi, 2007

chains, without their basic freedoms) and strong messages. The risk for misinformation, or misinterpretation of information is therefore large. A smaller, more technical analysis and lobbying with concrete proposals on specific sectors where KHRC is engaged in the regions would be easier to relate to KHRC's other work. (E.g. 'What are the policy options in the coffee sector to improve the livelihoods for small-scale producers – within the EPA framework, or with other trade agreements', 'What is the Government position, and how can it best be modified?', 'What different scenarios and policy options exist?'). KHRC management and staff have themselves noted some of the weaknesses of this programme, and are in the process of re-conceptualizing it for the next operational plan.

From a cost perspective, one can also note that follow-up on People's Manifestos in the vast and logistically inaccessible Northern Region was budgeted for at Kshs 1,4 million (USD 13,000) in the 2009-10 year's budget, compared to the 'Stop EPA Campaign' which consumed Kshs 6 million (around USD 75,000) during the same year. The issue of not having enough capacity or resources to follow-up on the process initiated in communities around the People's Manifesto was seen as critical by HURINETs consulted for this review, and particularly so in the Northern region where distances and logistics are very demanding.

d) Earmarking vs. no earmarking

The financial support from Norway is currently on an annual, non-earmarked basis, managed by the Norwegian Embassy in Nairobi. With the exception of the activist approach to Business, Trade and Human Rights⁶⁴ all activities are in line with Norwegian policy. The visibility of KHRC in promoting the LGBT agenda as well as its support to Human Rights Defenders, are areas where KHRC seem to be particularly in line with the Norwegian Government policies. The provision of core funding, as opposed to earmarked support therefore makes a lot of sense as it helps to strengthen the institution in the follow-through on processes and initiatives that it has initiated, and combats the 'project mode' in which it tends to operate.

Danida is the biggest core funder of KHRC followed by Norway, with Sida, the Royal Netherlands Embassy and Finland providing substantial funding for the Human Rights Defenders work.⁶⁵ The Ford Foundation is another important funder of KHRC. Although KHRC generally speaking has a broad and diversified funding base, the core funding has – according to KHRC sources – been of particular value for organisational stability and being able to focus on areas of the strategy that has less funding by other donors.

Given the tendency by most other donors to earmark towards quite specific projects and objectives, like the initiative around Human Rights Defenders protection, the ability of Norway to support the institute broadly and in line with its strategic objectives is something that should continue to be encouraged. Considering the process that has been started with the HURINETs in the regions, a discontinuation of follow-up through the scorecard initiative would be damaging to the credibility of KHRC among its local partners. Moreover, without following up on priorities set out in the People's Manifestos, the raised expectations among community members could be difficult to handle both for KHRC and other local stakeholders, which could lead to local discontent and backlash effects. Continuity in the support of the long-term change processes that KHRC has been part of initiating is vital for its continued credibility. In this sense, the Review found it worrying that many of the scorecard follow-up initiatives planned in the regions were being scaled back already, and that KHRC was not providing hands-on coaching and support to the International Human Rights Day celebration the Review team witnessed in the Mt Kenya HURINET (Nyeri).

⁶⁴ Point 3.7 in Mid-year Report, Oct. 2010.

⁶⁵ Based on budget figures in Mid-year Report, Oct. 2010.

4.4 Key recommendations at operational level

- a) There is a real risk that as donor priorities shift and become more conditional (with less core funds available), KHRC's limited human resources will be diverted into new and unforeseen areas, leaving others underfunded or under-resourced compared to the operational plan. The review would therefore make the strong recommendation that bilateral donors like Norway – for whom there is a good match between domestic policy interests in the area of human rights support and the KHRC strategy – should keep the core funding modality. Norway should liaise with other KHRC donors to avoid 'crowding in' on certain narrow policy areas, since the ability to proactively act and react on a broad front both in relation to local and national emerging human rights issues have historically been, and continues to be, KHRC's main strength and symbolic importance.
- b) A regular and open dialogue around prioritisation and support for setting up solid systems for ongoing monitoring of results as a tool for increased programmatic focus and follow through should go hand in hand with the flexibility to allocate funds more freely. Alternatively, a certain level of earmarking could be considered to areas that seem to be under-funded, especially for following through on change processes that have been initiated at community level, and its linkages to the national debate.
- c) The KHRC Governance Guidelines which includes a Board Policy (which has also been referred to in the Strategy and Operational Plans), should be adopted and made available in a transparent manner as soon as possible. Together with the organisational statutes (which may also need some revision to make them up to date), these documents should be made transparently available so that KHRC practices the same standards within the area of accountable governance as it promotes among other actors and duty-bearers.
- d) KHRC has been able to respond and adapt to new aid modalities such as jointly funded donor programmes and baskets (e.g. Uraia, Amkeni). However, it needs to develop sufficient internal capacity to respond to upcoming opportunities in competitive funds, and to clearly relate such emerging opportunities back to its Strategic Plan in order not to overstretch its capacity to deliver on Strategic Objectives. When responding to new funding opportunities – such as in the area of protection of Human Rights Defenders – it is also important to relate this clearly back to other ongoing operations in the regions and not to be drawn into parallel implementation structures depending on the origins of the funding.
- e) A revision of budget allocations to sufficiently follow through on processes that was initiated by KHRC need to take place. For instance, having raised expectations in the regions through community mobilization around People's Manifestos, follow-up with concrete monitoring, proposals for action and advocacy on locally identified issues should take a high priority. Expensive national campaigns (such as the 'Stop EPA Campaign' for which human rights outcomes are more long term and uncertain) should be weighed against local needs for follow-up on specific issues. A failure to actively support and coach HURINETs can turn into local backlash effects and frustration once local human rights abuses and issues have been identified and communities have been mobilized to organize.
- f) In setting up a comprehensive and tailored M&E framework, the Review recommends that the following should be considered:
 - Simplify and streamline current results & planning systems and tools into one common framework drawing on different methods and approaches,

- Drastically cutting back on the number of result/change areas per strategic objectives, indicating up front the expected changes in human rights outcomes (not just the thematic area of operation),
 - Determine a few key indicators per result area, differentiating between structural, process and outcome indicators that are regularly used and meaningful in terms of monitoring and adapting the programmatic response,
 - Do a pathway analysis for each area of change/result area to determine ‘who (or what group) needs to change how’ and what complementary role KHRC plays in to make this happen (compared to other players),
 - Differentiate between ongoing monitoring and the strategic role and use of evaluation, ensuring that there is enough recorded evidence in place for evaluations to use and tap into,
 - Use UPR and treaty body conclusions and recommendations, as well as other international reporting mechanisms as baselines to hold duty-bearers to account and monitor implementation of commitments at different levels – complementing national level data with community evidence and views across all areas of operations,
 - Set up systematic ways of capturing most significant change stories so that the absence of change stories pertaining to a particular target group or area of work is also noticed and analysed,
 - Capture change (positive or negative) – also gradual shifts in mind-sets and perceptions that can open up for new space to act,
 - Set up systems and build capacities for communities/CBOs themselves to routinely gather community evidence on different national human rights topics which can be collated through the HURINET with KHRC’s support.
- g) The ability to extend national monitoring of Kenya’s fulfilment of international human rights obligations to truly *localizing evidence-based human rights monitoring* is an exciting area where KHRC – thanks to its historic legitimacy and existing grassroots networks – could make a big impact if capacities at the local levels are sufficiently invested in to take on this task.

5. Overall conclusions

KHRC has for some years been moving away from civil and political rights to an increased focus on social and economic rights, including cross-cutting rights issues such as gender equality, sexual and reproductive rights (including LGBTI issues) children’s rights, and labour rights. Although a KHRC policy to delineate and identify strategic entry-points in some of these ‘newer’ areas of engagement is generally lacking, the focus on social and economic rights has generally been perceived as positive among stakeholders and beneficiaries.

According to stakeholders at local level, these human rights concepts have contributed to creating common ground, tools and solidarity between CBOs giving voice to vulnerable groups advocating right to land, right to water, and social inclusion more generally. The team finds such statements justified.

The review found that the local communities see a link of solidarity between the challenges of their everyday life and the international human rights rhetoric. This is knowledge that can stimulate

change needed for implementing the new Constitution. Change initiatives are clearly underfunded but money is not the only problem, and more money not the complete solution. Presence, focus and relevance from institutions like the KHRC are crucial and should be targeted to selected areas of the new Constitution. Some community members and CBOs met by the review team were observed to have somewhat naïve expectations as to what could be achieved through case by case legal aid, especially in land rights and use of community land, and had unrealistic expectations on KHRC in this regard. Together with unemployment, this seemed to be the most present social and economic issue in a rights based approach of holding authorities to account for implementing the Constitution. However, coached in the right way by KHRC more strategic interventions could maybe be undertaken as is evidenced by the fact that the Narok HURINET which managed to influence the recognition of ancestral lands in the new constitution.

As an institution, the historic legitimacy and importance of KHRC as an independent advocacy and watchdog body to uphold Kenya's commitments in the area of human rights is undisputed among stakeholders. It serves as an important complement to the Kenyan National Commission for Human Rights (KNCHR) which, through its status as a semi-autonomous government agency, already is more vulnerable to political wrangles and efforts to capture agendas to score political points. Given the political vulnerability in Kenya in the transitional period before the next election (December 2011), and the opportunities to fruitfully pursue the implementation of the improved legal frameworks in the Bill of Rights in the new Constitution of Kenya, KHRC could play a very important role in the coming years. However, this also puts even more pressure on KHRC to be better at priority-setting, at consolidating lessons and experiences (learning both from successes and failures), and to stay focused and follow through on processes they have initiated.

In the period reviewed for this review, particularly after 2007, there seems to be good progress in terms of addressing some of the institutional weaknesses that have been highlighted in previous reviews and that were summarized in the 2008-12 Strategic Plan. Policies are now in place for gender mainstreaming and financial procedures to have proper anti-corruption measures in place. An effort to work in teams and the channeling of all financial decisions through the Management Committee also seems as a positive development towards implementing KHRC's own anti-corruption measures.

These internal 'control functions' seem to have been considerably boosted, answering sufficiently the question: '*Are we doing things right?*' Less focus and progress seem to have gone into the question: '*Are we doing the right things?*' Although review mechanisms involving staff and partners are institutionalized through regular reflection sessions, different views from staff and Board Members for strategic direction are not necessarily underpinned by evidence on what works under what circumstances due to weak monitoring capacities across operations. This also affects fundraising possibilities as KHRC does not regularly 'build the case' through data and qualitative feedback on why certain strategic choices are made over others. To more clearly communicate on KHRC's own results and challenges, and those of its constituents, would also be a stronger case for public debate and advocacy than the more traditional 'campaign mode' of using strong imagery and sensationalist facts – some which are built on untested assumptions⁶⁶.

However, it is the view of the Review that KHRC is very well placed to further explore its potential to create influential, evidence-based advocacy where internal linkages are made and fully explored from the local level, through national policy processes and partnerships, and backed by international commitments or processes through networking and feeding into international human rights reporting. Compared to other human rights organisations in Kenya, KHRC has a unique position in this area since it has the potential to tap into community views and operations as a means of 'taking the pulse' on the momentum for popular support around certain reform initiatives or rights issues,

⁶⁶ This refers in particular to the Stop EPA Campaign.

and to act as an ‘informed catalyst’⁶⁷ for such popular support to grow in a constructive and positive direction.

As one of few bilateral donors providing core funding, the Norwegian support has played an important role for KHRC’s growth and institutional stability, which was critical during the recent post-electoral crisis. Furthermore, the review found good policy coherence between KHRC and Norwegian interests in the human rights area. As such, support to KHRC is in line with Norwegian development policy, and it is the overall recommendation of the review that such core support (with possible minor earmarking for underfunded areas only) be continued in the next critical phase where challenges will include the next elections (2011) and implementation of the new Constitution.

⁶⁷ Not just acting as a catalyst in initiating processes, but doing so based on research and evidence, and continuously feeding relevant information into the process.

6. Annexes

Annex I: Terms of Reference

ToR for review of Norwegian support to the Kenya Human Rights Commission (KHRC)

Background

The Embassy has under consecutive contracts cooperated with Kenya Human Rights Commission (KHRC) in order to support the Human Rights agenda in Kenya through civil society. The funding has had the form of core funding to the organization's comprehensive and large range of activities. The support has thus not been directed at a particular human rights topic, but rather aimed at "a Kenya that protects and promotes human rights and democratic values" (the vision from the Strategic Plan 2004 – 2008).

Throughout the cooperation it has been remarked that maybe the range of activities were, although impressive, too large. As the Embassy entered into a new contract in the fall of 2009, the Embassy signaled that the goals stated in the KHRC Programme Document (Operational Plan or Strategic Plan) were not easily measurable, and not sufficiently clear for the Embassy to provide long-term support. However, the Embassy in the interim chose to enter into a one year contract, with expectations that KHRC would improve their programming documents. So far, the Embassy has not noticed any significant improvements in this regard.

Previous Norwegian support

As mentioned above, the Norwegian Embassy has since 2005 supported the KHRC more or less without interruption with core funding. In all, support has reached a total of NOK 7,465 million for the period 2005-2010 as outlined below.

KHRC received in 2005 NOK 1 million from the Embassy to the Strategic Plan 2004-2008. The Embassy thereafter funded the continuation of this programme (2006 – 2008) with NOK 2,165 million. In 2008 the Embassy funded the Operational Plan 2008/2009 with NOK 1, 5 million, before another 1 year grant for the Operational Plan in the year 2009/2010 of NOK 2, 6 million.

About the KHRC

The Kenya Human Rights Commission was founded in 1992, while Kenya still was faced with serious human rights abuses by the government against its people. From 1992 - 1998 KHRC focused on monitoring, documenting and publicising violations of civil and political rights. They played an important role in strengthening the role of civil society, advocating for democratic reforms, and initiating and carrying forward the constitution-making process. The KHRC gained a high public profile through organising public direct actions, some which resulted in leading members being arrested and detained.

From 1999 - 2003, the focus broadened to incorporate a wide range of economic, social and cultural rights. The KHRC began to engage more intensely with communities in specific locations and/or in specific industries and sectors to facilitate processes aimed at strengthening their capacities to deal

with pressing human rights problems in their contexts. From 2004, KHRC's Strategic Plan Vision 2012 aimed at rooting HR work and democratic values in communities, to enable communities to defend and claim their rights.

After the crisis of 2008 the KHRC has reaffirmed its position as one of the leading HR bodies in Kenya. In the period after the disputed presidential election, the KHRC together with a large group of other civil society organisations formed an alliance targeting the mediation process and the need for reform in areas within the cluster of governance, democracy and human rights. The KHRC played a leading role in this advocacy work. At present the organisation grapples with how to provide new leadership in Kenya, through effective citizens mobilisation and participation in political processes.

Need for a review

The Embassy has decided to undertake a review of the Norwegian support to the KHRC, in order to get a clearer view of the results and possible impact of the Norwegian support to human rights work in Kenya through the KHRC.

The Embassy should increase its knowledge of the interaction between the KHRC and multilateral organizations (i.a. the U.N), public institutions and initiatives for good governance and judicial sector reforms, and relevant CSOs. Furthermore, the expectations of the people – specifically the community based and smaller NGOs - and to what degree these expectations are met are crucial to the legitimacy of the organization.

Based on such knowledge, the embassy and the KHRC can engage in a dialogue as to the strategy and goals of the organization.

The consultant selected to lead the review will be expected to schedule meetings with relevant stakeholders and partners, and undertake necessary field visits in constituencies. Preparations and execution of these tasks are expected to be done in collaboration with the embassy and the local consultant.

The review should also lead to the Embassy having an increased knowledge of the KHRC routines and internal procedures, its resources and quality of management. This will help in mapping the results that KHRC has achieved, and identify possible recommendations for the improvement of KHRCs programming work and documentation of expected impact. The organization's strategy to establish a sustainable financial platform and ability to adapt to changes in donor financing should be a part of this. The recent reviews undertaken i.a. by Price Waterhouse shall be discussed with KHRC with a view to give recommendations for the future Norwegian cooperation with the organization, and assess whether any shortcomings are mainly due to financial constraints, or can be solved through organizational measures.

Relevant recent reviews of KHRC

In addition to the review done in 2010 by UN/Price Waterhouse (internal management), the Embassy is aware of other reviews of KHRC on more specific issues having been done by Ford Foundation and Trocaire. In addition, a review of Denmark's support to the governance sector through the civil society, incl. KHRC, has been shared by the Danish Embassy. The Embassy would also like to highlight

the Embassy's/NORADs study from 2007 concerning the Role of Civil Society , commissioned from the same consultant. This also gives valuable input in both specific and broad terms.

The review team will be expected to familiarize itself with these reviews and identify points of relevance to the cooperation with the Norwegian Embassy.

KHRC funding situation

There are many donors to the KHRC, but they largely provide smaller grants. Only a few give core funding. The result is an under-financing this year of 53 % according to the budget of the Operational Plan 2010/11 (as of June 2010). There has also been a movement from certain donors away from bilateral funding to basket funding. KHRC is one of the NGOs that receive some funding through the multi-donor fund 'Amkeni' that is also supported by Norway.

Major Donors at the moment include Danida, CIDA, Netherlands and Ford Foundation with each between KSh 10-20 million yearly. DFID also has plans for support this year.

Summary and Conclusion

The overall question that should be answered is: With Norwegian support since 2005, has the KHRC been able to reach its stated goals in the Strategic Plan 2008-2012, and the Operational Plans both for 2008/2009 and for 2009/2010?

Specifically:

1. Is the strategic planning of the KHRC satisfactory?
2. Is the scope of activities in line with the strategically planned goals?
3. Could the goals be formulated clearer and be more attainable?
4. To what extent are activities implemented according to plan?
5. What outputs, outcomes, and what impact can be said to be resulting from KHRC activities?
6. How could reporting on results and impact be improved?
7. How is KHRC networking capabilities with other Kenyan human rights organizations and networks such as the KPTJ (Kenyans for Peace truth and Justice). How is the strategic interaction with the Kenyan state and state authorities?
8. How is KHRCs engagement impacting nationally in particular on the grassroots level, also elsewhere than in Nairobi?
9. Is KHRC efforts having a positive effect through on the Human Rights Networks (HURINETS)
10. Is gender mainstreaming working in KHRC?
11. How is the Monitoring and Evaluation framework functioning in KHRC?
12. What has been the interaction with the monitoring committees of Human Rights Conventions (ICCPR, CRC, ICESCR, CEDAW) ?
13. Which initiatives have the KHRC taken to ensure timely reporting from the Kenyan state to the Human Rights monitoring committees ?
14. To what extent is anti-corruption measures implemented in the organization?

Suggestions for setup of review team and procedures

Norad would like to suggest that:

1. A review takes place the autumn of 2010 with a deadline for the report in February 2010.
2. The time should be composed of 1 independent international expert on Human Rights work and 1 person from NORAD knowledgeable on similar issues, and one independent local consultant with thorough knowledge of Kenyan institutions.

Annex II: List of interviewees and focus group discussions

Name of Person Interviewed	Organisation
Rigmor Elianne Koti	Counsellor, Development Cooperation, Norwegian Embassy
Wera Helstrom	First Secretary (Political Affairs) Norwegian Embassy
Dorcas Gacugia	Programme Officer, Development Cooperation Norwegian Embassy
Muthoni Wanyeki	KHRC Director
Tom Kagwe	KHRC Deputy Director
Tabitha Nyambura	KHRC Programme Officer
Vincent Musebe	KHRC Programme Officer
Nduta Kweheria	KHRC Senior Programme Officer
Julie Kingsland	KHRC Senior Programme Officer
Esther Waweru	KHRC Programme Officer
Louisa Kabiru	KHRC Programme Officer
Davis Malombe	KHRC Programme Officer
Beatrice Kuria	KHRC Finance and Administration Manager
Millicent Namusonge	KHRC Human Resource Manager
Andrew Odete	KHRC Programme Officer
Javas Bigambo	KHRC Programme Associate
Dr. Karuti Kanyinga	Board Member, KHRC Board of Directors
Betty Murungi	Vice-Chairperson, KHRC Board of Directors
Paul Mero	HURNET Co-ordinator, Isiolo
Samwel K. Wandimi	HURINET Co-ordinator, Nyeri
Amina Bakari	HURINET Co-ordinator, Mombasa
Stanley Ogolla,	HURINET Co-ordinator, Nairobi
Camilla Veerman	First Secretary Political, Royal Netherlands Embassy
Otieno Oluoka	Programme Officer, Royal Netherlands Embassy
Dr. Sirkku Hellsten	Counsellor (Governance) Finish Embassy
Zilkova Tatiana	Programme Officer, European Union
Zebib Kavuma	UNIFEM
Nisha	UNIFEM
Jacqueline Mogeni	UNDP
Justice Isaac Lenaola	Judge of the High Court and Chairman, Kenya Magistrates and Judges Association
Gichira Kibara	Secretary for Constitutional Affairs, Ministry of Justice, National Cohesion and Constitutional Affairs
Florence Jaoko	Chairperson, Kenya National Commission on Human Rights
Mutuma Ruteere	Centre for Human Rights and Policy Studies
Paul Mwaura Wanderi	ICPC(International Centre for Policy & Conflict)
George Kegoro	ICJ – K
Rosemary Tollo	KPTJ

Claris Ogangah - Onyango	FIDA-K
Jane Serwanga	FIDA-K
Anne Buluma	FIDA-K

Site visits to HURINETs in Isiolo, Mt Kenya (Nyeri) and the Coast (Mombasa), and Nairobi:

- Focus groups with coordinating committees (CBO representatives)
- Community members

Annex IV. Summary of KHRC's Strategic Plan 2008-12

<p>Strategic objective 1: Civic Action for Human Rights <i>To facilitate community struggles, through organising and action on specific human rights issues to hold duty bearers accountable for human rights fulfilment and protection. Thus, the respective communities will gain and exercise their power of agency and promote community-wide support for collective commitment to building a culture of respect for human rights.</i></p>	
Programme strategies	Intended results by 2012
<p><u>Capacity building:</u> (i) of citizens at community level through their organisations with emphasis on human rights education, advocacy skills development, learning for human rights and community organising. (ii) of upcoming human rights organisations through legal hosting and institutional support arrangements.</p>	<ul style="list-style-type: none"> • At least 1,000 successful civic actions on specific human rights claims by community groups working with the KHRC, as a result of its capacity building and facilitation strategies, • At least 50 cases of successful use of the People's Manifesto to demand accountability from political leaders on significant community concerns, particularly the appropriation of devolved funds.
<p><u>Networking and alliance building:</u> to facilitate community groups engaged in human rights struggles to link with strategic agencies and network at the national and international levels to enhance their struggles.</p>	
<p>Strategic objective 2: Accountability and human rights-centred governance <i>To reduce impunity and increase accountability of state, government and powerful non-state actors by initiating, participating and contributing in ongoing anti-impunity campaigns (...).</i></p>	
Programme strategies	Intended results by 2012
<p><u>Advocacy:</u> to change policy, laws, institutions and practices towards greater democratic, accountable and human rights based governance.</p>	<ul style="list-style-type: none"> • At least 60 percent success rate of improved service delivery from duty bearers as a result of grassroots civic action by communities working in partnership with KHRC, • At least 100 persons, 50 percent of whom are women, receive human rights leadership training and other capacity building support and are ready to substantively participate or are already in strategic leadership positions at community and national levels, • At least two human rights reports on a significant issue researched and published every year, widely disseminated and used for lobbying and advocacy on specific issues they raise, • Significant rise in public vigilance and oversight seen through evidence-based advocacy and claim making, arising from increased access to public information by citizens as a result of successful advocacy by the KHRC and its allies for the passage of the Freedom of Information Bill, among other laws, • At least 2 million people drawn from all parliamentary constituencies and interest groups sign up and actively support a citizen-driven public campaign for accountable leadership, geared to determine leadership choices in the 2012 general elections.
<p><u>Research, Monitoring and Documentation:</u> research and publication of reports on topical human rights issues based on national trends, and monitoring and documenting violations.</p>	
<p><u>Government monitoring:</u> with allies at community and national levels to strengthen public vigilance and oversight of state actors.</p>	
<p><u>Alternative Leadership Development:</u> identifying, nurturing and developing a new leadership cadre and support the creation of a political organ to enhance their participation in the local to national social and political leadership.</p>	
<p>Strategic objective 3: Leadership in learning and innovation in human rights and democratic development in Kenya <i>To develop the Commission's leadership role through strategic human rights research and dissemination of reports, evidence-based human rights programming and action at community, national and international levels.</i></p>	
Programme strategies	Intended results by 2012

<p><u>Human rights research and documentation:</u> Publish well-researched reports on topical human rights issues which will be used to stimulate duty-bearers' actions for redress as well as policy dialogue with relevant institutions.</p>	<ul style="list-style-type: none"> • <i>Full operation of the KHRI as an autonomous human rights research, capacity building and academic initiative of the KHRC,</i> • <i>At least 60 percent of upcoming human rights organisations under the legal hosting of the KHRC attain full legal and institutional autonomy and demonstrate soundness in programming, management and governance as a result of our capacity building support,</i>
<p><u>National and international advocacy:</u> Providing leadership to Kenya's pro-democracy and human rights movement in advocacy for the completion of the constitutional reform process, constitution-based claim making, and engagement with emerging trends like terrorism, criminality and violent conflict that threaten human rights.</p>	<ul style="list-style-type: none"> • <i>At least 80 percent of KHRC's good practice experiences in all areas of its work well documented and shared internally and externally through critical discussion forums for continuous learning and improvement,</i>
<p><u>Media and communications:</u> Exploration of alternative media to give voice and visibility to community struggles; improved dissemination of public information resources (...)</p>	<ul style="list-style-type: none"> • <i>Improved internal knowledge on human rights theory and practice, and overall organisational capacity to innovate and adapt to new strategies and practices. Further, improved ability to respond to emerging human rights challenges – all leading to higher impact in key human rights struggles,</i>
<p><u>Capacity building:</u> KHRI projected to grow into a regional leader in the development and dissemination of current human rights knowledge; the Institute will grow into a leader in the provision of technical and strategic support to national, regional and international human rights agencies; continued provision of legal hosting to upcoming human rights institutions (...)</p>	<ul style="list-style-type: none"> • <i>An operational national and community media and communication strategy. Further, emergence of the KHRC-driven channels that are accessible as a medium to voice community human rights struggles.</i>
<p>Strategic objective 4: Mainstreaming equality, non-discrimination and respect for diversity <i>To influence legal, policy, attitudes and practice changes at community and institutional levels to secure the human rights of women, LGBTIs, persons with disabilities, people living with HIV/AIDS and excluded groups like ethnic minorities.</i></p>	
<p>Programme strategies</p>	<p>Intended results by 2012</p>
<p><u>Advocacy:</u> policy and legislative advocacy for provisions and institutional arrangements to secure human rights protection for women, LGBTIs, persons with disability, people living with AIDS and other excluded groups (...).</p>	<ul style="list-style-type: none"> • <i>At least 50 percent human rights leaders, whose capacity will be developed to contest leadership positions through KHRCs interventions are women,</i> • <i>Full internal capacity for gender mainstreaming is attained, and as a result at least 50 percent of participants in all its community initiatives are women; gender integration in all analyses and choices for programme action,</i>
<p><u>Diversity education:</u> Internal and public education programme to promote respect for diversity (...)</p>	
<p><u>Integration and mainstreaming:</u> Develop and implement comprehensive diversity strategy; further emphasis on implementation of gender policy and gender mainstreaming.</p>	<ul style="list-style-type: none"> • <i>A comprehensive diversity policy developed and operational, with full internal capacity for its delivery,</i>
<p><u>Monitoring and documentation:</u> Documentation of the manner in which processes at community and national levels are addressing equality and non-discrimination issues. Document and publicise best practices in programming and operations through the KHRI.</p>	<ul style="list-style-type: none"> • <i>Visible increase in public dialogue on diversity issues, public pronouncements by senior leaders in support of diversity as a result of KHRC's interventions,</i> • <i>Expanded policy and legislative space for the protection of the human rights of LGBTIs and other excluded groups as a result of KHRC advocacy.</i>
<p>Strategic objective 5: Organisational sustainability of KHRC <i>To invest in diverse strategies to secure our sustainability in respect to financial self-reliance, effective governance and management, competent staff capacity and functional community networks.</i></p>	
<p>Programme strategies</p>	<p>Intended results by 2012</p>
<p><u>Institutional development:</u> investing in the maintenance of KHRC's legitimacy and credibility as</p>	<ul style="list-style-type: none"> • <i>Will have attained at least a 50 percent financial</i>

<p>an influential, independent human rights organisation by strengthening institutional systems for effectiveness and growth (...)</p>	<p><i>sustainability level</i> as a result of implementing its financial sustainability strategy and increased tapping into local and foreign acceptable contributions,</p> <ul style="list-style-type: none"> • Will have attained accreditation through credible mechanisms as a <i>best practice human rights organisation</i> as a result of its sound institutional foundations and effective programme management and delivery, • Will have attained demonstrable capacity to <i>attribute significant change results to its effort</i>, through a current, comprehensive and functional results tracking, impact assessment and M&E system.
<p><u>Resource mobilisation</u>: implement its financial sustainability strategy and diversify investments and funding base to include non-traditional funding sources.</p>	
<p><u>Capacity building</u>: for sound governance and management, including strengthening the KHRC Board to make it more effective through documented protocols for its functions, staff development etc.</p>	
<p><u>Performance management</u>: review performance appraisal system and rationalise staffing needs with key result areas; develop and implement a functional Monitoring and Evaluation system.</p>	

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