

**THE ROLE OF CIVIL SOCIETY ORGANIZATIONS IN
PROMOTING AND PROTECTING HUMAN RIGHTS IN
KENYA: A CASE OF TRANSPARENCY INTERNATIONAL**

BY

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**A research project submitted in partial fulfillment of the
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DECLARATION

This research project is my original work and has not been presented for the award of a degree in any other University.

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This research project has been submitted for examination with our approval as the University Supervisors.

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DEDICATION

I dedicate this work to my sisters Claire and Christine and my brother Thomas who have been of great help and inspiration to my studies.

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DEFINITION OF TERMS

‘Harambee’: Kiswahili word which means joint efforts

‘Chamas’: Merry go round groups usually formed by low income groups especially women for the sake of contributing money in circles to boost the economic status of each of their members.

‘Saba Saba’: It is a Kiswahili statement translated as ‘seven, seven’ and is used to refer to the rallies carried on 7th of every July since the year 2007 to push for democracy in Kenya. The phrase was first used in Tanganyika (Tanzania) to refer 7th of July 1954 a national holiday.

LIST OF ABBREVIATIONS AND ACRONYMS

CSOs:-Civil Society Organizations

CRS: - Catholic Relief Services

EAC-Kenya: - Empower a Child Kenya

FGDs: -Focused Group Discussions

Fig: - Figure

IDPs: - Internally Displaced Persons

IPOA: -Independent Policing Oversight Authority

KHRC: - Kenya Human Rights Commission

KNCHR: - Kenya National Commission on Human Rights

NfPOs: -Not for Profit Organizations

OVCs: - Orphans and Vulnerable Children

UNDP: -United Nations Development Program

TI:-Transparency International

WHO:-World Health Organization

WMD: -World Movement for Democracy

TJRC: - Truth Justice and Reconciliation Commission of Kenya

ABSTRACT

This research project studied the role that Transparency International and other civil society organizations have played in influencing governance towards the protection and promotion of human rights in Kenya. The main problem it focused on is the effectiveness of these roles in promoting human rights. It did this under the guide of John Rawls theory of justice which argues for justice as fairness. It applied this theory to find out how these organizations have helped to ensure fairness in areas like delivery of services and distribution of economic recourses towards the promotion of human rights. The research hypothesized that these organizations are highly effective in promoting and protecting human rights. It focused on the effect of three main organizations that is Transparency International, Catholic Relief Services and Empower a Child Kenya. The time period periods it covered is between 1988 to the year 2016.

The research collected its primary data by carrying out interviews with key informants from Transparency International, civil society and public organizations that promote human rights. It also did this by issuing questionnaires and carrying out focused group discussions with ordinary Kenyans who are not active participants in the running of these organizations but benefit from their services. Secondary data was collected by reviewing various documents, reports, books, articles and internet sources concerning the role these organizations have played in protecting and promoting human rights. The research employed both qualitative and quantitative approach of data collection methods and a sample population of seventy respondents participated in the research interviews.

The research found out that the idea and practice of human rights in Kenya is fairly observed and that roles played by Transparency International and civil society organizations in Kenya have been very effective in ensuring this. This they have done by influencing government policies and offering social and relief services such as education and health. They have however faced challenges such limited finances and government interference that deter them from realizing their full objective. The research therefore recommends that these challenges should be resolved to help these organizations realize their full objective of promoting and protecting human rights in Kenya.

CHAPTER ONE

BACKGROUND OF THE STUDY

1.1 Introduction

This study investigated how Transparency International, Catholic Relief Services and other civil society organizations (CSOs) have helped in protecting and promoting Human rights in Kenya. It focused more on the role they have played in achieving this goal by enhancing good governance. The research did this by reviewing secondary data and by interviewing seventy respondents. The seventy respondents were arrived at through a process that sought to ensure that people who were considered knowledgeable of the topic of study were first considered into the study. They included key informants from Transparency International and Civil Society Organizations workers, human rights lawyers and lecturers, civil servants and politicians. In this process a total of thirty five key respondents were identified and incorporated into the study. In order to avoid being biased and ensure fair representation thirty five non key informants were picked randomly to balance the key respondents. This is how the research ended up with the seventy respondents who participated in this study. The rationale of this is that there was fair representation of people from all walks of life whose participation in the research was needed for its success. The research sought the opinion of these respondents if indeed the role played by these organizations had an impact to the fulfillment of their human rights.

Good governance is about following due diligence in making and implementing government decisions that affect the lives of the citizens positively, for instance in providing services such as water and education that enhance the human welfare. It is a pre requisite for promotion and protection of human rights. The belief that human rights are entitlements for every human being have their roots in ancient traditions, cultures and religious practices; they are recorded in books like the Quran and the Bible. In many African traditions for instance, people have rights because they belonged to particular groups such as family or a given age bracket like the case of marriage rights where the children belonged to the mother in the Kikuyu community in Kenya (Shiman, 1993; Youths for human Rights, 2015).

World War II became the major catalyst of human rights into the global stage and conscience. The effects of this world war was so devastating in that it led to loss of lots of lives, something

that prompted Governments to come together to look for lasting solutions to prevent this from happening again. Because of this, United Nations (UN) and a committee which drafted the United Nations Charter in 1945 were established. The Charter set standards of which a government would be held responsible if it violated the rights of the people within its borders. To achieve these, the UN later formed a commission on human rights which drafted the Universal Declaration of Human Rights which was adopted by fifty six Countries on 10th December 1948. This formed the standards for measuring human rights internationally and extended itself into international law making it a legitimate concern of the International community to judge how a government treats its citizen. It also stated that all rights are interdependent and indivisible (Nancy, 1993; Shiman, 1993).

Kenya just like many developing countries has failed the test of implementing good governance practices severally. This is as a result of many reasons such as prioritizing the interest of individual leaders over those of the country. Following various regimes and actions of the civil society organizations the country has under gone various transformations which have both undermined and promoted human rights in Kenya. Many a times, particularly with regard to government actions many of these transformations have often undermined good governance which has resulted to gross human rights violations. In 1964 for instance, the Kenyan system of governance was changed from parliamentary system to presidential system with executive powers. This kind of governance encouraged dictatorship and its effect was that the local man was left with limited voice and power to press claims against the government to grant them freedoms and services that lead to human rights fulfillment. This resulted into gross violations of human rights. In addition to the above the Kenyan constitution has under gone various amendments which have influenced its governance style both positively and negatively towards the protection and promotion of human rights. For instance the Constitution amendment Act of 1974 lowered the voting age from twenty one to eighteen which is an act of democratization that is attributed to good governance and enhancement of human rights. On the other hand the Constitution of 1982 introduced section 2A of the constitution which converted Kenya into one party state. The effect of this is that all political power of Kenya rested on one ruling party Kenya African National Union (KANU). This together with other amendments undermined

democracy and good governance which is equated to a human rights violation (Kamunde, 2004; 1963 *Constitution of Kenya; Constitution Amendment Act, 1974*).

Government being the main duty bearer of providing, promoting, protecting and fulfilling human rights, it is important that it carries out the practice of good governance in order to effectively achieve this obligation. Good governance is one that is participatory, transparent and efficient (Larry, 2002). It consists of three main domains that is; the public sector (state), private sector and the civil society (UNDP, 1996). Hence good governance encompasses the civil society. Deciphering the civil society as part of global good governance helps in enhancing the human rights discourse as the government is the major duty-bearer obligated to promote and protect these rights. The strong developments of civil society organization thrive under decentralization governance. Its decentralization role helps to bring services closer to the people there by enhancing human rights. Over emphasized centralization without popular participation of citizens becomes incentive and leads to the deterioration of delivery of services (World Bank, 1992). Civil society enhances human rights by playing an intermediary connection role between the state and the private sector. The civil society organizations in Kenya have been mainly known as instruments of promoting democracy, driving social change and providing services. For instance the re-introduction of multi parties in Kenya was anticipated to the efforts of the civil society and pressure from foreign agencies (Omolo, 1990). They have also played some tremendous roles in boosting people's welfare through good governance by ensuring the government fulfills its obligation.

Transparency International is a Global civil society organization founded in 1993 purposely with the main aim of ensuring government transparency and accountability by fighting corruption which affects the enjoyment of human rights. In general Civil Society Organizations in Kenya have a background of being the main agent of influencing social change and watching over the government. They do this by curbing corruption and other ill practices in government. In this way they promote human rights by ensuring that public resources are channeled for their rightful intended purposes. This leads to the effective provision of services such as water and education which fulfill human rights. Besides watching over the government has led to the promotion of human rights by keeping the government to task to fulfill its obligation in this case promoting human rights. This is because the government is the main obligated duty bearer of doing this. It

is because of this that research sought to study Transparency International and other likeminded civil society organizations to examine how they have ensured good governance to protect and promote human rights in Kenya.

1.2 Statement of the Problem

Civil Society Organizations play a vital role in the protection and promotion of human rights. This they do by enabling people claim their rights, shape development policies and partnerships and oversee the implementation of rights based approaches and policies. They also innovate and provide services in areas that are complimentary to those ones offered by the state such as humanitarian relief services. They build local capacity and advocate with and for the poor. In this way they help to influence governance that promote and protect human rights (Court and Osborne, 2006).

Civil Society in Kenya, according to Alison (2016), has been a role model to others in Africa. It has been one of the bravest and most active in the continent. The problem is not about the role they play but the effectiveness of these roles in promoting and protecting human rights. This is what this research sought to establish. The issue of effectiveness of civil society organizations in promoting human rights in Kenya has been talked about by many scholars in the country. The civil society organizations in Kenya have been at the heart of improvement of governance according to Allison (2016). This has positively affected the promotion of human rights since the government is the main obligated duty bearer of doing this. He argues that this has happened as a result of multiplication of respective non-governmental organizations in the country. According to him, this has put the civil societies at direct conflict with the government, since they put the government so much to task to fulfill their obligation. This fact was acknowledged by Amnesty international (2016) who raised concerns of the state coming in the way of an effective civil society committed to promoting human rights. A good example they gave is the threats by the states to close several civil society organizations in the past resent years and the mishandling of the 2007/2008 post-election violence by the state (Amnesty International: *Status of World Human Rights Report*, 2015/2016).

The status of human rights in Kenya in the past three decades has greatly improved; this is marked by achievement such as the reintroduction of multiparty, introduction of free primary

education, freedom of press and the promulgation of a new constitution 2010 that supports human rights. This according to Omollo (1990) has come as a result of effective efforts of the civil society and international community. To him, without the civil society it would have not been possible to realize these positive gains or achievements (Omollo, 1990).

Evidence of a study done by Raddley (2008) to compare the level of fulfillment of specific rights in different parts of Kenya vis-a-vis the representation of civil society organizations associated with promoting these rights revealed that areas with more representation of Civil Society Organizations were more fulfilled than those with few. A good example was his comparison of poverty levels in Nyanza against Central Province vis-à-vis the representative existence of civil society organizations that address poverty in these regions. According to him, poverty was more prevalent in Nyanza where there were few such civil society organizations than Central (World Bank, 2008). Poverty is a human rights issue whose prevalence affects the fulfillment of human rights negatively. On the other hand a comparison of the same in 2007 on the prevalence of H.I.V Aids showed that it was more prevalent in Nyanza than Central which had a higher number of non-governmental organizations that address H.I.V pandemic. This shows that the higher the number of civil society organizations, the better the enjoyment of human rights associated with their services and the lesser they are the lower the fulfillment of human rights they promote (Radley, 2008; World Bank, 2008; Kenya Agricultural Productivity, 2007).

Indeed the civil societies in Kenya in the past few decades have enhanced their effectiveness in the promotion of human rights according to Mulama (2008). Organized civil society organizations have experienced tremendous growth in number and effectiveness since the end of one party rule in 1991 and the representation of the late 1978 and (Doep, 1996, pg 40). However, the irony is that despite the civil society being very vibrant and effective, human rights in Kenya have not been satisfactory realized. There are still challenges in doing this. A good example is that the government has remained the final arbitrator in legislative and political decision making process irrespective of these organizations sharing their views (Radley 2008). They have still not been fully effective in promoting human rights and that is why this research sought to establish the exact level of how effective they have been in promoting and protecting human rights. In Kenya, Transparency International is a civil society organization that addresses issues to do with transparency and accountability. It addresses good governance which is a prerequisite for

promoting human rights (*Transparency International –Kenya Annual Report, 2013–2014*). This research focuses on how much effective Transparency International, Catholic Relief Service and EAC-Kenya have been in promoting human rights by addressing governance issues such as transparency, corruption and accountability and this the knowledge gap it sort to establish.

1.3.0 Purpose of the Study

The purpose of this study was to establish how effective the role played by Transparency International and the civil society organizations in promoting and protecting human rights in Kenya has been.

1.3.1 Objectives of the study

1. Establish the status of human rights in Kenya as far as understanding, awareness and provisions of human rights is concerned.
2. Examine how effective Transparency International in Kenya has been in promoting human rights.
3. Examine how effective Civil Society Organizations in Kenya has been in promoting human rights.
4. Identify the challenges facing the civil society organizations in effectively promoting human rights.

1.4 Research Questions

1. What is the status of human rights in Kenya as far as understanding, awareness and provisions of human rights is concerned?
2. How effective has Transparency International been in promoting human rights in Kenya?
3. How effective have the civil society organizations been in promoting human rights in Kenya?
4. What challenges have hindered/lowered the effectiveness of civil society organizations in promoting and protecting human rights in Kenya?

1.5 The Hypotheses

1. The level of provision, understanding and awareness of human rights in Kenya is high.

2. Transparency International has been highly effective in promoting human rights in Kenya.
3. Civil society organizations have been highly effective in promoting human rights in Kenya.
4. Civil Society Organizations have faced challenges that have lowered their effectiveness in promoting and protecting human rights in Kenya.

1.6 Significance of the Study

This study assessed and documented findings of the contributions Transparency International and other civil society organizations have made in protecting and promoting human rights in Kenya and particularly in influencing governance and delivering of services. Therefore understanding the dynamics of the role the civil society organizations have played in enhancing the protection and promotion of human rights through good governance in Kenya was very important as it lead the researcher to contribute to scholarly knowledge.

1.7 Scope of the Study

This research covered the role Transparency International and other civil society organizations have played to promote and protect human rights in Kenya. It focused on the role Transparency International, Catholic Relief Service (CRS) and Empower a Child-Kenya (EAC-Kenya) have played between 1988, two years before the reintroduction of multi-party in Kenya to the year 2016. The research considered this period because the reintroduction of multi-party was a major achievement to the realization of other rights. The field study was carried out in Nairobi within a period of four months.

1.8 Limitation of the Study

Financial constraints to adequately facilitate the activities of the research

Conflicting data due difference of sources

Unavailability of Key informants

1.9 Delimitation of the Study

Unavailability of very busy key informants such as Transparency International Officials and the chief executive officers of the other civil society organizations was dealt with by booking appointment early enough with them.

Financial challenges were solved by raising enough money from a bank loan to finance the research.

Conflicting data obtained from different sources were sorted by seeking evidential proof of the information provided by these sources.

1.10.0 LITERATURE REVIEW

This section shows various literature, records and documentations reviewed by the researcher in a bid to deal with the study topic.

Human rights according to Cranston (1973) are inherent entitlements' that accrue to every human being merely for being human. To him they are rights for all people, in all places and at all times.

Human rights according to Lassion (1976) are internationally agreed valued standards or roles regulating the conduct of state towards their own citizens and non-citizens. To him they are those rights that individuals have solely by reason of being human. Amooka (2000) defines human rights as a particular social practice in which realization of widely shared values ought to realize Human dignity. To him they are universal because they apply to all for the reason of them being human beings. Human Rights are universal and therefore do not depend on geography, history, anthropology, among others. In short, human Rights accrue independently of Acts or declarations of Law and that they are of universal application (Louis, 1985). These works on the definitions of human rights helped the researcher understand human rights hence made good judgment on the influence CSOs have made in enhancing good governance towards achieving human rights.

In Kenya the subject of human rights is fairly understood. And therefore understanding it better helped the researcher make good and accurate judgment of the role Transparency International and Civil Society Organizations have played to influence government actions such as creating human rights awareness and forming policies towards good governance and human rights enhancement. He understood how they have helped towards the protection and promotion of human rights. And hence this work was very beneficial to the researcher in this manner.

Although human rights have not attained a fully accepted universal definition, history has it that they have gone through steps and stages to achieve some definitions that are acceptable and used by a wide range of the global population. According to Horney (1995), human rights in the world have got a long history starting from the ancient kingdoms and empires where they were not labeled as such but manifested in practices such as encouraging nondiscrimination, free religious practices and freeing of slaves by ancient leaders such as King Cyrus of Persia. Some of these rights were embedded in instruments like Urukagina's cone and Cyrus cylinder for example the code of Hammurabi. Human rights naturally existed without being offered by leaders. It is only that it took people's efforts to acquire, sustain and make them effective (Horney, 1995).

In Africa of which Kenya is part of, Human rights has been a great struggle more than many other parts of the world. For instance up to the year 1989, Kenya struggled to re-introduce a multi-party state, a democratic right that was lost in 1982 following the amendment of the constitution. It achieved this in 1990 with the aid from foreign (western) countries and pressure from the civil society organizations which advocate for human rights. For a very long time many rights have just been in paper work rather than in reality (Omollo, 1990). This study investigated the role the civil society organizations have played in this subject matter hence the understanding of the history of human rights helped the researcher trace some of events such as the "Mlolongo", "Saba saba" and the promulgation of the Kenyan new 2010 Constitution which have got a great impact to the realization of human rights in Kenya. Upon the identification of these great events of the historical development of human rights in Kenya, the research went ahead and analyzed the effort Transparency International and other CSOs have made in the realization of these events.

Besides history and definitions, human rights have got principles that guide and establish them. According to UNFPA (2011), human rights principles refer to the pillars under which human

rights are grounded, without these human rights would not exist. It is under them that human rights are established and sustained. They establish a platform upon which human rights are anchored. They include: The Principles of equality and non-discrimination; the principle of participation and inclusion; Universality and indivisibility; accountability and rule of law as explained below.

1. The Principle of equality and non-discrimination, this principle recognizes the fact that all individuals are equal as human beings and therefore they must not be discriminated against on whatever basis. Equality has got several dimensions including: legal equality, political equality, social and economic rights. It is important in ensuring every person is granted equal access to available recourses.
2. The principle of participation and inclusion. This principle demands that every person be given an opportunity to participate in contributing to the enjoyment of all forms of development such as civil, political, economic, social and cultural where he or she realizes all his fundamental rights.
3. Accountability and rule of law, People as right claimers must be active in development programs while the duty bearers must be accountable to them. Accountability promotes tenets of social justice for example equal distribution of resources which is an attribute of human rights. While the rule of law ensures that impunity is not tolerated when human rights violations occur, that is, nobody is put above the law. In other words the law applies equally to all.
4. Closely linked to the above principle is personal liberty and freedom. Liberty involves adjusting individual claims with those of the society. This means claims of an individual or group should not go to an extreme to endanger a common good. In case this happens; the state should come in to regulate such claims for instance a given freedom. On the other hand liberty and freedom mean that, where your right stops there some body's rights begin (UNFPA, 2011).

Kenya being a multi-ethnic society with diverse cultures, observing these principles is a big challenge with a lot of ethnic discriminations and non-participatory decisions concerning issues that affect human rights taking center stage. The issue of observance of the rule of law in transacting public business in Kenya is wanting (Omollo, 1990). This is a result of the law not

being applied equally to all. The high profile people engage in big criminal activities such as corruption and go scot free on the other hand, the common men are highly punished for small mistakes or even for crimes they have not committed. Citizens are rarely involved in making decisions concerning issues involving them by denying them the freedom of electing leaders who represent them at decision making levels by influencing and manipulating elections. Hence understanding these principles helped to weigh the efforts civil society organizations have made to realize these principles in protecting and promoting human rights in Kenya.

To understand the importance of human rights help the stake holders accord human rights the priorities they deserve. According to UNFPA (2011), Human Rights are very relevant to the society of today in a number of ways in that: Human Rights are fundamental to the establishment and development of all countries of the globe; They provide a safe ground for good governance that is based on the pillars of accountability; participation, responsibility, transparency and responsiveness; Human rights Forms a foundation for freedom, peace and rule of law; Lays a firm foundation for fighting poverty because poverty is a brutal denial of people's rights for example it denies people access to education, food and medical health services; Human rights set bench mark policies against which development policies must be measured, for example, dictatorship laws and freedom; Human rights Protects against inhuman technology for example bad engineering activities such as trading of body parts that lead to lowering of human dignity (Amoaba, 2006; United Nation: *State of World Population Report*, 2005). In Kenya human rights and more so Social economic, civil and political rights have always been ignored by the government. This has been done in the pretext of prioritizing development over the so called unnecessary noise making. The effect of this is that it has led to people being denied major freedoms such as freedom of speech and expression which are fundamental for development. Development without citizens' participation is unsustainable. Furthermore it beats logic to reason that allowing citizens to practice their freedom of expression hinder development. As a matter of fact this helps the government to identify the most pressing needs of its citizens and avoid wasting resources in project that won't add value to its citizens. Hence this literature is very important as understanding the importance of human rights help to improve its prioritization by stake holders such as the government and the civil society. To the researcher it was equally important as it helped him analyze the role the civil society and transparency international have

played in influencing governance toward the prioritization of human rights hence their protection and promotion.

Having understood human rights, their history and important it is also relevant to comprehend, good governance and it's practice as well as also understand Transparency International, the Civil Society and their role in Influencing good governance toward the protection and promotion of human rights in Kenya.

According to Chaffin (2014), Governance is the action, manner or power of governing. It refers to, a method or system of government or management and the government exercise of authority or control and the manner in which a government governs (*A Decade of Adaptive Governance Journal*, 2014).

Good governance is about the processes for making and implementing decisions. It's not about making 'correct' decisions, but about the best possible process for making those decisions. Good decision-making processes, and therefore good governance share several characteristics. All have a positive effect on various aspects of local government including consultation policies and practices, meeting procedures, service quality protocols, councilor and officer conduct, role clarification and good working relationships. It's often associated with given attributes and characteristics. According to Victorian Local Governance Association (2012), good governance has the following major characteristics:

1. Good governance is accountable; Accountability is a very important requirement of good governance as it forms a base and a foundation for this. Here the government has an obligation to report, explain and be answerable for the consequences of decisions it has made on behalf of the community it represents. Hence in terms of delivering services such as health services, the government is obligated to do its best as it has to account for its actions.
2. Good governance is transparent, Good governance is one where People should be able to follow and understand the decision-making process. This means that they will be able to clearly see how and why a decision was made that is; what information, advice and consultation council considered, and which legislative requirements (when relevant)

council followed. This normally prevents corrupt practices which often undermine full implementation of human rights.

3. Good governance follows the rule of law; this means that decisions are consistent with relevant legislation or common law. Human rights are often abused or violated as a result of bridging of the law either by individuals in authorities such as presidents or governments themselves hence decisions that are consistent with legislations that uphold human rights assist in upholding them and in case of an abuse they often offer appropriate remedies.
4. Good governance is responsive, Governance is effective if it serves the needs of the entire community but still balances competing interests in a timely, appropriate and responsive manner.
5. Good governance is equitable and inclusive; a community's wellbeing results from all of its members feeling their interests have been considered by council in the decision-making process. This means that all groups, particularly the most vulnerable, should have opportunities to participate in the process.
6. Good governance is effective and efficient, good governance should implement decisions and follow processes that make the best use of the available people, resources and time to ensure the best possible results for their community.

(Municipal Association of Victoria, Victorian Local Governance Association, 2012).

This research hence investigated how the civil society have influenced government exercise of authority or control towards protecting and promoting human rights in Kenya by influencing government decisions such as passing laws that protect and promote human rights.

Finally it's important to understand the civil society and their role in governance. The idea of defining and the role of the civil society according to Mercer (2002) has been an issue of debate and have raised many disagreements globally. This is as a result of the nature and impact of civil societies in development and states in general. At its basic definition, the civil society is seen as a sphere of intermediate association that is separate from the households and state. In this tradition civil society refers to those groups' networks and relationships that are not organized or managed by the state

The term civil society is understood by Dochas (2001) as the broad space between household and government. In other words it is what links the citizens and the government there by showing a wide picture of how the civil society is part of governance.

UNICEF (2003), defines the civil society as a sphere of autonomous associations that are independent of the public and for profit sector and are designed to enhance collective interest and ideas of a community for example people's freedom and rights. They may be formal or informal. Formal include Non-Governmental Organizations (NGOs), Social movements, advocacy groups among others. On the other hand informal include local community Based Organizations (CBOs) like the women merry go rounds 'chamas'.

Civil society Organizations work with a broad range of political strategies for example by using political tactics of activism, strategic litigation by seeking legal redress, economic redress through creating of employments or by fighting for favorable labor conditions and by addressing social problems like health, illiteracy and cultural discriminations(*World Development Report*, 2007). This literature is very important as understanding of the civil society and their role helped the researcher to analyze the effect these organizations have had in promoting and protecting human rights in Kenya.

The new African constitutions according to Bosi and Delskho (2009) have shared power within organs and arms of government such as Judiciary, Legislature and the civil society. It has created local governments and even recognized international institutions making it viable for enhancements of human rights. In Kenya Civil society organizations are on record for fighting for the welfare more so human rights of the common man. This was motivated by great institutional decays such corruption in public offices which perpetuated Human rights violations that the country witnessed following the transformations and amendments of the Lancaster constitutional. According to Omollo (2006), Kenyans and some civil society organizations have been cited to stand out and fight to restore human rights in the country. The civil society with the help of pressure from International community has helped to restore good governance in Kenya. For example in the realization of the New Constitution of Kenya (2010), the civil society has claimed responsibility (CONSTITUTIONNET, 2014). This work was very important as it brought a clear picture of how civil society organizations are very vital in influencing

governance. It helped the researcher to analyze how the civil society and good governance practices have ensured that powers are shared equally to organs of government such as the media, judiciary, legislature, executive, private entrepreneurs among others.

Transparency International Kenya (TI-Kenya) is a not for profit Organization that was founded in 1999 in Kenya with the aim of developing a transparent and corruption free society through good governance and social justice initiative. It's one of the branches of Transparency International worldwide whose main purpose is to establish a transparent and a law abiding world free from corruption. Its aim is to have transparent accountable and a corruption free Kenya. Its mission is to transform the society and the institutions by supporting a high integrity leadership in all levels and sectors (Leakey, 2014).

Transparency international Kenya stands for the following values which help it realize its objective of promoting good governance: Justice for all by trying to ensure that all people are treated in an equitable manner. This it does by pressing on the government to adhere to International policy and law that regulates standards of governance; it also encourages inclusion and participation by involving all stake holders such as NGOs and community members on governance issues. It encourages inclusion by incorporating a diversity of people of all walks of life and policies in their programs; Advocate for equal opportunities for all in public offices and services by creating a favorable environment for this. For instance by influencing the laws and policies such as labor laws and public service code of conduct that are being passed; they also stand for integrity and excellence. They support integrity of people in public offices by upholding Chapter six of the 2010 Kenyan Constitution which outlines the qualification of the person who is fit to hold public office. They fight for quality services to the common man in the government offices (*Transparency International–Kenya: Annual Report, 2013 /2014*).

Good governance practices involve transparency accountability and participation which lead to the production of goods and services such as food, health and education which enhance the enjoyment of human rights. On the other hand human rights addresses inherent human dignity, its principles include justice and fairness which are two main concerns of Transparency International. This justifies studying Transparency International as it is a civil society

Organization that promotes transparency and fight corruption through good governance and social justice initiatives which protect and promote human rights.

1.10.1 Theoretical frame work

This research is guided by John Rawls' theory of justice that is discussed below.

A Theory of Justice: John Rawls'

Rawls attempts to establish a reasoned account of social justice through the social contract approach. This approach holds that a society is in some sense an agreement among all those within that society. If a society were an agreement, Rawls asks, what kind of arrangement would everyone agree to? He states that the contract is a purely hypothetical one: He does not argue that people had existed outside the social state or had made agreements to establish a particular type of society.

Rawls begins his work with the idea of justice as fairness. He identifies the basic structure of society as the primary subject of justice and identifies justice as the first virtue of social institutions. He considers justice a matter of the organization and internal divisions of a society. The main idea of a theory of justice asks, what kind of organization of society would rational persons choose if they were in an initial position of independence and equality and were setting up a system of cooperation? This is what Rawls sees as a hypothetical original position: the state in which no one knows what place he or she would occupy in the society to be created (Wikipedia, 2016).

After considering the main characteristics of justice as fairness and the theoretical superiority of this approach to utilitarianism, intuitionism, or other perspectives, Rawls looks at the principles of justice. He identifies two principles: One, that each person should have equal rights to the most extensive liberties consistent with other people enjoying the same liberties; and two, that inequalities should be arranged so that they would be to everyone's advantage and arranged so that no one person would be blocked from occupying any position. From these two principles Rawls derives an egalitarian conception of justice that would allow the inequality of conditions

implied by equality of opportunity but would also give more attention to those born with fewer assets and into less favorable social positions.

Rawls concludes the first part of his book by looking at the idea of the original position outside society. This hypothetical original position can be approximated by using the thought experiment of the veil of ignorance. If no one could know what place he or she would occupy in the society being formed, what arrangement of the society would a rational person choose? Rawls maintains that the choice would be for a social structure that would best benefit the unknowing chooser if she or he happened to end up in the least desirable position (Wikipedia, 2016).

In the second part of the work, Rawls considers the implications of his view of justice for social institutions. He discusses in detail equal liberty, economic distribution, and duties and obligations as well as the main characteristics of each that would make up a just society. He does not, however, identify any particular type of social or political system that would be consistent with his theory. He deals only with the demands that his version of justice places on institutions.

In the third and final section, Rawls deals with ends or ultimate goals of thinking about social justice. He argues for the need to have a theory of goodness, and he makes a case for seeing goodness as rationality. Then, he turns to moral psychology and considers how people acquire a sentiment of justice. Finally, he examines the good of justice, or how justice is connected to goodness. Rawls argues that in a well-ordered society, ideas of goodness and justice must be consistent with each other (Wikipedia, 2016).

A Theory of Justice is widely recognized as an essential contribution to thought about the nature of justice. However, even supporters of Rawls acknowledge that his work raises many questions. One of the earliest major responses to the book came from his Harvard colleague, philosopher Robert Nozick. In *Anarchy, State, and Utopia* (1974) Nozick offers a libertarian response to Rawls. The assumptions behind *A Theory of Justice* are essentially redistributive: That is, Rawls posits equal distribution of resources as the desirable state and then argues that inequality can be justified only by benefits for the least advantaged. Nozick points out that recourse are produced by people and that people have rights to the things they produce. Thus, attempts to improve the condition of the least advantaged through redistribution are unjust because they make some

people work involuntarily for others and deprive people of the goods and opportunities they have created through time and effort (Wikipedia, 2016).

This research applied this theory to evaluate the effect of civil society organizations actions on promoting the welfare of the less privileged in the society. It applied John Rawls' theory: two principles of justice and fairness to assess how the civil society organizations have helped in the realization of basic liberties among the common, weak and voiceless people in the society. It assessed how the civil society has helped to bridge the gap caused by injustices done by the powerful people to the common men in Kenya. It addressed all forms of inequalities including social, economic and employment opportunities. It evaluated these by analyzing the effectiveness of the actions and steps taken by the civil society organization such as influencing government policies and legislations in the realization of human rights.

1.10.2 Conceptual Framework

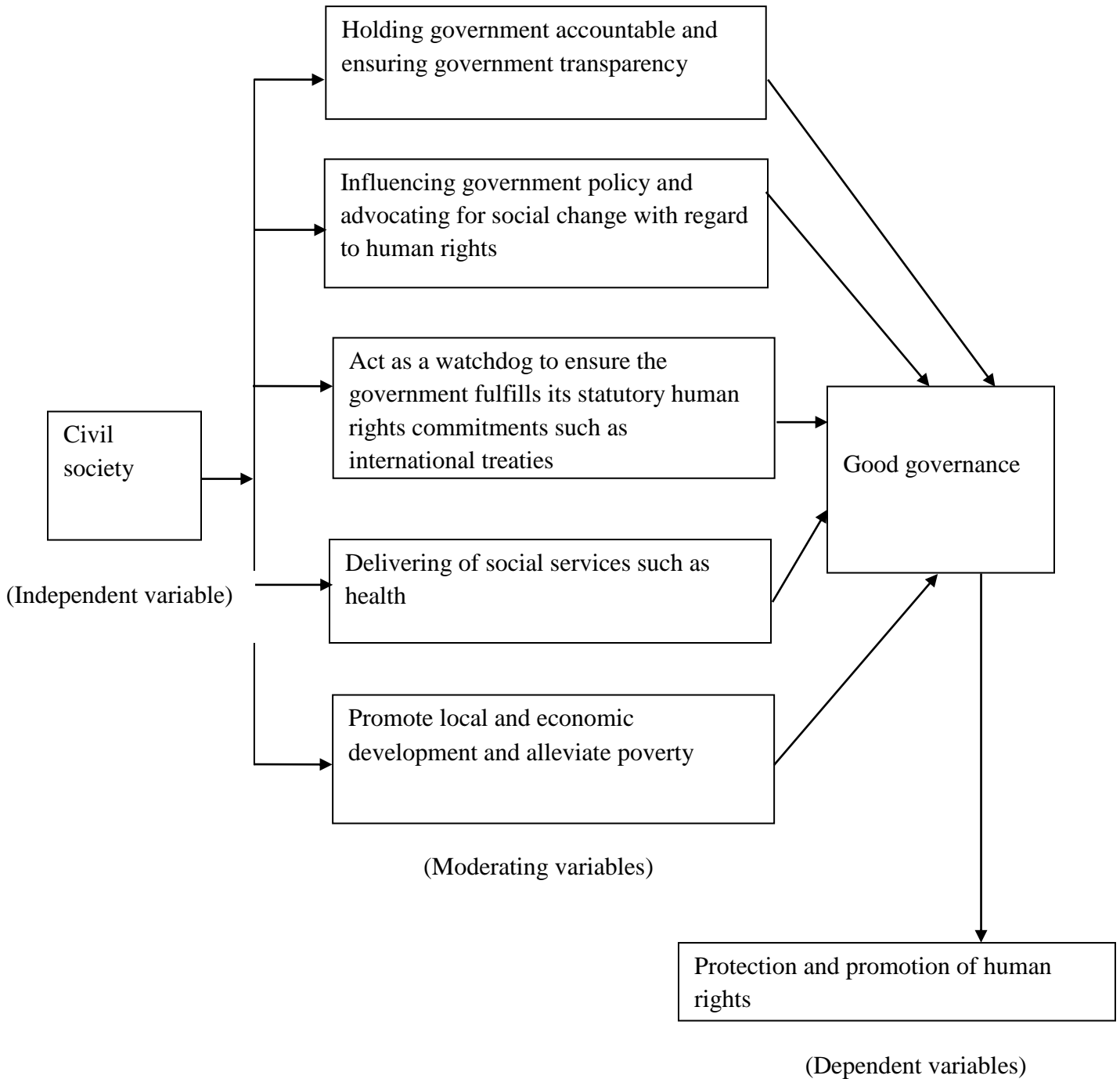


Fig. 1.1: Conceptual Framework

Fig. 1.1: The conceptual frame work is a figurative summary of the research. It shows the Civil Society Organizations and the roles they play and how these roles influence governance towards the protection and promotion of human rights.

1.11 Methodology

This section entails the methods and techniques which were used to collect process and analyze data. It consists of research design, target population, sampling procedure and sample size, methods of data collection, validity and reliability of the study that were used in data processing and analysis.

1. 11.1 Study Design

This study employed both quantitative and qualitative approaches in order to get more reliable information. It largely, through the use of community Questionnaires obtained quantitative data on the view of Nairobi residents on how much these Organizations have done as far as promoting human rights is concerned. On the other hand, Qualitative approach was employed through reviewing of relevant documents and through face to face interviews with key informant; this went handy with the combination of descriptive, explanatory and observational approaches. This helped the researcher to analyze how these organizations actions have conformed with John Rawls theory of justice to help promote human rights by ensuring the government ensures fairness to all.

1. 11.2 Target Population

The target population included: Civil society workers including those of Transparency International CRS and EAC-Kenya; Politicians; Human lawyers and lecturers; civil servants and ordinary Nairobi residence. In total; a total number of seventy respondents were reached.

1. 11.3 Sampling procedure

Purposive sampling was used to identify key respondents who are knowledgeable, informed and experienced as far as the study topic is concerned. Random selection of community members who participated in focused group discussions and filling of community questionnaire was done with an aim of capturing their perspective on the subject matter. In this process a total of thirty five key respondents were identified and balanced with thirty five non key respondents to avoid biasness in the representation of informants in the study; this is how this research arrived at a total of seventy respondents.

1. 11.4 Data Collection Instruments

A combination of different data gathering instruments such as Community questionnaires and observation guide were developed pretested and used to collect data for the research. This research sought and analyzed both primary and secondary data to come up with the final research project. It employed the following research instruments to collect these data.

1. 11.5 Primary data collection Instruments

These included: focused group discussion guide, interview schedules, Community questionnaires that were used to obtain information concerning the activities these organizations have done to promote human rights in Kenya. Each of these research instruments had similar question. In addition photo and voice recorders were used with the consent of the informants.

Focused group discussion guide

Topics such as benefits, effects and contribution of Transparency International and civil societies to the protection and promotion of Human rights, their challenges and achievement were given to different groups say men, women, and slum and suburb dwellers to discuss in their groups in the presence of the researcher. The information got here was used to evaluate the role civil society organizations have played in promoting and protecting human rights in Kenya. The picture below shows a focused group discussion in session with the researcher and the respondents seated in a circle.

Picture 1.1: A photo graph showing a focus group discussion for the study topic in session with the interviewer sited at the extreme right. The Photo graph was taken in Nairobi Kasarani on 28th April 2016.



Interview schedule

An interview schedule containing questions was administered to the key informants such as heads of civil society divides like church administrators, NGO Chief Executive officers (CEOs), human rights lawyers, members of parliament and lecturers. The rationale of this is that these people are highly knowledgeable in this field and hence provided accurate, relevant and reliable information.

Community questionnaire

This was prepared with a set of questions on the contribution Transparency International and civil society organization have made in the promotion and protecting of human Rights. They were then administered to selected community members. A total of fifty five respondents were reached and served with questionnaires and only twenty five responded.

Observation guide

In addition to the above instruments of collecting primary data, the researcher used observation guide to verify the information provided by these organizations and the public. The researcher did this by carrying out a cross sectional survey in Nairobi to establish if there is any tangible evidence of any achievement such as building of schools that promote human rights that has been achieved from the efforts of these organizations.

Photo cameras and voice recorders

This was used to capture some of the images and scenarios that concern the achievements of these organizations in protecting and promoting human rights in Kenya.

1. 11.6 Secondary data collection Instruments

Secondary data collections employed the review of documents such as annual reports of programs and project that promote and protect human rights through governance of TI-Kenya, EAC-Kenya and CRS within the range of the study period. In addition it reviewed journals and books published by these organizations.

Document review

Various documents such as reports and work plans for Transparency International, CRS and EAC-Kenya were keenly reviewed to analyze their influence and contribution in enhancing Human Rights in Kenya. This was relevant as these documents acted as evidence on the claim made by these Organizations on the role they have played in protecting and promoting Human Rights in Kenya.

1.12 Validity and Reliability

These were done through observational verification and repetition of these processes to test the consistency of the data collected. In addition this research stuck to the research ethics of objectivity and non-bias which helped the researcher obtain reliable information.

1.13 Methods of Data Analysis and Presentation

Qualitative data collected through interviews with key informants was transcribed and analyzed through thematic analysis procedure. This was done by identifying and classifying the information provided with the respondents into themes such as roles and challenges of Civil Society Organizations in promoting human rights. The findings were later presented in text form in the research project. Qualitative data obtained from reviewing the reports from these organizations was analyzed manually by reading through these reports one by one to establish the role they have played. The information gathered here was used to write the final research project and was presented in text form.

On the other hand quantitative data collected through community questionnaires and focused group discussions was analyzed with descriptive statistic techniques with the help of excel software. The impact of the role these organizations have played was established and presented through tables and percentages. Observational verification was used to quantify some of the human rights benefits the ordinary people have achieved as a result of the action of these civil society organizations. This included the number of children who have been sponsored to school by Empower a child Kenya for example and the number of refugees who have benefitted from the health programs offered by Catholic relief services. This was analyzed and presented in the same way as it was done for community questionnaire and focused group discussion data.

1.14 Conclusion

This chapter tackled the back ground of the study topic. It covered what the study was all about and what it aimed to achieve and how it did it. The research did this by focusing on the problem of the study as the effectiveness of Transparency International, Catholic Relief Services, Empower a Child Kenya and other civil society organizations in promoting human rights in Kenya. It focused on the purpose and objective of the study which was to establish the status of human rights in Kenya and how effective the civil society has been in achieving this status in the country between the periods of 1988 to 2016. It reviewed several literatures on: human rights and its importance; civil society organizations in Kenya and how their activities influence the realization of human rights and found out that a very great role in promoting human rights. The chapter also focused on the theory that guided the entire research and that is John Rawls theory of justice where Rawls argues for justice as farness. It used this as a standard of evaluation on how effective these organizations have been in promoting human rights. Finally it looks at the methodology employed to collect all these information.

CHAPTER TWO

THE IDEA AND PRACTICE OF HUMAN RIGHTS IN KENYA

2.0 Introduction

The idea and practice of human rights in this research is used to mean how human rights are perceived in Kenya and the manner in which these perceptions are transformed to reality. The findings of this research reveal that the idea and practice of human rights in Kenya face a big challenge. A challenge that can be compared to that faced by the issue of universal acceptance of human rights. These challenges are as a result of Kenya being a diverse society with diverse ethnic communities and religions that often have conflicting cultures and that all fight to be recognized as superior. This chapter handled the idea of human rights and its practice separately basing on its findings as discussed below.

2.1.0 THE IDEA OF HUMAN RIGHTS IN KENYA

The word 'right' in *Free Dictionary* (2003) context is defined to mean a mere privilege. However, in the context of this research, this word means more than a privilege, but a more basic need that somebody is entitled to, not for any reason but for the fact that they are human beings. It doesn't matter the social or physical status of someone, rich or poor, tall or short everybody is entitled to their human rights. Human rights are rights that are inherent to all human beings no matter their nationality, place of residence, sex, ethnic origin, colour, religion language or any other social and economic status. We are all, equally entitled to our human rights without discrimination (United Nation, 2016; Amooka, 2000).

The idea of Human Rights in Kenya is not a strange issue. It has been an issue of concern that has been taken serious by many people, institutions, international community and civil society organizations (Omollo, 1970). Some of the issues that have been addressed by people, institutions and organizations includes; the status, achievement and failures of observing or promoting human rights in Kenya.

The status of human rights in Kenya is fair. In fact Kenya has established a diplomatic relations with the United States and the United Kingdom that support human rights (Bureau of African Affairs, 2016). Kenya has had the following achievement in promoting human economic rights:

it has adopted a new constitution that recognizes all human rights treaties and declarations. On civil and political rights there have been reforms in electoral, security and land sectors. In the electoral sector, an electoral institution, electoral laws and some level of independence has been achieved. In the lands sector a national lands commission has been established to address land issues and under security new institutions such as Independent Policing Oversight Authority (IPOA) have been established. On socio-economic rights a number of government programs such as social protection for vulnerable groups exist for example programs launched in 2014 to offer social security for people above the age of sixty five living in extreme poverty. A number of jobs have been created both in the public devolved governance and the private sector. In gender related gain there is free maternity service for women (KHRC: *The Status of Human Rights in Kenya Report*, 2014).

Besides these achievements there are still gaps that exist in the idea of human rights in Kenya: -

Corruption has got its way into the idea of human rights in Kenya. Here the main gap that is there is existence of high level of corruption in Kenya. In as much as the idea of human rights in Kenya is well appreciated it calls for recourses to be fully implemented. Corruption has well taken the resources which are meant to make human rights a reality. This is echoed by former United States president Barrack Obama's sentiment that corruptions cost Kenya thousands of jobs yearly (Bureau of African Affairs, 2016; *The Standard News Paper*, 28th July 2015). Another example includes transparency International's exposition on how corruption in the education sector jeopardizes the enjoyment and fulfillment of the right to education (Transparency–International: *Global Corruption Report on Education*, 2013).

The idea of human rights has also faced set-backs following government actions, this means that governance has also been a key player on how the idea of human rights in Kenya is handled. The government has for example been seen as a stumbling block for the enhancement of human rights in Kenya. It has been seen as the main opposition to the CSOs and human rights defenders actions to enhance the realization of human rights. The Government has been accused of being an enemy to the human rights defenders and organizations like the civil society organizations. These it has done for instance by threatening or closing some of those organizations that act against their wish in the process of promoting human rights (Amnesty International: *Report on the State of the World Human Rights*, 2015/2016; *Daily Nation News Paper*, March 1st 2015).

Insecurity is still a threat to the idea of human rights becoming a reality in Kenya. A lot of humanitarian crisis such as internal displacement and food crisis have been caused due to internal violence. This results for instances such as tribal clashes that occasionally occur in borders separating two of more different ethnic communities in Kenya. For example, Kenya is still dealing with the aftermath of 2007 post-election violence. The government has failed to fully settle the Internally Displaced Persons (IDP's) and instead it is having a problem to implement the *Truth Justice Reconciliation and Cohesion Report, 2013*. Besides Kenya efforts to tackle a wide array of security issues have been marred by serious human rights violations by security forces. They have included extrajudicial killings arbitrary detention and forced disappearance (Human Rights Watch: *World Report on the status of the world's human rights, 2015/2016*).

Another gap limiting the effective realization of human rights in Kenya is ineffective laws. Ineffective laws particularly those that address corruption have undermined the idea of human rights in Kenya. Amnesty International 2016 ranks Kenya high amongst the most corrupt countries in the world. Corruption deprives Kenya of the recourses to enhance human rights since implementation of human rights calls for resources and in this case it is these resources that disappear into the hands of few individuals. In Kenya corruption is celebrated in some places. Corrupt leaders are elected, given big government/public positions. In some incidences, it is surprising that this is done by the citizens; powerful individuals who swindle public recourses go scot free without punishment and on the contrary get rewarded with big positions. Despite the existence of anti-corruption laws and commission, they never touch these people (Cuero 2008; Action for Human Rights, 2016; Hope for Humanity, 2016).

Other challenges to the realization of the idea of human rights in Kenya involve the failure of utilization of the already existing systems and laws. For instance the promulgation of the new constitution which recognizes all human rights instruments is not enough it is only effective to implement it. In the lands sector reforms for example, laws and commission to address land disputes have been established. The challenge is that these laws and this commission have faced is, interference by the lands ministry thereby burring them from fulfilling their mandate. In security sector institutions have been established but have not been allowed to run independently thereby burring them from playing an effective role in enhancing human rights. The same applies

to socio-economic rights for instance, despite the existence of free primary education, proper initiatives to ensure quality education have not been implemented (Kenya Human Rights Commission: *Two Steps Forward One Step Backward: Status of Human Rights in Kenya Report*, 2014).

Different scholars however, have attempted to come up with universal meaning, understanding and acceptance of human rights but have not been successful (Eshrangh, 2006). Different communities in Africa, Kenya being one of them have different understandings and perceptions of human rights. This has brought conflict in handling and implementation of the idea of human rights in this region (Africa Watch, 1991; Skutnab, 2000). The idea of human rights in Kenya has equally been a complex matter that is very difficult to exhaustively tackle. It is for this reason that the research tackled this matter by focusing on three main areas only, that is; the level of understanding of human rights in Kenya, its awareness and provisions as discussed below

2.1.1 The level of understanding and awareness of human rights in Kenya

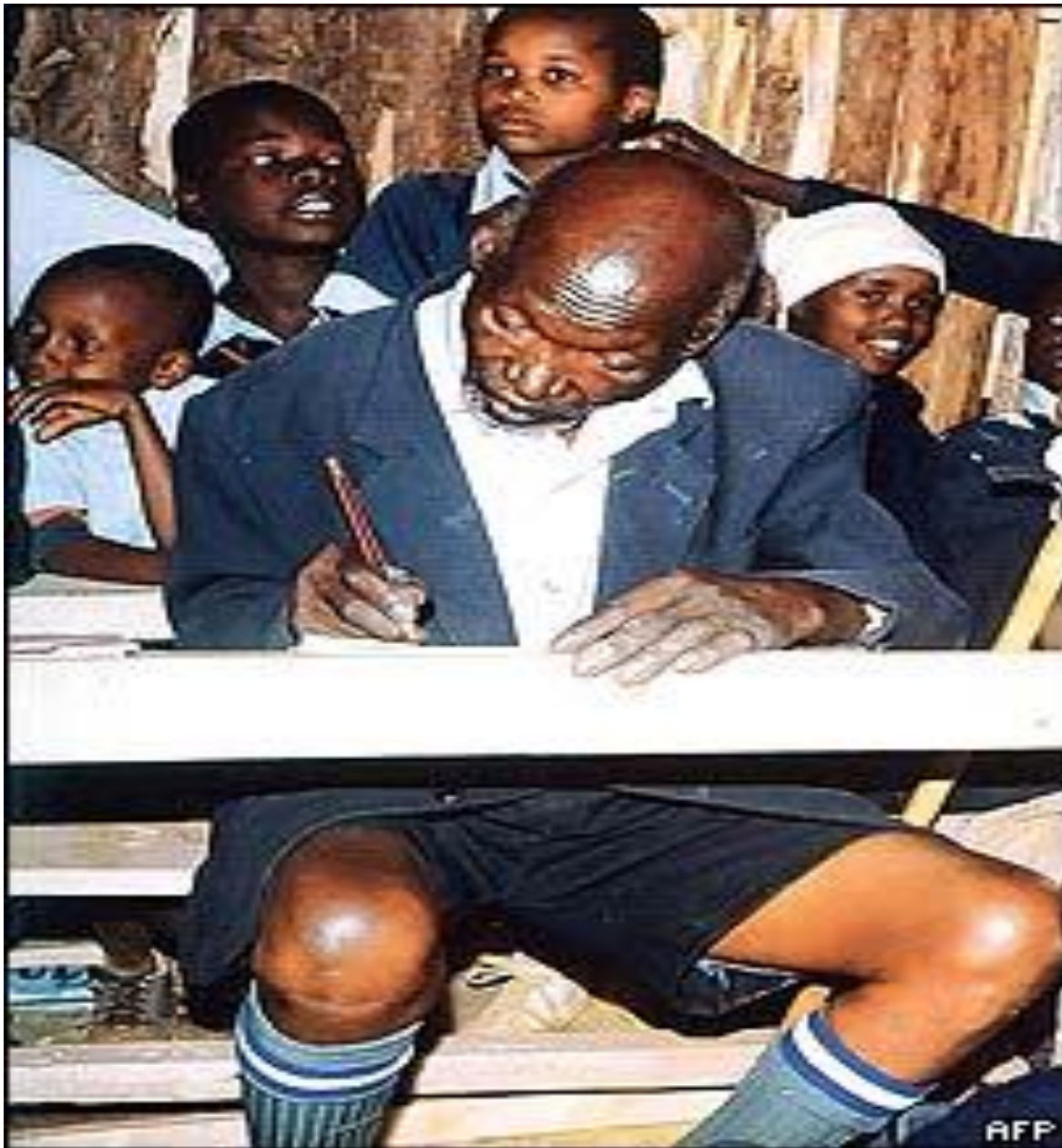
Human Rights are fundamental rights that are believed to belong to an individual and whose exercise a government may not interfere with. There are basic rights and freedoms to which all human beings are considered to be entitled to. There are often held to include the right to life, liberty, equality and fair trial, freedom from slavery and torture and freedom from thought and expression among others. These rights belong to every human being regardless of their social and physical status (*Free Dictionary*, 2016). The fact that these rights belong to and should be enjoyed by everyone call for people to know and understand them is when they can take appropriate action to make them a reality. The level of understanding and awareness of human rights in Kenya is high. It has got a human development index of 0.54 and ranks 147th out of 182 countries ranked in the UNDP: *Human Development Report*, 2009. This is as result of a number of factors such as the use of Kiswahili, a national language that is understood by many, the existence of human rights defender groups and a constitution that upholds human rights. (UNESCO, 2010; UNDP: *Human Development Report*, 2009).

The understanding and awareness of human rights in the context of this research do not necessarily mean that one did have to know the scholarly definition of human rights and name them exactly as they are written in the human rights instrument. The understanding and awareness of human rights in this research was considered in terms of description of what human

rights are and how they apply. This was so as a moral philosophy of human rights has it that the golden rule of human rights can be compared to that of the Bible which states that: “Do unto others what you would like to be done unto you” (Mchachian, 2007).

According to *Back to school with Africa's oldest learners Journal* (February 2015), education has contributed greatly to the high level of understanding and awareness of human rights in Kenya. This is because education enlightens people; it equips them with the skills to read, write, research and to understand English. This has helped them to be aware and understand their human rights because human rights are often recorded in official human rights instruments such as constitutions, declarations and international treaties. When somebody has the skills to read and understand English which is the language that the human rights instruments are often written, he or she can read and know his/her human rights. Kenya has a program for free primary school education in public schools, this has enabled many Kenyans to access basic education that makes them literate and hence enlightened them to know and understand human rights. It's the knowledge of these rights that lead to their utilization. A good example is the late Kimani Maruge who joined primary school at the age of eighty four upon the introduction of free primary education. This he did with an aim to learn how to read to enable him read his Bible, an act that makes him completely understand and practice his freedom of worship. This shows how education helps people understand and know their human rights (*Back to School with Africa's oldest learners Journal*, February 2015).

Picture 2.1: Picture showing Kimani Maruge in class to learn how to read and write



Source of the picture: ([Http://www.theguardian.com](http://www.theguardian.com)).

People in Kenya also learnt and understood their human rights through communication and passing of information. This followed the adoption of advanced modern technology of communication and passing of information. For instance, uses of televisions, radios and mobile phones have highly spread all over Kenya. This has enabled people to receive information quickly on issues concerning their human rights. It has been an issue for concerned authorities to

use media for instance through programs and news to make people aware and understand their human rights (Transparency International, 2016). Besides things like communication policies have helped shape the dissemination of information in the country. For instance, they have helped to ensure the freedom of press which is a very vital organ or instrument in the passing of human rights information (AT & T Intellectual Property, 2010).

The Constitution of Kenya (2010) has also played a great role in ensuring the high levels of understanding of human rights in Kenya. This constitution was passed in 2010 and the manner in which it was passed sparked a lot of hopes to Kenyans to an extent of which some thought it would put food on their tables. The spirited campaign by politicians made Kenyans to expect change upon passing of this constitution. This sparked high expectations among Kenyans and this prompted many to read and hence got to know and understand their human rights which were enshrined in the constitution. This constitution provides that international laws, treaties, conventions among other human rights instruments that Kenya has ratified form part of Kenyan laws. Kenya has emerged from what has been popularly called a domesticated regime to adopt an incorporative regime where all international obligations are binding. This hence influenced Kenyan laws to create an environment favorable for promotion of human rights (KHRC: *Two Steps Forward, one Step Backwards Main report*, 2014, Pg. 12; Kenya Law Report, 2016).

A survey done by the researcher on the level of understanding and awareness of human rights in Kenya reveals that there is high understanding and awareness of human rights in Kenya. The tables below present the findings:

Table 2.1 Field findings of the level of understanding of human rights in Kenya

Respondents	Number	Percentage
Those who understood human rights	60	86
Those who did not	8	11
Not sure	2	3
Total	70	100

Source: Oral Interviews, between the 3rd of February to 28th of April 2016.

Table 2.2: The level of awareness of human rights in Kenya

Respondents	Number	Percentage
Those who were aware of their human rights	50	71
Those who were not	20	29
Those not sure	0	0
Total	70	100

Source: Oral Interviews, between 3rd of February to 28th of April 2016.

According to the respondents other factors which contributed to the high understanding and awareness of human rights included: interests and occupations. That is, people who had interests on human rights were more aware of them than those who did not. On the other hand, people understood more concerning human rights related to their occupations, for example students and lecturers understood and were more aware of the right to education as opposed to politicians who understood and were more aware of freedom of association, speech and assembly. On one hand, ignorance of human rights was blamed on poor governance, illiteracy and attitude of individuals.

2.1.2 Provisions of Human rights in Kenya in written instruments

Human rights Provisions in the context of this research was used to mean facilities and recorded Instruments that legally recognize and create an environment that facilitate the operation and fulfillment of human rights in Kenya. They are instruments or documents that provide a platform, space or room that permit human rights to be exercised. To the research they can be compared to a person or an entity that offers a playing ground for human rights to be played, that is, if human rights were a game. Human rights in Kenya are better off than most African countries (*Series on the Politics and Government of Kenya Journal*, 2016). This section of the research paper explores how human rights in Kenya are provisions are provided in recorded instruments. Recorded instruments of human rights referred to here are written legal documents that offer or provide general or specific rights such as; rights for people with disabilities or for women and children and the general human rights. They are often referred to as human rights in paper or paper work human rights and are often found in the laws in the sources of law in a country. Considering paper work human rights, it is no doubt that Kenya is several miles ahead.

Indeed, if this alone was considered as the sole standard of measuring human rights provisions we would be quick to conclude that human rights in Kenya are very well provided for as Kenya has ratified almost all human rights treaties/instruments (lib.chchr.org/hrbodies/ke/ksc). Besides Kenya promulgated a new constitution which gives power to the citizens and that complies with universal human rights instruments. In fact in chapter four of the constitution of Kenya all human rights in the universal declaration of human rights and all human right in internationally recognized instrument have been recognized (*Constitution of Kenya 2010*, Chapter Four and article 19 (3) b and Articles 1 (i)). According to article 2 (i) and 2 (30) of the *Constitution of Kenya (2010)*, any laws of Kenya that contradicts it is considered null and void and it is this constitution that offers provisions for human rights and even recognizes all other rights not written in it. This means the laws of Kenya comply with human rights standards and make provisions for them (Kenya Law Reform Commission, 2017) The following sections discusses the laws from two main sources of law in Kenya that make provisions for human rights and influence their realization beginning with constitution as discussed below.

2.1.2. 1The constitution

The constitution is the supreme law of the land and hence its content is very instrumental in the promotion of human rights. Considering the fact that the government is the main obligated duty bearer to protect, promote and fulfill human rights, the content of the constitution therefor affects how it governs towards the realization of human rights (*Constitution of Kenya, 2010*; UNDP, 1996).

The new African Constitutions according to Bosi and Dekho (2009) have shared power within organs and arms of government such as judiciary, legislature and civil society. This helps to enhance the efficiency of government which leads to the promotion and protection of human rights (UNDP, 1996; Larry, 2002; Bosi and Delskho, 2009). This is also included in the *Constitution of Kenya, 2010* under the chapter that establishes the organs of government.

Kenya has had two main constitutions since its independence which have played a great role in influencing human rights both positively and negatively. The two main constitutions include; the 1963 *Independence Constitution* and the *Constitution of Kenya, 2010*. The 1963 Constitution encountered several changes that affected human rights before it was replaced with the new Constitution. At independence for example Kenya had a constitution with parliamentary system

of governance which gave power to the citizens to press claims against the government to deliver their human rights. This constitution was amended in 1964 by some government players who changed the system of governance from parliamentary to presidential with the executive powers. The effect of this was that the common citizen was left with limited powers to press claims against the government to grant them freedom and services. This led to increased violation of human rights (*Series on the Politics of Kenya Journal*, 2016; Roschman and Wendoh, 2012; *The 1963 Constitution of Kenya*; Kamande, 2004).

Other alterations of the independence constitution include the constitution amendment Act of 1974 and section 2A of the 1982 *Constitutions* which lowered the voting age from twenty one to eighteen and that converted Kenya into one party state respectively. The first had a positive influence to human rights in that; it increased the number of people who exercised their right to vote. Meanwhile the second alteration had a negative impact in that it denied people their democratic right to vote, by only allowing a single party. (*Constitution Amendment Act*, 1974; *The 1963 Constitution of Kenya*; *Constitution Amendment*, 1964).

The Kenyan constitution has had a great impact as far as influencing the realization of human rights is concern. This paper however, mainly focusses on the *Constitution of Kenya*, 2010 that has greatly helped to govern the country towards the realization of human rights. It has a whole chapter four entitled the Bills of Rights that talks about human rights and explain their importance. It:

- i) Declares the state and every person are responsible for the promotion and fulfillment of human rights.
- ii) Declares that human rights exist to promote social justice and facilitate the realization of potentials of all human beings.
- iii) List and explain all human rights and even recognize all other rights not included in the constitution.
- iv) Provide the limited circumstance under which someone can be deprived of their human rights.

- v) Defines institutions which are assigned the duty of enforcing human rights and provides remedies or compensation in case of violations and abuses.
- vi) List and explain all human rights and even recognize all other rights not included in the constitution.
- vii) Provide for the limited circumstances under which somebody can be deprived of their human rights.
- viii) Defines the institutions which are assigned the duty of enforcing human rights and provides remedies of compensating human rights violations and abuses.

Chapter four of the *Constitution of Kenya 2010* offers and protects all fundamental rights and freedom to every one regardless of who they are. It guarantees rights indiscriminately to all sexes, race, religion, tribe, color, potential or opinion and hence helps to promote human rights (*Constitution of Kenya, 2010*).

This constitution of Kenya, 2010 has promoted human rights by improving Kenya's democracy. The Constitution has done this by offering freedom of association, conscience and expression (*Article 80, 78 and 79*) which involves creating and joining political parties (*Article 32 and 36*). It has allowed for the operations of organizations such as non-governmental organizations that promote democracy. In fact this constitution has been highly celebrated by human rights proponents and civil society that are players in human rights discourse. It has a crown of shaping democracy and legalizing human rights in Kenya. By shaping governance it has been viewed as a tool that has begun to return democracy to East Africa. This constitution has helped to return democracy through the spirit of liberty, laws and habit of order and in this way has helped to promote human rights (Wendoh and Ogolla, 2012; Larry, 2002).

The constitution has also promoted human rights by establishing institutions that promote human rights. Among these institutions include:

- i) National Integration and Cohesion Commission that supports peaceful coexistence in the country; an essential of human rights.
- ii) Kenya National Human Rights and Equity Commission; a human rights statutory body for promoting human rights in a country. (*Article 59*). It monitors, report and offer remedies concerning human rights matters (*article 59*).

- iii) Kenya Lands Commission article 67. It addresses land issues which promote the right to own property.
- iv) Ethics and Anti-Corruption Commission established by legislation defined in article 79 to deal with corrupt individual who swindle public recourses meant to fulfill human rights.
- v) Independent Electoral and Boundary Commission that is established under article 88 to help exercise the right to vote.
- vi) The Parliament, established to help make laws that implement human rights under article 93. It is also an oversight authority that oversees the media, judiciary and executive to ensure they work within the law including the Bill of rights.

In addition to the above provisions for promoting human rights, chapter ten of the constitution of Kenya 2010, establish the judiciary and give it power to enforce human rights. In this way it helps to positively ensure human rights are adhered to and promoted in Kenya (*Constitution of Kenya*, 2010; KHRC: *Two Steps Forward and One Step Backwards Report* ,2014; Kenya Law Reforms, 2017; Strathmore University: *Introduction to Law Study Text*, 2009).

The Constitution has also offered provisions for both general and specific human rights and their applications thereof in *Articles* 19 to 52. This has helped legalize human rights and make them statutory binding, of which when broken attracts a penalty. In this way it has helped offer protection for fundamental human rights and freedoms. Unlike other written laws the constitution helps in the fulfillment of all human rights contrary to other written laws such as Acts of Parliament and International Treaties that often address specific or group rights. The *Kenyan 2010 Constitution* according to Roschman and Wendoh (2012), is said to be among the more progressive constitutions in modern democracy as it contains all categories of human rights included in the human rights instruments. (Roschman and Wendoh, 2012). It also recognizes and provides rights for special groups such as women, children and people with disabilities. (Oduor, 2013; Merry, 2006).

The Constitution has also promoted human rights by enhancing efficiency of government services through devolution. The cardinal principle underpinning devolution is the need to decentralize financial and political power to the local level in order to enhance the efficiency and effectiveness of government. The constitution has done this by creating two levels of

government. It has heightened the fulfillment of human rights by transferring power to subnational levels that has increased public sector efficiency. This has promoted economic development that has yielded resources for fulfilling human rights. It has also brought governance close to the people and the decentralized officials who know the needs of the locals more. In this way they offer services that meet their needs of these people and in this manner fulfill their human rights (World Bank, 2013; Wendoh, 2012; *Constitution of Kenya, 2010 Chapter 11*).

The *Constitution of Kenya 2010* has also heightened the realization of human rights in that it has contributed to the high levels of understanding and awareness of human rights in the country. This resulted from the manner in which the constitution was passed. The spirited campaigns for the passing of this constitution by politicians sparked high expectations among Kenyans. The euphoria of a new constitution and the spirited campaign by politicians for this constitution to be passed raised high expectations to an extent that some Kenyans thought passing this constitution was an equivalent of putting food on their tables. This excitement made many people take keen interest in the content of the new constitution which include the human rights provisions. This promoted the high level of awareness among the citizens and led them to take necessary action to enjoy their rights. (KHRC: *Two Steps Forward, One Step Backward Main Report*, 2014, pg 12).

This Constitution is a tool for reformation. The changes envisaged in the *2010 Constitution of Kenya* presents some challenges but the constitution gives a good structure of governance to handle them. These changes can transform our nation politically, economically and socially. The Constitution calls for the total resilience of Kenyans as this governance structure if deliberated fully has solutions to the challenges facing the country and this can bring about positive change to issues such as corruption that are a thorn in the flesh of this country. It has mainly laid emphasis on democracy accountability and governance which is a big challenge in Kenya.

The enactment of the new constitution however, faces several challenges that have derailed its full objective of realizing human rights. Some of these challenges include: slow implementation of the constitution and tribalism which have stood in its way (Wendon and Steve, 2012). This constitution if fully implemented has the power to transform crucial sectors such as the social, legal and economic sectors that influence the realization human rights (Wendon and Steve, 2012).

2.1.2. 2 Other Written Laws

In addition to the constitution, Kenya has other sources of law, these include: Policies, Regulation and Act of Parliament (Strathmore University: Introduction to law Study Text, 2009; Hussein, 2003). The laws in this sources also influence the realization of human rights. This section however only focuses on the influence International human rights Instruments and Acts of Parliament have on the realization of human rights in Kenya as discussed below.

2.1.2. 2.1 International human rights instruments

The human rights developments in the international community have impacted positively on the enhancement of human rights in Kenya. This has happened through global moves of nations to promote human rights. Virtually the rights contained in the constitutions of modern democratic nations reflect human rights standards set in the International Human Rights Instruments. These instruments include: the Universal Declaration of Human Rights (UDHR), the United Nations Covenant on Civil and Political Rights (CSPR) and Economic Cultural Rights (CESCR). They provide uniformity in measuring human right standards globally. These instruments make provisions for both specific and group rights, for instance the rights of children, marginalized communities and people with disabilities. (Roschman,Wendoh and Ogolla, 2012). The comprehensive Bill of Rights is the basic principles and foundation upon which Kenya as a country is based (Mbavu, 2013).

Some Human Rights Instruments have an extra advantage and an achievement of having treaty bodies. These bodies help ensure effective implementation of these Treaties there by enhancing the realization of human rights. The treaty bodies have helped to effectively implement human rights by creating treaty monitoring and reporting mechanism through which they carry out their periodic assessments and report on level of their implementations in a country. (Bayesky, 2001; Hayesky. 2012; Mbavu 2013).

These instruments form part of the international law and in this way it has yoked Kenya with the international community. This has helped in the realization of human rights as Kenya is now answerable to the international community on its actions concerning human rights. Besides this law makes it a legitimate concern for international community to monitor and take action on the way a country treats its citizens and non-citizens in implementing human rights. This law has

also improved human rights in Kenya as the international community has put in place several mechanisms including ratification of these instruments as a way of enhancing human rights.

International human rights law includes the legal provisions governing human rights as expounded in various human rights instruments. Therefore the International human rights instruments constitute the total bulk of laws that are agreed upon by states with the aim of respecting protecting and fulfilling all human rights and fundamental freedoms (UNDOC: CCPR/C/2/piev./add//2001; *Constitution of Kenya 2010, Article 211(4)*; Mbavu, 2013). Customary international law can be applied by looking at the entire constitution and deriving aspirations from its spirit and purpose. The international laws, that is: the treaties; conventions among other human rights instruments that Kenya has ratified form part of Kenyan laws. Kenya has emerged from what has been popularly called a domesticated regime to adopt and incorporate a regime where all international obligations are binding (*KHRC: Two Step Forward, One Step Backward Main Report, 2014; Constitution of Kenya 2010 Article 2 (5) and 2 (6)*; Oduor, 2014). Kenya got admission into the United Nations on 16th of December the year 1963. Since then has ratified the following international instruments that form part of international law and responsible for promoting various human rights.

1. United Nations Charter
2. Universal declaration of Human Rights which is considered the mother of all human rights instruments. It forms the standards for scaling all human rights Instruments.
3. International Covenant on Civil and Political Rights (ICCPR) which she accented to on 23rd March 1976 and is very necessary for promoting civil rights.
4. International Covenant on economic Social and cultural rights (ICESCR) which she assented to on 1st May 1972 and responsible for promoting economic rights.
5. Convention on Discrimination Against women (CEDAW) which she assented to on 9th March 1984 and is responsible for eliminating gender discriminations ensure equity and promote women rights.
6. African Charter on people and Human Rights (ACPHR) which is Regional Human rights Instruments and is responsible for promoting the rights of Africans.

7. International Convention on the elimination of all forms of Racial Discrimination which is responsible for eliminating racial discriminations.
8. Convention on the Rights of a Child (CRC) which she ratified on 30th July 1990 and has helped to promote the rights of a child.
9. Optional Protocol to the CRC on Prostitution and Pornography which she signed on the 8th September 2000.
10. Hague convention responsible for dealing with crimes against humanities.
11. African Charter on the Rights and Welfare of the Child which she ratified on 25th July 2000 that addresses the rights of an African child.
12. African Charter which she assented to on 25th July 2000.
13. Protocol to the African Charter on Human and People's Rights on the establishment of an African Court on Human and people rights which helps to redress human rights violations in Africa.
14. ILO Convention 138 on employment Age (9/4/1979) which helps to redress unfair labor practices such as child labor
15. ILO convention No. 182 concerning the prohibition and immediate action for elimination of the worst forms of child labor which she ratified on 7th may 2001.
16. Protocol to Prevent Suppress and Punish trafficking in Persons, especially women and children (supplementary the United nations Convention against Transnational Organized crime) Palermo protocol assented on 5th/05/2005.
17. Convention on the Status of Refugees (CSR) assented on 16th may 1966 and is responsible for promoting the right to be given refuge.
18. Optional Protocol to CSR assented on the status for refugee assented on 16th may 1966.
19. Convention on the Rights of Persons with Disabilities which was assented on 18th may 2008 which has addressed the group rights especially for the persons living with disabilities.

20. Optional Protocol to CSR on status of refugee accented 13 November 1981 again for promoting the right to be given refuge.
21. Convention on the Elimination of Racial Discrimination (CERO) which she accented to on 13th September 2001 which ensures human beings are granted their dignity regardless of their race.
22. Convention against Torture which she accented to on 21st February 1997 responsible for addressing issues of torture that undermine human dignity and the fulfillment of human rights.
23. Covenant in Economic Social and Cultural Rights responsible for promoting and addressing Economic and Social rights issues.
24. Covenant on Civil and Political Rights which was assented on 1st May 1972 and is responsible for promoting Political and Civil Rights.
25. Rome Statute of the International Criminal Court which was ratified on 5th march 2005 which addresses crimes against humanities there by ensure just practices towards the fulfillment of human rights.

(Kenya Law Reform Commission, 2017; KNCHR: *Report to the Human Rights Committee*, April 2012; Mbavu, 2013).

Kenya is also a signatory to a number of International environmental treaties which indirectly support human rights. These include treaties like African Convention on the Conservation of natural resources; Vienna Convention for protection of Ozone layer; convention on the prevention of marine pollution. In addition to this Kenya has ratified 49 ILO conventions.

However Kenya has also ignored to take action in some of the international human rights treaties/instruments. For instance she has taken no action on Optional Protocol to CEDAW. (lib.ohcr.org/hrbodies/KE/KSC.upr/kenso82010). The obstacle to the full implementation of International Human Rights Instruments in Kenya is as a result of non-ratification of all International review mechanism and lack of available mechanisms to enforce international standards of human right (Libohcr.org-anex3). These treaties have equally helped to enhance human rights in Kenya.

2.1.2. 2.2 Acts of Parliament

Written laws in Kenya include all laws that are recorded in writing; Acts of Parliaments also form part of the written law in Kenya. They are of lower hierarchy as compared to the Constitution in fact they decentralize the constitution hence intensify its implementation. For instance the *Basic Education Act 2013* which was enacted to implement *Article 53 (1)* of the *Constitution of Kenya 2010*. They influence the realization of human right by expounding on a constitution that upholds human rights. This constitution gives brief information of its human rights provisions and sets principles which are expounded on, on other written laws including the Acts of Parliaments. For example, the right to basic education is provided for in the Constitution without clear details of how to achieve it, how to fulfil it is expounded on in the *Basic Education Act 2013*. The *Basic Education Act* does this by employing the strategies such as providing free lunch and exercise books to pupils who cannot afford them in the public schools. These help facilitate smooth learning towards the enjoyment of the right to education. The Acts of Parliament have hence helped to ensure full realization of human rights as they expound a constitution that upholds human rights by adopting all human rights instruments in its Bill of Rights and stating that any law contrary to it is null and void (*Constitution of Kenya, 2010; Basic Education Act, 2013; Steve, 2012*).

These Acts of Parliament unlike the Constitution have directly addressed specific rights. For instance the Basic Education Act has directly addressed the right to basic education while the constitution addresses this right and other rights as well. The following are some of the Acts of parliament and how they have influenced human rights in Kenya.

Refugees Act (Cap 173)

This is an act of Parliament that defines who a refugee is and how they should be treated. It sets some favorable ways of which refugees should be handled. The right to be granted refuge is a human right, and by offering guidelines of how this should be handled, this law has really helped to promote the right to refuge in Kenya (*Refugees Act Cap 173; Constitution of Kenya, 2010*).

Election Campaign Financing Act 2013

Elections help to fulfill a very important human right; that is the right to vote. This is often done by allowing the electorate to elect leaders of their choice. Through elections there is freedom of association by joining political parties of one's choice to participate in the election. These parties need finances to run and therefore it is in this pursuant that *Article 88 (4) (1)* of the *Kenyan Constitution* was made to compel the Independent Electoral and boundary commission to finance campaigns of these political parties in Kenya towards a democratic society. In this way it has helped to enhance the democratic right to vote (*Constitution of Kenya 2010 "Article 88 (4) (1)"; Kenya Election Campaign Financing Act, 2013*).

Magistrate Courts Act, 2015

The Kenyan judiciary consists of several courts which are ranked depending on their superiority (Republic of Kenya, the Judiciary 2017; *Constitution of Kenya 2010*). These ranks determine their mandate and jurisdiction of operation. These courts apply and interpret the Laws of Kenya including those of human rights. *The Magistrate's Courts Act* of 2015 was enacted to implement *Article '23 (2) and 16 (1)' of the 2010 Constitution*. Through this Act of Parliament, the jurisdiction of the magistrates has been increased to handle matters of redressing human rights which were previously preserved for the high court. By this Act then, human rights have been enhanced as enforcers to it have been added since Human rights need many enforcers for it to become a reality. Human rights without enforcement are as good as a tooth less dog. This Act established the magistrate court and gave them powers to redress human rights issues and hence enhanced its enforcement in this way promote them. (*Constitution of Kenya, 2010; Magistrates Court Act No. 26 of 2011; RMC: Manual the Judiciary Structure of Courts, 2015; Obuncho and Omollo, 2016*).

Kadhi's Court Act (Cap 11)

Kadhi's Court Act is an Act of Parliament created to establish the office of the Kadhi and Kadhi's court in different areas in the country to make provisions for Muslim Law and its Judicature system to determine personal status, marriage, divorce or inheritance in proceedings in which all parties confess the Muslim religion. This law helps enhance human rights by

promoting freedom of worship for Muslims by securing the legality for practicing what they believe and by solving their disputes religiously (*Kadhi's Court Act*, Cap 11).

Kenyan Roads Act (Cap 400)

Kenyan Roads Act (Cap 400) is an Act of Parliament that establishes Kenyan Roads Authority, Kenya National Highway Authority and KERRA that are responsible for development management and rehabilitation of national roads (*Kenyan Roads Act (Cap 400)*). It states the function of these organizations and sets mechanisms of ensuring that the roads in Kenya are properly established and maintained to standard (*Kenya Gazette Supplement*, 11th April 2008 pg 297; Global Law, 2007). Through these authorities this Act of Parliament influences directly the right to movement by promoting it and indirectly influences other rights such as the right to food by offering a favorable environment of transporting food from the places where they are produced to areas where they are needed. By ensuring efficient transportation of commodities, this right promotes other rights that go with it. On the contrary when the roads are in bad condition individuals and commodities cannot be transported then the right to movement and other rights associated with it get violated. (Kenya Roads board: *Annual Public Roads Programme FY, 2012/2013 Report*; KERRA, 2017; *Kenya Gazette Supplement*, No. 77; *National Assembly Bills*, 2015; *Kenya Roads Act*, 2007).

Kenya National Commission on Human Rights Act 2011

Kenya National Commission of Human Rights Act is an Act of Parliament that establishes Kenya National Commission on Human Rights (KNCHR) a constitutional body for effective fulfillment of human rights established in 2011 (*KNCHR Act*, 2011). It arises from the call of international community to do so in order to ensure human rights are adhered to globally. Kenya National Commission on Human Rights is one of these statutory bodies. KNCHR In its legal embodiment helps monitor Kenya's compliance with international norms and standards of human rights investigate violations and suggest or offer remedy for these violations, it offers training, sensitization, education/campaigns and advocacy programs for promoting human rights issues, and finally collaborates with other stakeholders in protecting and promoting human rights. And in this way Kenya National Commission on Human Rights Act through KNCHR has really helped to enhance human rights in Kenya (*KNCHR Act*, 2011; *KNCHR Act 2012*; *KNCHR*

Act No. 14 of 2014; KNCHR: Brief on the Enforcement of Human Rights of the people: Report to the UN 4th April, 2011).

Kenya Information and communication Act 1998 (Cap 411A)

This Act of parliament establishes the Communication Commission of Kenya that facilitates the development of the information and communication sector including supporting the establishment of communication houses and institutions such as media houses. Kenya Information and communication Act of 1998 enhances and fulfills the freedom of expression and the right to information. Information enhances the fulfillment of all human rights as without information human rights do not make sense. For instance if somebody has a right and he is unaware he wouldn't benefit from that right. Somebody needs to know his rights in order to take the necessary actions to enjoy the rights. This Act of Parliament therefore affects the realization of all human rights; as it creates awareness of them something that make beneficiaries take the necessary action to enjoy them. In addition, this law also commits to protect journalists who are very instrumental in gathering and disseminating information and in this way they help to enhance human rights. However this Act has been faced with several challenges such as manipulations, which have hindered its law from realizing its full purpose of promoting freedom of information. A good example is the introduction of the draconian law of the *Media Act 2013* and *Security laws Amendment Act of 2014* which compromised the implementation of this law by allowing security organs to infringe into the citizens' rights to privacy and restrict the freedom of journalist. (*Kenya Information and Communication Act, 1998; Security Laws Amendment Act, 2013; Media Act, 2013; Human right Watch, 2013; The Information and Communications Amendment Bill of 2013; Daily Nation News Paper November 1, 2013*).

Marriage Act 2014 (No. 4 of 2014)

This is an Act of Parliament that amends and consolidates various laws towards an effective and fulfilling marriage by setting standards that eliminate bad marriage practices and cultures such as forceful marriage, junior marriage among others (*Marriage Act, 2014*). Marriage Act 2014 protects those who are prone to gender abuses and defines marriage terms. This Act was established after a culmination of several years of reforms. For the first time for instance this law makes provisions for registration of marriages that it governs. That is the religious, customary

and civil marriage and divorces. This law addresses challenges that have hindered the fulfillment of effective marriage by providing equal rights for all parties. This law has protected group and individual rights for both men and women, thereby promoting human rights. Basically this law promotes human rights by setting a conducive environment for effective marriages bearing in mind that marriage is a basic unit that leads to procreation that brings forth life, of which without there would be no human rights (*Marriage Act*, 2014; Gottomitanibal, 2014).

Some discriminative laws have however reduced the impact of this law in promoting human rights. One of such laws that legalized polygamy marriage without limit in favour of men by an Act of Parliament (*Marriage Bill*, 2014; *Daily Nation Newspaper*, 29 April 2014) has been viewed by some human rights proponents as a discrimination against women (Karimi and Leposo 2014). The *Kenyan Penal Code* also prohibits the carnal knowledge against nature, where it prohibits same sex marriages (*Penal Code of Kenya*, (Cap 63) of 2008). This has also been viewed by some human rights proponents as a discrimination, inequality and infringement of the rights to privacy of the people of these orientations.

2.1.2 2. .3 Human Rights Provisions in Kenya in Policies

Policies in this context of the study were understood as strategies of achieving particular goals, for instance specific and general rights in this case. According to the respondents several policies have been put forward in Kenya to help support the provision, protection and promotion of human rights but in most cases these policies often target a particular right. Several such policies have been put forwards according to the respondents but this research however only focused on two examples of such policies. That is: the policy of affirmative action and “nyumba kumi”.

The policy of **affirmative action** as applied in Kenya is a very important policy that helps enhance the fulfillment of both general and specific group rights. Considered in terms of general rights it helps bring equity among less privilege groups for example in the right to education more so in higher institutional of learning such as public universities and colleges. Equal opportunities is often ensured among the potential learners to ensure that circumstances and prevailing factors such as traditions and culture do not lock a particular group of potential learners from getting access to this right. This is achieved for example by ensuring equal opportunity to both the female and male potential students to join these institutions despite the

prevailing cultural practices such as involving the girl children more in domestic chores as compared to the boys. This often leave them with limited time to study hence leaving the boy children with higher chances of scoring better grades to acquire this opportunities over the girls. This is often solved through the policy of affirmative action by awarding the girl children some extra free points due to the life style that they go through to compensate for what they lose to the boys as a result of this. In general rights this helps them acquire the right to education and in group rights its addresses the challenges facing them as women hence lead to the enjoyment of their human right ((Republic of Kenya: *Kenya Vision 2030*, 2007/2008; Musembi, 1999; Onsongo 2009; Kagoda, 2011).

On the other hand “Nyumba Kumi Policy” is a publicly coined policy in Kiswahili to mean ten houses initiative. This was a policy that was coined as a counter terrorism strategy to counter the action of the Al-shabaab terrorist who in the past carried out attacks on innocent civilians with lethal arms such as AK 47 rifles and grenade injuring many and seizing others’ lives hence depriving them of their right to life and health. This policy when implemented would help stop these evil intenders from carrying out their mission of destroying people lives property and health hence would support the fulfillment of the rights associated to these, and hence the provision of these rights (Republic of Kenya: *Draft Guide Lines for Implementing Nyumba Kumi Policy*, 2013).

Therefore basing on the above records of human rights statutes, treaties and policies it can be said that it is true that in terms of documentations human rights in Kenya are sufficiently provided for. However the challenge is that these provisions are more on paper work than practice.

2.1.3 Human rights provisions in Kenya in facilities

This focused on infrastructures, investments and recourses whose existence supports the provision of human rights. For instance the courts, the police, human rights lawyers and lecturers whose existence ensures human rights are provided for. In terms of investment the research concentrated more on social amenities such as schools, hospitals and roads. Basing on the research findings it was found out that human rights in Kenya are provided for in facilities though not adequately. For example in terms of hospital provisions there several government

hospitals but they lacked the professional staff and equipment to provide for medical/health services. In terms of schools provisions we have several public schools but they are ill equipped to offer quality education. When it comes to the people that provide services that fulfill human rights they were either very few, less proficient or incompetent to provide satisfactory services to promote human rights. For instance, the Kenyan police officers were accused of violating the rights of the very people they are supposed to protect by harassing them or soliciting bribes from them. In schools there were unqualified teachers who taught in many Kenyan schools (KNCHR: *7th Report of the Government of Kenya*, 2016).

In conclusion we can therefore conclude human rights in terms recorded provisions in Kenya are very well provided for. This is because the constitution of Kenya as well has recognizes and has ratified several internationally recognized instrument for providing human rights. This is attributed to a number of factors such as the role of political parties and civil society organizations in pressurizing the government to embrace human rights (Omollo, 1990; Kenya Law Reform Commission, 2016).

Away from written documents, the practice of human rights in Kenya is moderately provided for as opposed to the written provisions. The written provisions of human rights have not been fully transformed from paperwork to reality. Facilities like schools, roads and hospitals to help manifest and make the written provisions a reality have not been fully and sufficiently brought into place to help realize these rights. This is as a result of a number of factors such as discrimination, corruption and lack of sufficient resources to do this (KNCHR: *7th Report of the Government of Kenya*, 2016).

A survey was done to establish the opinion of the respondents on the provision of human rights in Kenya, many of them considered the provisions in facilities rather than those in documents. The table below shows their respondents on the provision of human rights in Kenya.

Table 2.3: Responses on the provision of human rights in Kenya

Respondents	No	Percentage
Those who said Human Rights are provided for a bit in Kenya	52	74%
Those who said There were not Provided for	16	23%
Those who said They are provided for very well	2	3%
Total	70	100

Source: Oral Interviews, between 3rd of February to April 28th 2016

2.2 THE PRACTICE OF HUMAN RIGHTS IN KENYA

The practice of human rights in this context was used to mean the manner in which the above provisions of human rights in facilities and written documents are used to initiate and utilize practices and services that fulfill these rights. For example how the Basic Education Act of 2013 and the public schools are utilized to set up programs that lead to the fulfillment of the right to education. Through this act for instance, Kenya initiated the program of offering and regulating the quality of free primary education in order to effectively fulfill the right to education (*Basic Education Act of 2013; Article 53 (i) of the Constitution of Kenya, 2010*). The same applies to the fulfillment of other rights such as the right to health and life. And therefore the practice of human rights forms a great issue of concern as it is what determines the end outcome of human rights that is: if human rights are fulfilled or not (Otieno, 2016). There for this sub session on the practice of human rights analyses the reality of human rights in Kenya by assessing the accessibility of basic human needs related to these rights such as food, water, shelter and medical health services. It is very important as it is the practice of human rights that transforms the written paper work into tangible utilizable goods and services towards the fulfillment of these rights. In fact the greatest indicator of the recognition of human rights by a society is its practice (KNCHR: 7th Report of the Government of Kenya, 2016).

In Kenya, great attempts have been made to make human rights a reality and bring them to fulfillment. However, little concerning this has been achieved in Kenya due to a number of challenges such as leaders' greed, tribalism and political bad will. The end result of these is that it has made human rights to be belittled by denying them the recognition worth them and instead offer them little priority than they deserve. This has impeded their enhancement and slowed their progress. However, despite their many challenges human rights in Kenya have been practiced though, even if not satisfactorily (Amnesty International: *The State of the Worlds Human Rights Report*, 2015/2016). These has been done through Information and communication, institutions, human rights facilities and instruments, cultural practices, education, cultivated values and human activities which have initiated practices and services that lead to their fulfillment or partial fulfillment as discussed below.

The issue of information and communication according to the key respondents play a key role in initiating and utilizing services and practices that enhance human rights practice. According to them the knowledge or ignorance of human rights promote or undermine the practice of human rights in Kenya respectively by influencing the action taken by the stake holders to either fulfill, violate, or abuse human rights. For instance the action taken by the opposition supporters in 2016 to hold protests to lobby for reforms of the independent electoral and boundary commission was as result of a claim of their knowledge of their constitutional right of the freedom to hold peaceful demonstrations. This means that if they were uninformed of these they wouldn't have taken an action. The practice of human rights in Kenya is achieved by disseminating its information to the public through communication channels and media such as public gatherings and media houses. This has worked both positively and negatively in making human rights a reality depending on the type of information communicated to the public. For instance if a false information or a propaganda is passed to the public, it mislead the action they take in the practicing of human rights. For instance in the recent corruption cases that have hit the country in the past two years the public were initially fed with misleading information which split the country into tribal or political affiliations, the truth to come out later. The result of this is that nothing serious is done to address this problem which leads to loss of billions of shillings which would have been used to offer goods and services such as health and education which enhance the practice and the fulfillment of human rights (Rahedi, 2016; *Kenya Information and Communication Act*, 2013; *The Standard News Paper*, June 6th 2016).

In Kenya, the practice of human rights is also initiated by engaging relevant laws, provisions and stakeholders such as constitutional right to information and freedom of expression by establishing or working with both main stream and social media to acquire and pass relevant information to the concerned people to enhance their knowledge of human rights and the roles they are expected to play so that they can take relevant actions to enhance the practice and fulfillment of these rights. For example the case of free primary education in Kenya is widely utilized by the public as the information concerning it was widely passed to the public during 2002 election campaigns and they understood it. On the other hand, the media keeps voicing the shortcomings of these projects hence, voicing the voice of the weak to the government so that necessary action can be taken to fill the existing gaps so that this right fulfilled by this service can be effectively be practiced and fulfilled (KLRC, 2017; *Transparency International–Kenya Annual Report*, 2016).

The government intervention through Communication Commission of Kenya has been blamed severally for gagging the media. The result of this is that some important information including the ones that lead to the promotion of human rights is often concealed from the public leading to gross human right violations. The media on the other hand has also been accused of airing immoral series which contradict the Kenyan cultural morals hence abuse of their cultural rights. Language has also derailed the full passage of information concerning human rights in that human rights instruments such as the universal declaration of human rights and the constitution are often written in English of which not all especially older generation understand. Kenya is a multilingual country. According to ethnologue 2011, there are a total of sixty eight languages spoken in Kenya. Where language in this research was understood in the context of *Dictionary of Contemporary English* definition which defines a language as: A system of communication by written, gesture or spoken words which are used by people of a particular country or area. This is what revealed the multi diversity of language in the Kenyan population, however the official languages spoken in Kenya is Kiswahili and English. To arrive at the sixty seven languages other non-formal or ethnic languages such as slung and sign languages were considered (*Dictionary of Contemporary English*, 2011; https://en.wikipedia.org/wiki/Languages_of_Kenya).

Though the use of one's local language is also a human right and more so a very important right as it is a means of communication hence a way of passing information which is a prerequisite for

the enjoyment of human rights (Ongechi, 2003). Most human rights instruments are often written in English but not everybody in Kenya for instance understands English. It is this context that the idea of language as an issue that hinder the flow of information that affect the practice of human rights in Kenya was raised. On Language rights in Kenya (*Nordic Journal of Africa studies*, 2016), without one having concrete information concerning his or her rights he cannot take action to enjoy it. This journal argues that it is in this context that language rights form part of integral human rights as even those people who do not understand English need to have information on their rights. However in this factor Kenya has tried but has not fully solved this issue, this is because the country has established an official national language. However there are still a few people in the remote areas who only understand their local language. This official language is often used to pass important information such as on official public meetings and gatherings. Besides it has helped in enjoyment of other rights such as the right to health where the doctors speak Kiswahili with patients who have no clue on English. It has also helped enhance the freedom of worship in churches where preachers cannot preach in Kiswahili yet their members only understand this language. They often preach in English and their preaching translated from English to Kiswahili. This help to enhance the practice of the freedom of worship of those who attend English speaking churches yet they don't understand English (Ongechi, 2003).

Human rights in Kenya are also practiced in cultural activities. Culture in this research was referred to in the context of *Oxford advance learners' dictionary* where it refers to a people's way of life. Kenya being a multi religious and ethnic community, experiences a diversity of cultures where people practice their cultural rights for instance African traditional and cultural practices such as polygamy is allowed and practiced and even recognized by the Kenyan law. Another example of a cultural practice of human right is the legal rights of passage such as male circumcision which is allowed and is often practiced in many Kenyan communities. According to Nyamu (2000), Human rights address culture and gender in third world, this helps eliminate certain gender and cultural practices such as female genital mutilation and domestic violence that affect human rights. This has been adopted in Kenya for instance by establishing legislation against domestic violence and exercising it to protect against Domestic Violence which protect and relieve victims of domestic violence and provide for the protection of a spouse and any children or other dependents persons. This help to protect and promote their human right and

even offer a remedy in case of a human rights violation during a domestic violence (Nyamu, 2000; *Domestic Violence Act No 2 of 2015*; *Protection Against domestic Violence Act No. 2 of 2015*).

In Kenya the cultural right practices have not fully complied with the international standard, this is evident as some of the human rights prohibited cultural practices such as female genital mutilation which have not been fully eliminated despite the existence of prohibiting laws. This is as result of the people who are supposed to protect the law and uphold human rights principles are the ones who often violate or encourage their violation. For instance some Kenyan leaders still support Female Genital Mutilation an act that violated the right of women. In another incidence the speaker of the national assembly suggested that women leadership positions such as women county representatives and nominated Member of Parliament be scrapped off. This act undermines women leadership which is against human rights principles (Yusuf, 2010; Kamau, 2010).

On the other hand human rights in Kenya were practiced with the help of education which equips peoples with knowledge and skills that help them exercise these rights. For instance the skills to read and understand English the language in which human rights instruments are written. Education also enhanced people's way of thinking and actions they take for instance Practicing productive Agriculture to fulfill the right to food. However the western education system has also undermined the practice of human rights in Kenya. This is because this education employs a system of training people to be job seekers of which jobs are very rare in third world countries hence leaving very many educated people without jobs and hence a violation of their right to fair labor practices. This is opposed to the African traditional system of education which trained people on the responsibility they would do for example men were trained to be bread winners and girls/women to be mothers. Besides this western system of education has enhanced competition between educated couple and has led to many marriage divorces which is an abuse to the African cultural rights where divorce was unheard of. Just like Skutnab (2000) argues that education should not just be education for the sake rather it should be an enriching, rewarding and emancipating education if it isn't then it is not relevant (Skutnab, 2000).

Another very important avenue through which human rights have been practiced in Kenya are the human rights institutions and facilities such as schools, hospitals and courts which offers direct services related to human rights. For example teaching in primary schools help to enhance the right to basic education, offering medical services help to enhance the right to health and life and interpreting of the human rights in the human rights instruments and offer remedies in case of their violations and abuses towards their protections promotion and fulfillment by courts. In this way it enhances the fulfillment of human rights. Another way through which human rights are practiced in Kenya is by engaging international human rights institutions such as the international criminal court and United Nations to bring justice to Kenya (Mbavu, 2013).

Instruments of human rights are also a way of practicing human rights for instance by forming institution of implementing them, for instance by them offering consultation services and implementing of these rights.

Human rights in Kenya have also been practiced through seasonal activities such as termly elections, weekly worship gathering among others. Human rights in Kenya have also been practiced by applying the laws for instance in case of the Kenyan government opposing and banning the Kenyan oppositions protest scheduled for 6th June 2016, the opposition leaders went to court and petitioned the government for this. In this case the court ruled that it was the right of the opposition to hold peaceful demonstration, there by application of the law through interpretation and the service of court order hence to restore their right. On the other hand the constitution of Kenya has a whole chapter that recognizes and applies all human right. Besides there is a local statute that establish the Kenya National Commission of human rights which is mandated to investigated human rights abuses and violations and suggest their possible remedies and in this way enhance the practice of human rights (*The Star News Paper*, June 6th 2016).

Another major factor that is mainly taken advantage of by selfish leaders and individual to manipulate the practice of human rights in Kenya is the idea of tribalism. They often divide Kenyans in tribal lines such as Abagusiis, Kikuyus, Luos and Kalenjins and make them regard themselves as so. This is against the human rights principle of all human beings being equal (Otieno, 2016).

2.3 Conclusion

This chapter discussed the Idea and Practice of human rights, where by it discussed the idea and the practice of human rights separately. Under the idea of human rights it focused on three main issues: the level of understanding; awareness and provision of human rights in Kenya. Starting with the level of understanding and awareness of human rights, the research found out that the level of understanding and awareness of human rights in Kenya was high with a percentage of eighty six and seventy one of the respondents respectively. Factors that contributed to these high levels of understanding and awareness include: education, dissemination of information, interests, professions, the *Constitution of Kenya 2010* among others (Mbavu, 2013; Otieno, 2016).

On the provision of human rights, it addressed this mater in two main categories that is: the provision of human rights in recorded instruments and facilities. The recorded instruments here referred to legal written documents that provide specific and general rights. They include the Constitution and other statutory provisions such as Acts of Parliaments and Policies. Basing on recorded provisions of human rights, the research found out that Kenya is so much compliant that if this alone was used as a standard of gauging human rights provisions, there would be no doubt that human rights in Kenya are very well provided for. On the other hand provisions of human rights in facilities which is what was considered by many respondents as a real provision, Kenya is still very less furnished. This is evident by existence of very few or ill equipped Institutions such as schools and hospitals that offer services that lead to the fulfillment of human rights(KNCHR: 7th *Report of the Government of Kenya*, 2016).

A survey on this study supported these findings where a majority of the respondents who were interviewed had a feeling that human rights in Kenya are only provided for a bit. Seventy five percent of Kenyans said human rights in Kenya are only provided for a bit.

The practice of human rights in this research was considered as the way the way the provisions of human rights in written documents are used to initiate actions that influence the realization of human rights. The research found out that that these actions have affected human rights both positively and negatively. This is evident by some of the practices such as educating and sensitizing people on human rights promoting human rights while encouraging bad ethnicity and

cultural practices abusing human rights. As far as the research is concerned the practice of human rights in Kenya has not satisfactory met its obligation of fulfilling human rights (KNCHR: *7th Report of the Government of Kenya*, 2016).

CHAPTER THREE

BACK GROUND OF TRANSPARENCY INTERNATIONAL AND CIVIL SOCIETY ORGANIZATIONS IN KENYA

3.0 Introduction

This chapter discusses transparency international and some civil society organization. It explains what transparency international organization really is. That is; it explain into details the background of these organizations by analyzing the grounds on which they were established, what they aimed to achieve. It then shifts a brief focus on the public perception of these organizations that is if they really understand them and if indeed they benefit from the roles they play.

3.1.0 Transparency International and its Public Perception and awareness in Kenya

Transparency International is a global movement which was created in 1993 with a few individuals who were offended by corruption and decided to take stern action to fight it by creating this organization to stir the world collective conscience to bring about change. Currently it has branches in more than one hundred countries with one vision to establish a world with good governance free from corruption which is a great enemy to the protection, promotion and fulfillment of human rights. It has its International Secretariat situated in Berlin but runs projects and programs from humble rural villages in India and other poor/developing countries to corridors of power in Brussels (Leakey, 2014; Ogunda, 2016).

It gives voice to victims and witnesses of corruption and works together with businesses and citizens to stop abuse of power, bribery and secret deals. By stirring the world collective conscience to fight corruption and change the status quo. Transparency International has managed to bring about and effect the following achievements: Influence the creation of International Conventions; Facilitate and oversee the prosecution of corrupt individuals especially high profile leaders; Hold companies accountable both abroad and at home; Ensure fair winning or losing of elections as a result of addressing corruption. This organization is a

nonpartisan one committed primarily to welfare and works independent of outside influence (Kimeu, 2014). Transparency International–Kenya which is part of the global movement of Transparency International Worldwide, is a not for profit organization founded in 1999 in Kenya with the aim of developing a transparent and corruption free society through good governance and social justice institutions. All of which are key factors in promoting, protecting and fulfilling human rights. It forms an autonomous chapter of Transparency International movements that fight for a transparent accountable and corruption free world, Kenya being part of this world. They do this by transforming societies and institutions and developing of high integrity leadership in all sectors at all levels (*Transparency International–Kenya: Annual Report, 2013/2014*).

It practices core values of inclusion, integrity, Justice, equality and participation which are all human rights practices. It has a sectored focus and priority in the water education, humanitarian aid, climate, finance, governance, police and extractive industry. These it does by employing the following strategies: Strengthening governance in targeted institutions; Employing and engaging citizens with capacity to fight corruption and associated vices to do these; Improving accountability and transparency in developing of humanitarian assistance; Enhance public presence and profile; Empowerment of citizens to pro-activity demand for transparent and good governance; Improved knowledge management (*Transparency International–Kenya: Annual Report, 2013/2014*).

3.1.1 Public Perception of Transparency International with regard to Human Rights in Kenya

Transparency International is an organization that is more popular to Kenyans for protecting and promoting their human rights particularly fighting to eliminate corruption and enhance good governance a recipe that is a pre-requisite for fulfilling human rights (Ogunda, 2014). It is very popular to Kenyans with seventy one percent of the respondents acknowledging their awareness of its existence and operations. It advocates for the welfare of the people and raises alarm on existing injustices and more so it's opposed to and fights corruption (AT&T, 2010; UNDP, 2012). In Kenya corruption is a big thorn in the flesh that sharply breaks and hurts people by denying them access to opportunities such as employment and work which facilitate the fulfillment of human rights. It is a strong hold that is nearly believed to be next to impossible to eliminate in Kenya (*Transparency International–Kenya: Annual Report, 2013/2014*).

Transparency International fights this vice that is even familiar to a new born child in Kenya. Corruption is like daily food in Kenya and hence a man who tries to make people to live well without their daily food will be like a supernatural person and everyone would long to know this supernatural person. In this case rather, corruption has left many Kenyans vulnerable; leaving them in dire need of a person or organization to salvage them. In fact it has deprived them of their basic needs such as medical services, education and decent shelter hence denying them of their human rights that are often fulfilled by these basic needs. It is in this context that Transparency International gains its popularity as a human rights organization in Kenya. It is very frequent in Kenyan media exposing corruption and bad governance practice such as nepotism and political injustices and also suggesting possible ways of addressing the issues of governance challenges that often undermine human rights (*Transparency International–Kenya: Annual Report, 2015/2016*).

Good governance is a very big challenge in developing countries that the governments have often put restrictive measures that don't give room for an individual to air out their mind, leave alone positive criticism of the government. In many cases many people and organizations never confidently raise their concerns for fear of victimization (DEVIVA, 2010). It is in this context that Transparency International emerges a giant that is indeed recorded as human rights organizations as it takes the bull by the horns by addressing these challenges by telling the government to its face where there is a problem. It even takes necessary actions such as going to court to seek judicial remedies for failed governance issues. (*Transparency International–Kenya: Annual Report, 2013/2014*). This has really publicized it and given it popularity with Kenyans. In fact it was very encouraging for the researcher to note his findings that the majority of the respondents had deep knowledge of transparency international, it was very interesting to file a response of seventy one percent of the respondents who knew Transparency International. In fact they didn't just know Transparency International, but had a detailed understanding of it. That is, what it is, what it stands for and its role in protecting, promoting and fulfilling human rights. Only twenty and nine percent of the Kenyan respondents were not aware and were not sure about transparency international respectively. This enhanced confidence on the findings of this as a lot of information used to write this research project was got from these respondents.

The wide knowledge and recognition of transparency international as a human rights organization to majority of Kenyans was attributed to its unique role of enhancing good governance through promoting of accountability and fighting corruption which is a major stumbling block that stands in the way of enhancing the welfare of Kenyans towards the fulfillment of their human rights. This is due to implementing policies such as researching on and exposing cases of corruption to the public. Other factors such as education also contributed to the high recognition of transparency international as human rights organization in Kenya. This is because education equips people with the skills to read and write and enhances, their way of thinking and reasoning. This motivates them to take necessary action as a possible means to improve their lives and hence enhance their welfare by carrying out research on where to find these, human rights organization inclusive (Ogunda, 2014). This research also targeted key informants who included people like civil society organization workers and civil servants who were considered knowledgeable on this field of study and this also contributed to their wide knowledge of CSOs. Besides half of the respondents who were randomly selected also turned out to be experts in the study field with majority of them being government officers and civil society members.

Another thing that contributed to the popularity of transparency international as a human rights organization in Kenya is its publicity. It is always in contact with the public by keeping in touch with the public as it often appears in the media either exposing human rights abuses or suggesting possible remedies to the public concerning given violations and abuses (Transparency International, 2016). In fact some of the respondent who were asked the reason why they were well familiar with this organization gave a chorus answer, that is, “it always hit the Kenyan headlines on issues of governance.” . On the other hand those who responded that they didn’t know transparency international attributed this to a number of factors such as; normal human forgetting due to life issues or being conversant with very many civil society organization that they had either worked for or were members to an extent that they lost interest in or had forgotten other civil society organization.

Illiteracy was another major contributor of ignorance of these organizations as majority of the respondents who responded that they were ignorant of transparency international were illiterate or had very low education. This is because illiteracy limits people’s way of thinking and

understanding hence limits them from recognizing the importance of civil society organization. They do not notice their importance that is. However lack of confidence was the main reason for the response of not being sure as majority of the respondents who responded that they were not sure only lacked confidence at the time of interview. This was evident as when asked the same question on a relaxed mood different from the interview environment they responded positively and even explained its purpose of existence. This response distribution was good; as it increased the reliability of the information provided for this research as the more the people are conversant with these organizations the more the reliable the information they provided. In conclusion we can we can therefore rightfully conclude that transparency international was widely known to the respondent as an organization that enhances good governance towards the protection and promotion and fulfillment of their human rights as it sought to address bad governance which was a major hindrance to the fulfillment of human rights in Kenya. This was good as it guaranteed increased reliability of the information got from these respondents towards the writing of this report.

Table 3.1: The level of public awareness of Transparency International

Respondent	Number	Percentage %
Those who know transparency international	50	71
Those who do not know	14	20
Those who are not sure	6	9
Total	70	100

Source: Oral Interviews April 2016

3.2.0 Civil society organizations and their public understanding and perception in Kenya

Civil society is seen as social sphere separate from both the state and market. The increasingly accepted understanding of the term civil society organizations (CSOs) is that of non-state, not for profit, voluntary organizations formed by people in a given social sphere. The term is used to describe a wide range of organizations, formed by people in that social sphere. The term is used to describe a wide range of organizations, network, association, groups and movement that are

independent from government and that sometimes come together to advance their common interest through collective action. Traditionally civil society includes all organization that occupies the social space between the family and the state excluding political parties and firms (Mercer, 2002; WHO, 2016). Some definition of civil society also includes certain businesses such as media, private schools and for profit associations, while others exclude them (Mingst, 2008).

By definition all such civil society groups are nongovernmental organization (NGOS) in that they are organizations not affiliated to the government. However in practice the term NGOs is used to describe the nonprofit making, nonviolent organization to complement government services (Karns, 2008; WHO, 2016). They usually have a formal structure, offer services to the people other than their members and are in most case registered with national authorities. NGOs vary hugely in their size, scope or goal. They may operate nationally or internationally for example Oxfam, save the children catholic relief services empower a child Kenya and transparency international or they may be small community based organization (CBOs) that aim to mobilize, organize or empower their members, usually in local area. There are issues of transparency, accountability and right of representation around NGOs particularly international ones (Dochas, 2001; UNICEF, 2003).

In practice state involvement in the finding and establishment of CSOs may blur the borders between the state and non-state bodies. The line between the market and non-market may also be blurred by organizations that are non-profit but closely related to commercial enterprises, such as Shell foundation. Globally, civil society refers to civil society groups or movements that enjoy support or operate in many countries e.g. global campaign against landmines or for debt relief. This term also refer to a key phenomenon of the globalization process. Citizens in one country acting in support of citizens in another. Global citizen action can take the form of consumer boycotts in wealthier nations in support of people in poorer nations. This reflects the globalization of communication and information and the increasingly global market (WHO, 2016; UNICEF, 2003).

Consumer sovereignty was originally neo classical economic concert. It suggested that consumer preferences should determine the supply of goods and services. Recently, this term has also been used to refer to the idea that consumer action (normally through personal boycotts and media

exposure) can influence the action of companies (*World Health Organization: Health Report, 2016*).

The public and the respondents had opinion of what these civil society organizations were to them and what they perceived of them .In fact the information they provided concerning what these Organizations are and the role they have played in protecting and promoting human rights in Kenya was used to write this research project report. As a pragmatic effort to ensure that the information provided by the respondents more so the community members was reliable, their perception of these organizations was sort. This was done as the research relied on them as a source of obtaining primary data since the research engaged both primary and secondary data for this report. Their feeling particular on the impact the civil society organizations has had on their welfare and more so human rights by influencing government actions was noted with a lot of keenness. This is because the kind of governance employed plays a big role towards the promotion or violation of human rights (UNDP, 1996).

Though these organizations were understood as organizations of enhancing social change and interests, in the public domain they were perceived mostly to mean not for profit organizations more so the ones which are usually referred to as Non-Governmental Organizations (NGO's). In fact if you asked someone if they understood them, more so those who were not key informants they would reply “yes, the NGOs” which was right though not detailed. NGOs simply refer to Non-Governmental Organizations. That is; organizations that are independent and are not run by the state. For an organization to be an effective Civil Society Organizations, it must be independent from the state. And this is what justified their answers. This is because these organizations act as a watchdog to the state and an organization cannot be a watchdog of itself (Otieno, 2015).

There was high level of understanding of Civil Society Organizations in this research. This high level of understanding of civil society organizations in the research was attributed to a number of factors which included the following: The large number of professionals represented in the interview: that is half of the total population of the respondents were key informants who were considered highly knowledgeable concerning the study. Besides, among the randomly selected community members were also civil society organization members, workers and human rights practitioners who understood these organization. Education and interests also played a role as

discussed earlier: that is; educations widen people's way of thinking which make them look for possible means to enhance their welfare which civil society organizations is part of these means. Interests on the other hand helped in a manner that people were very much interested in knowing organizations that enhance their welfare and this lead them to civil society organizations (Transparency International, 2015; EAC Kenya, 2013). On the other hand, failure to understand civil society organizations; that is by eleven percent of the respondents was attributed to ignorance caused by illiteracy, though majority of the respondents had an affiliation with a civil society organization. That is, they were either a member for instance of a trade union's such as labor organizations or were either employees of one for instance workers of a Non-Governmental Organization like Transparency International, Catholic Relief Services and Empower a Child Kenya and other civil society organizations. Others had multiple occupations for instance they were civil society organization workers as well as students or businessmen to an extent that they preferred to identify by their other occupation as students but the research recognized their civil society occupations. The number of respondents who had no affiliation with the civil society organizations was very minimal they were there but few as compared to those who had an affiliation. This was very important as it contributed greatly to the high understanding of the respondents on the study topic hence provided accurate information that was vital for the compiling of this research project report.

Civil society membership on the other hand in the context of this research was used to mean anyone who was associated to any group or organization that was formed with the aim of channeling a particular interest of a particular group or the general welfare of human beings. For instance members and employees of a local community based organizations and local women merry go round groups commonly known as "chamas" (a Kiswahili word to mean a group of people (Otieno, 2016).

A survey conducted to establish the level of awareness of civil society organizations in Kenya revealed that sixty six percent of the respondents were aware of these Organizations and their operations, twenty three percent had a clue and only eleven percent were completely ignorant. This shows that there was great awareness of these organizations in the country. On the other hand fifty six percent were members and forty four percent were not members. This again

showed high level of membership. The tables below reflect on the understanding and membership of civil society organizations in Kenya.

Table 3.2: The level of understandings of civil society organizations in Kenya

Respondents	Number	Percentage
Those who understand	63	89
Those who do not understand	7	11
Total	70	100

Table 3.3: On the membership of civil organizations in Kenya

Respondents	Number	Percentage
Members	36	56
Non members	34	44
Total	70	100

Source: Oral Interviews, Held between 3rd of February to April 28th 2016.

3.3 Conclusion

This chapter discussed the background of Transparency International and Civil Society Organizations in Kenya. It focused on what these organizations are; the public perception and awareness of them both generally and as far as human rights promotion and protection is concerned. It carried out a survey of the public opinion on the benefits they have had in enjoying human rights as far as the efforts of these organizations is concerned. This research found out that Transparency International and Civil Society Organizations are not for profit making non-governmental organizations formed with the purpose of enhancing certain social goals meant to promote the welfare of the people they serve. These organizations are very popular with the public with a popularity of seventy one percent public awareness; eighty nine percent understanding and fifty six percent memberships. They have really contributed to the protection and promotion of human rights in Kenya.

CHAPTER FOUR

TRANSPARENCY INTERNATIONAL AND CIVIL SOCIETY ORGANIZATIONS IN THE PROMOTION OF HUMAN RIGHTS IN KENYA

4.0 Introduction

This chapter discusses the role transparency international and other civil society organizations have played between 1988 to 2016 in promoting and protecting human rights in Kenya. It mainly focuses on the role transparency international has played in achieving these through governance.

4.1.0 The role of transparency international and civil society organizations in promoting human rights in Kenya through governance

Governance in the context of the research survey is understood to mean the manner in which decisions are taken and power exercised in the distribution of the country's social and economic resources. It is underpinned by indicators like: Voice and accountability; Political stability; Government effectiveness; Rule of law; Control of corruption and the level of participation (DENIVA, 2010).

In fact a key indicator in good governance is that people should participate in taking decisions on matters that affect their livelihoods. This they often do through their representatives such as members of county assemblies or parliament and the civil society organizations such as their trade unions and religious based organizations for instance National Council of Churches. This shows that civil society organizations are needed to enhance good governance towards the promotion, protection and fulfillment of people's welfare and human rights. The concept of governance has dominated the world's development and human rights discourse in the past few decades. It is the thinking of World Bank, International Monetary, Fund and other International Development Institutions that good governance constitutes a precondition for the socio-economic development and enjoyment or fulfillment of human rights in Africa, Caribbean and Latin America (World Bank, 2016; International Monetary Fund, 2016).

4.1.1 Civil Society Organizations in monitoring government accountability

Accountability has become a critical part of public governance. As a concept that originally emerged as an element of public finance management, that is; computing and giving account for the expenditure of public funds. The concept of accountability now goes beyond the domain of public finance and apply to a wide array of important decisions and individuals that are responsible for making those decisions. At the center of the concept of accountability is the checking and balancing of potential abuse of power by public officers with the objective of limiting the potential for corruption in the public offices and officials. The domain of accountability has, however, expanded through time from proper exercising of power to include accountability for improving efficiency and reducing waste in carrying out public projects. Kenya recognizes that an effective public service is a prerequisite to socio-economic development of the country as envisaged in the Kenya Vision 2030 (Republic of Kenya: *Kenya Vision 2030*, 2007/2008).

Despite the expansion of scope, the notion of accountability remains amorphous concept that is difficult to define. However broadly speaking, accountability exists when there is a relationship in which an individual or body and the performance of task or function by that individual or body are subjected to another oversight, direction or request that they provide information or justification for their actions (Unubun, 2006).

According to Stiglitz (2006), accountability requires that first, people be given a certain objective, second, there is a reliable way of assessing whether they met those objectives and third consequence existing for both case in which they have done what they were supposed to do and in the case in which they have not done so. According to Sliglitz, the political notion of accountability corresponds to economists concepts of incentives (Aboudha, 2011).

Government accountability in the case of this research was used to refer to the government being answerable for the outcome of its legally obligated duties. Applying the above Stiglitz principle in this case, the government is given the objective of fulfilling human rights; this is because it is the main duty bearer to do this. On the other hand constructive civil society in this case is the reliable way of assessing if the government is effective. This is because the government cannot be a watch-dog of its self (Dochas, 2001).

Transparency International Kenya and Civil Society Organizations in Kenya enhance good governance to promote and protect human rights by holding the government and its officials accountable on their decisions and use of their powers through the following ways:

- i. Addressing corruption by working with relevant stakeholders which include; the state, civil society and the private sector. It does this by bringing together people of integrity from civil society organizations, businesses and government to work as a coalition for systemic reforms. It focuses on building systems that combat corruption such as anti-corruption commissions, independent judiciary, public prosecutions commission and a rational parliament. It rates the level of corruption in a country by ranking it on the global corruption index form. This helps to raise awareness and initiate appropriate actions to be taken to mitigate the corruption depending on its level (Transparency–International: *Global Corruption Report*, 2013).
- ii. Transparency International mainly monitors corruption as corruption often results from selfish exercise of government authority or miss use of public office in making decisions that benefits a specific individual or few individuals at the expense of the entire country population. This often leads to denial of opportunities and recourses to the public which often leads to the abuse and violations of their rights related to these. For example in president Obama’s speech to the public in Kenya, during his July 2015 visit to Kenya, he mentioned that corruption costs Kenya 200,000 jobs every year. Hence, this denies this huge population the right to fair labor practice which is a source of income that facilitates the enjoyment of other rights such as food and medical health which requires money. This hence implies that corruption only benefits a few and leaves a huge population vulnerable and unfulfilled in terms of enjoyment and fulfillment of human rights hence there is need for organizations to monitor and ensure government accountability. (The *Daily Nation*, 28th July 2015).
- iii. Transparency International monitors government accountability by doing a search and documenting its findings on the actions or decisions of the government on its obligations such as providing of free primary education which has been marred with a lot of irregularities. This helps provides remedies and suggests changes in case of human rights abuses or violations as a result of these decisions or actions. Some of the cases where they have done this are in the worst Kenyan corruption cases of Anglo Leasing and

Goldenberg where public funds were paid to non-existing companies(Transparency–International: *Global Corruption Report*, 2013).

- iv. They lobby the government to give an account for its actions or failures to act on its obligations that promote, protect and fulfill human rights for instance Transparency International and Amnesty International has severally been cited in the Kenyan media (screens) where it has come up strongly blaming the government for failing to implement the Truth, Justice and Reconciliation Report of the 2007 post-election violence which was meant to address historical injustices towards human rights promotion. Transparency International – Kenya has criticized the state for these (*Truth, Justice and Reconciliation Report* of the 2007 on Kenyan post-election violence).
- v. Transparency International raises the voices of the people. For example on the number three issues that are of main concern to Kenyans. That is; high corruption levels in Kenya, high cost of living and insecurity in Kenya as per the year 2016. It also boldly confronts the government on some of its actions of failures to act on certain issues that have led to the violation of the rights of the weak in the society. For instance in failing to address historical injustices and failing to take effective actions to curb high rising corruption in the country.
- vi. It helps in disseminating of information by informing the media on government actions or failure to act on its human rights obligations for example making decisions that affect human rights or exercising their powers in a manner to violate or abuse human rights. With this information, people can take appropriate action to enjoy their rights hence their fulfillment for instance it has exposed the extra judicial killing which has led to several people go to court to seek justice for human rights. They also expose corruption cases for instance the scandal in the National Youth Service and ask that responsible people be brought to book.
- vii. They carry out both private and public litigations. For private litigation they address cases of individuals who fall victims of human rights violations and abuses for instance the case of the girl who was raped and murdered by police officers in Mombasa. This is because the girl's family was poor and could not pay a legal expert to represent them in their plea for justice hence Transparency International with other advocates stood in the gap and justice was done. In public litigation, they addressed issues that affect the entire

public population such as corruption (*Transparency International –Kenya Annual Report, 2014; Daily Nation, 22nd September 2011 Publication; Truth Justice and Reconciliation Commission Report, 2013*).

On the other hand Interviews with the respondents corroborated Empower a child- Kenya (EAC-Kenya) ensure accountability by participating in government institutions activities for instance in Olympic High School where they provide free sanitary pads and life skills training for the students. This they do by obtaining funds from donors and use them effectively in providing services meant for the government. They are often answerable to the donors for their expenditure of every coin given to them by the donors. By accounting for how they have used these funds, they enhance the government accountability as they use these finances to provide services delegated to the government such as supporting education and health. This is advantageous as they can be more easily held accountable for misuse of funds as opposed to the government and therefore by avoiding giving these funds to the government to offer these services and instead channel them to the CSOs help ensure accountability.

Besides empower a child Kenya writes reports on their actions and achievements on the resources allocated to them and how they have used them to offer services meant for the government such as providing lunch to slum schools to help support free primary education. In these reports they note some of the challenges they have encountered and those the government institutions encounter for them to both ensure accountability, they also make recommendations on how these challenges can be resolved. In many cases their recommendations often offer solutions to these challenges hence enhance accountability. (*Empower a Child–Kenya: Quarterly Report, April 2016*).

On the other hand, Catholic Relief Services in ensuring government accountability is not very far from Empower a Child Kenya in doing this. It does almost the same job with EAC-Kenya by helping the poor and vulnerable people in the world to improve their welfare. The reports and recommendations written by these organizational help influence government actions and decisions positively there by bettering the governance and promoting human rights (Rose, 2016).

Besides Brass (2011) says Non-Governmental Organizations provide certain social services such as health and food hence become part of service providing committees that sit and participate in

making government budget. This makes them have first-hand knowledge of the proposed government expenditure and sources of revenue and can hence hold them accountable. She adds that these organizations also increase the variety of voices heard by the government by the lobbying of Non-Governmental Organizations, voice the opinion of the public there by play a big role in ensuring government accountability (Brass, 2011).

Accountability is a key virtue of good governance and promotion of human rights. Preciously the findings on the role Civil Society Organizations have played in ensuring accountability were very interesting. Accountability in the context of this research survey referred to a situation where the government or public officer takes responsibility for the outcome of their actions particularly on issues that affect the enjoyment of human rights. For civil society it used this to gauge the public opinion on the influence they have had in ensuring this environment is created. Majority of the respondents (seventy five percent) felt that Transparency International and other Civil Society Organizations have helped in creating an environment and held government responsible for its decision and actions that affects the enjoyment of human rights. This it has done by fighting for the re-introduction of multiparty in Kenya. In fact, majority of the respondents who were consulted confessed that in deed without these organizations holding the government accountable there would be great violation of human rights or complete non-existence of some democratic rights and freedoms such as the right to vote. This concurred with Omollo's (1990) Report on the reintroduction of multiparty in Kenya where he applauded Transparency International-Kenya and the Civil Society Organizations for playing a great role in achieving this (Omollo, 1990).

Basing on these, we can make a conclusion that Transparency International and Civil Society Organizations have played a great role in ensuring the government is accountable for its actions in exercising of its powers and making decisions that influence the protection and promotion of human rights in Kenya. This is because the findings has it that only three percent of the respondents denied this and twenty two percent were not sure of which some of them concurred with the response of the seventy five.

Table 4.1: Response on Civil Society Organizations holding the government accountable

Respondents	Number	Percentage
Those who were accepted Civil Society organizations do this	53	75
Those who denied	4	3
Those who were not sure	13	22
Total	70	100

Source: Oral Interviews, held from the 3rd of February to April 28th 2016.

4.1.2 Civil Society Organizations in ensuring government transparency in its undertaking

The issue of transparency is very crucial in governance as it establishes checks and balances for ensuring that the government makes good decisions and uses its power well to enhance the people's welfare. Good governance requires that there be transparency in use of government authority, making of decisions, allocation of public resources and that people participate in making decision that affect their welfare (DENIVA, 2010).

The role of civil society organizations is that it should ensure that the exercise of government powers and decisions made by it are informed by the view and the needs of the people. As noted that the strongest arguments put across by the government for the introduction of decentralization policy was to take decision-making nearer to the people and to ensure that there is full participation of the people in this. In this research, decentralization involved devolving of government powers and duties to lower institutions closer to the people and the civil Society Organizations form part of these Institutions. Achieving effective participation in government decision making calls for an informed public with sufficient information concerning the government businesses that can make them take appropriate actions to influence these decisions (DENIVA, 2010).

In the public sector, lack of transparency and accountability poses a major risk for deficiency of capital market's stability and long-term sustainability. There is therefore need to create a greater public awareness among all levels of society, for instance from world leaders to policy makers and citizens. People must gain a better understanding of the importance of financial and decision

accountability and reporting in public sector. If we want to build a society that is sustainable and stable in long term, we must be prepared to take responsibility for the change that will be required to more effectively manage public sector resources (International Federation of Accountants, 2014; Unubun, 2014).

Transparency International Kenya has made a lot of efforts to ensure government transparency by involving itself in a number of activities which include the following:

1. Fighting for transparency in management of aid resources, this they do by following and tracing the use of every cent of donor money granted to them and to the government. This often lead to the promotion of human rights as many developing country depend on donors aid. It also does this by exposing government transactions to limit miss use of public resources there by ensuring the government effectively meets the citizens' needs.
2. Transparency International also promotes transparency by monitoring how the leaders who will preside over the authorities and decisions that affect the daily living of the citizens in this case Kenyan citizens are chosen. That it does by forming part of the elections of observers' team to oversee the general elections and ensure that it is free and fair. This is because election is part of the process of initiating good governance and the kind of leaders chosen determine determines its public legitimacy and support. For example transparency international formed part of the civil society organizations which went to court to challenge the 2013 Kenyan presidential election results citing various shortcomings in the handling of election process by the Independent Electoral and Boundaries Commission.
3. This organization also fights to establish a transparent and credible financial sector and procurement processes in Kenya. This they do by fighting to enact reforms by teaming with other civil society organizations to influence procurement laws and proper awarding of tenders which lead offering of effective services that promote human rights. For instance the direct award of the standards gauge railway construction tender to the Chinese firm by Kenyan government without following the competitive procurement process was highly condemned and criticized by Transparency International-Kenya and civil society organizations.

4. They form part of the International budget partner. The government collects and spends funds for the public which they have to account for. This they cannot do if the public is ignorant of how much they have collected, what their budget for these funds is and how they have spent them. Transparency International-Kenya also fights to ensure that the government's budget and expenditure is informed by the public views by encouraging and ensuring their participation by acting as their representatives in the budget process. The civil society organizations do this by passing the budget information to the public and follow the public expenditure. In Particular, transparency international partner with international budget agency that deals with ensuring transparency in expenditure of global public finances.
5. Transparency International Kenya fights for transparency in the public to ensure human rights are promoted and protected by fighting for the disclosure of assets of most of political and public figures to ensure their earnings are straight to avoid corruption.
6. They also follow how natural resources are utilized. They ensure natural resources and the environment are properly used for the betterment and sustainable development which ensures that these resources are even available in the future and this help to promote human rights as human rights require resources for them to be realized.
7. Transparency International carries out search on government actions that affect human rights for instance on the issue of corruption, it analyses the steps it has taken to fight corruption and the achievement and failures met by the government on these within a specific period of time. This shows how these actions have enhanced or undermined human rights.
8. It helps in disseminating of information which enlightens the public on human rights issues which the government should take charge. This they do by informing the media which informs the public. For example through the May 4th 2015 Kenya Television Network (KTN) News Bulleting, Transparency International – Kenya informed Kenyans of Kenyan globally ranking on corruption. Here it ranked Kenya thirtieth most corrupt country out of the possible 175 corrupt countries in the world. It also exposed the government's double speech on corruption where it speaks one thing and performs the other. It also exposed abuse of public offices by officials of the public. Transparency

International Kenya does this through its governance program (Transparency International – Kenya, 2016; Leakey, 2014; Ogunda, 2014).

On the other hand, Empower a Child-Kenya was noted to have helped ensure government transparency in promoting human rights in doing the following:

1. Empower a Child Kenya has helped to carry out trainings that offer skills that help to ensure transparency is observed. This they did by sponsoring and conducting workshops to teachers and guardians of the children they work with on how to monitor how the public projects intended for their benefit should be run. This helped them to detect any foul plays and lack of honesty in the execution of these projects and how they can take necessary actions to bring them on course. In this way they ensure that these projects are implemented to the fullest by the concerned individuals and this helps to enhance the human rights of the people that are related to these projects. For example in the case of free primary education, they alert the teachers and the beneficiaries of what the government should offer such as enough classrooms to help enhance this service.
2. This organization has also helped to ensure government transparency in its undertakings by encouraging participation of the citizens especially the community members in government activities. This it did by encouraging the community members it works with to participate in the government activities that affects them. For instance in influencing their budget on needs that are most pressing and affect their human rights such as security, health and education. In this way, the community members can follow what the local authorities do with their finances and other resources. This helps to ensure transparency in public transactions.
3. Empower a Child Kenya also employs strategic litigation as a way of holding individuals who engage in unscrupulous ways of doing things such as corruption accountable. This they mainly use to target their employees who divert their finances channeled to help the community to personal gains and then cook up figures to account for them.
4. Empower a Child Kenya sets an example by carrying out its project in a transparent manner. For instance in offering of educational support material such as sanitary pads to the school going girls who cannot afford and in offering of academic sponsorship to the needy children. It does these by utilizing every single sent intended for these in the right

way, in this way it acts as an example to be emulated by its government partners (EAC-Kenya, 2016).

Information is a facilitator of, as well as a human right that leads to the enjoyment of other rights. The meaning of this is that if one is uninformed of their human rights, they would not tell whether they are being violating or not. It takes knowledge and awareness of these rights for somebody to enjoy them. A good government is one that makes people aware of their human rights and makes effective decisions on issues that fulfill the people welfare and human rights.

In many cases most governments fear informing the citizens of their human rights for fear of them being prejudiced. The civil society organization plays a role of ensuring the government informs the public by ensuring they are transparent in making decisions that affects human rights. This research sort to find out the role Transparency International and the other civil society organizations have played in this.

In general, this research noted that the civil society organizations play a great role in ensuring the government and the public maintains transparency. This was evident in Civil Society Organizations often being recoded participating in solving issues of public concerns like general elections malpractices, 'Okoa' Kenya Referendum calls and Independent Electoral and Boundaries Commission Reforms among others. In fact, these organizations were noted to have a lot of influence to ensure the government makes its decision in a transparent manner and uses its power well. This has helped to promote human rights for government fear of being exposed to both the local and international community in wrong doings. In fact on this issue the respondents overwhelmingly responded in agreement that these organizations help ensure government transparency and this has raised the level of enjoyment of human rights. In fact majority of the key informant and community members admitted that without these organizations a lot of evil practices such as corruption and others would be carried out by government without the knowledge of the public and this would have affected their enjoyment of their human rights.

Table 4.2: Responses on CSOs ensuring Transparency

Responses	Number	Percentage
Respondents who accepted they ensure transparency	55	79
Those who said they are not ensure transparency	2	3
Those who denied	13	18
Total	70	100

Source: Oral Interviews April 2016

4.1.3 Transparency International and Civil Society Organizations in influencing government policies

Government policy in this case was used to mean the planned way of achieving a government particular goal in this case promoting human rights. It included formulation and adoption of relevant documents and human rights instruments such as domestic laws and employment/education policies (DENIVA, 2010). Basing on field and documents findings Transparency International and Civil Society Organizations have helped promote human rights by influencing the government policies (Leakey, 2014). This issue was supported by sixty six percent of the respondents that is forty six out of the total number of seventy. They cited a number of things these organizations have done in achieving this. On the other hand only six percent of the respondents denied that these organizations have not done anything to influence government policy and twenty eight percent were not sure as to whether they have participated in influencing the government's policy or not as shown in the table below.

Table 4.3: Response on civil society influencing government policy

Respondents	Number	Percentage
Those who said they have helped in influencing government policy	46	66
Those who denied	4	6
Those who were not sure	20	28
Total	70	100

Source: Oral Interviews, held between 3rd of February to April 28th 2016

In fact the *Integration of Non-Governmental Organizations into governance Report* of 2011 states that the growth of non-governmental organizations of which civil society organizations were mainly understood to be has changed the way decisions are made and government policies formulated. This supports the findings of the research that civil society organizations have made a lot of contributions in influencing government policies towards the promotion of human rights (*Integration of Non-Governmental Organizations into Governance Report*, 2011).

According to the respondents Transparency International, EAC-Kenya and the Civil Society Organizations have helped promote human rights in Kenya by influencing the government policy in the following ways:

The Civil Society Organizations in Kenya have helped in formulating of Human Rights policies. Policies are often made by committee of experts and representatives from different fields. The experts and the representatives often represent the interest of the people they are representing in these committees of policy formulation and hence they have had great impact in development of policies that enhance human rights. A good example of such policies and committees in which they have sat include the annual national budget committees which lead to the provision of public services such as education that promote human rights, the formulation of the new Constitution of Kenya and several laws that uphold human rights in Kenya, affirmative action at workplace and education institution among others. For instance Empower Child Kenya has participated in representing the views of students to these committees on adjustment that needs to be done to the Kenyan education sector to enhance the fulfillment of the right to basic education. Policies often help influence and promote human rights in this way (UNDP, 2012).

The Civil Society Organization in Kenya has helped promote human rights in the country by influencing government policies by challenging some of the policies formulated by the government. These they have often done to particular policies which they feel violate human rights. A good example is the 2014 anti-terror security laws which allowed the police to tap into people's private phone call conversations. These Civil Society Organizations together with the Kenyan opposition petitioned the state against these laws before the courts of law and successfully reversed some of the claws of these laws which violated fundamental human rights and freedoms and mostly the right to privacy (Kenya Law Report, 2016; Kagwanja, 2015).

Transparency International and the Civil Society Organizations have helped influence government human rights policies by carrying out research on some of the social problems such as insecurity that require policy intervention. Policies often come as a result of seeking solutions or prevention for a particular problem for example crime. Transparency International – Kenya and the Civil Society Organizations have influenced the government policies by carrying out research on particular problems that affect the enjoyment of human rights in Kenya such as corruption and extra-judicial killings and making recommendations on policies to be initiated to solve them basing on their findings (Smiddy and Kjaer, 2013). Empower a Child Kenya has now done more than enough on the challenges affecting education. By these they have established the level of these problems and the extent to which they affect human rights and what exactly causes these problems. Once this has been done it becomes easier for policy makers to initiate effective policies to enhance these rights. A good example includes Kivutha Kibwana of Transparency International 1995 Article of: Initiative against Corruption in Kenya: Legal and policy intervention: which explained legal and other actions which have taken against corruption, their achievement and failures and suggested policies which should be adopted to help bring an end to these. Another good example is the Empower a Child Kenya report on challenges of secondary school education and its recommendations (Kibwana, 1995; Osbone and Young, 2006; Social Impact Report for US Department of State, 2013).

Transparency-International Kenya, CRS and EAC-Kenya have developed guideline materials of writing effective policies. This includes the book: The limit of governance; the challenge of policy making for the new life sciences which explain how government policies should be made and an article of the challenges that face policy making and how to overcome them. These policy materials are often used by public officials as a guide to making their policies during their policy making process where they make policies such as education and health policies that affect the enjoyment of human rights. In this way, these organizations influence the government policies indirectly but positively towards the enhancement of enjoyment of human rights (Osbone, 2006).

Transparency International and the Civil Society Organizations also influence government policies towards the promotion of human rights by strengthening public institutions such as schools and parliament that participate in the making of these policies. These they often do by organizing and sponsoring trainings through seminars and workshops on human rights issues that

need to be known to these policy makers concerning the policies they make. This enhances the policy makers understanding and efficiency on their fields and hence helps them promote human rights in their fields. This they also do by instilling integrity in the leaders/policy makers by taking them through Integrity chapter of the Constitution of Kenya and teaching them of its relevance and importance in formulating better and effective policies (Leakey, 2014).

They also make recommendations to the government on how particularly issues such as education, general and food security should be handled to promote human rights. This they do basing on their findings in their cause of offering services related to these.

They also investigate if government is committed to human rights policies such as international treaties and watch if they are implementing them.

They also help influence government policies when the government incorporates some of their very effective members or staff in the government to serve in various policy making and implementation capacities depending on their experiences and skills. For instance Njoki Ndung'u the current senior justice of the Supreme Court of Kenya was a former Transparency International Kenya staff.

These organizations also set standards in the way they handle their issues for instance effective provision of the services they offer. This is often copied by the government who often tend to try to copy their way of doing things including policy making.

They also do this by increasing the variety of voices heard in the government by acting as representatives of the common men in human rights forums and by lobbying other non-governmental organizations and the civil society organizations in influencing government policies towards the promotion and protection of human rights.

These organizations have also helped to do these through Pre and post scrutinizing of government policies before and after they are passed and also by building of the citizen's capacity (Leakey, 2014; *Social Impact Report*, 2014).

4.1.4 Civil society and transparency international in advocating for social change in Kenya

Advocating for social change in the case of this research was used to mean the manner in which these organization acts to address unjust practices such as tribalism and bard politics that have been cultivated in the society. In establishing this, the research considered the reports of these organizations more so those of Transparency International as well as the view of the public on the role these organizations have played in advocating for social change towards the promotion of human rights. Some of the other unjust practices that cause social disharmony that were considered in this research include: discriminations and retrogressive cultural practice such as Female Genital Mutilation (FGM). Transparency International and Civil Society Organizations have advocated for social change to promote human rights by fighting to change or eliminate these unjust practices. These they have done by finding their way in government decisions and power thereby influencing them to promote human rights as discussed below:

They have helped to create social change by researching on these cultivated unjust practices such as corruption and retrogressive culture for instance Female Genital Mutilation that violates human rights. This they do to establish the level of their practices, their causes and their effects to the fulfillment of human rights. By establishing these they can therefore develop an appropriate counter strategy to mitigate, control or manage them to promote human rights (Prenzewaki, 2009). Transparency international does this on governance issues such as corruption while Empower Child Kenya does the same on educational issues such as exam cheating and Catholic Relief Services does this by ensuring and offering of quality social and relief services (Leakey, 2014; and Ogunda, 2014; *EAC; Kenya; Quarterly Report*, April 2016).

They address vices that are caused by bard political practices such as segregation and tribalism with the aim of establishing sustainable political stability in the country. They do these through a very long process that starts from the choosing of leaders to putting of food on the table. They engage in non-partisan politics that equips the citizens with knowledge and skills to make informed decisions for instance in influencing public policies and choosing of leaders. It follows up the election process to ensure that it is free and fair for instance in the 2013 general elections, these Organizations formed part of the civil society organizations that went to court claiming that the tallying of presidential results were not transparent. And these Organizations also formed part of the civil society organizations that sought for the disbandment of the Independent Electoral

and Boundary Commission claiming that as it was constituted by then it was not credible to hold a free and fair election. This they did because bad political practice such as tribal politics and corruption are not friendly to the promotion of human rights and can lead to its abuse and violation. Just like a South African analyst Moleletsi Mbeki told journalist Michella in her book: “It’s our Turn to Eat.” that “what greater corruption could there be than to steal an election?” this bad politics and corruption vice led to the 2007 post-election violence in Kenya (Moelesti, 2009).

They also fight to create social change with the aim of promoting human rights by managing unjust practices by strengthening institutions that influence the enjoyment and fulfillment of these rights. These they do by:

1. Fighting to transform these institutions to meet the standards required for them to promote the rights that are related to the service they offer. For instance Empower a Child Kenya trains some of the teachers of the schools they work with; they offer materials that support learning such as exercise and text books to the students. While Catholic relief services provide basic needs such as food and clothing to the children homes and schools it works with just like EAC-Kenya does (*Social Impact for US Department of State*, 2013; Ogunda, 2016).
2. On the other hand Transparency International Kenya fights for police reforms to make them effective human rights enforcers as without effective human rights enforcers’ human rights cannot be realized. These organizations also enhance social change by building the capacity of people who work in the human rights institutions as these institutions are run by people. This it does by training these personnel by sponsoring and running seminars and workshops on human rights and effective service. This they do to staff and members of institutions such as judiciary, parliament and learning institutions that help to create social change.
3. They also do institutional analysis of the institutions that influence the enjoyment of human rights by checking if they meet the standards of promoting human rights. For example in 2014 it exposed the double standards applied by the Coca-Cola International Company in producing its products. For instance in producing a soda different standards

are applied in Europe and Africa; where Africa was claimed to have more concentration of manufacturing products.

4. They fight for necessary reforms in Human rights institutions. For instance in the debate of sending home the Commissioners of Independent and Boundary Commission who over saw the 2013 general elections. These organizations alleged these officials were unfit to hold office due to miss conduct and hence they spearheaded their exit of electoral office.
5. They also demand for high integrity for people who serve in institutions that influence human rights both in the public and private sector. For instance qualified doctors in the hospitals and not corrupt judges in the judiciary and competent police men in the police service. This they do with reference to chapter six of the Constitution of Kenya which sets preconditions for serving in these positions. They fight to ensure this chapter is upheld if not implemented one hundred percent. Because if these is done then there would be no room for unjust practices. They also ensure these by seeking legal remedy in case of violations or failure to adhere with these standards in some cases.
6. They also do these by participating in drafting laws and policies that give power to these institutions to operate freely and more effectively for instance EAC-Kenya does these through its recommendation to the Ministry of Education and Transparency International by offering their counsel during their sitting in the policy drafting committees.
7. They also do this by advocating for and influencing judicial reforms. Kenyan lawyers and civil society members who advocate for good governance agree that judicial reforms are imperative. Some argue that the public must step up as well. “Citizens must put their feet down and demand things from government”, Said Job Ogunda, the head of Transparency International – Kenya. It ensures Transparency through its institutional strengthening program which is aimed at raising effective legal and policy framework within critical institutions of governance. It does this by focusing on constitutional and legal reforms necessary to ensure transparency and end impunity (*Transparency International – Global Corruption Report on Education, 2013; Social Impact Report for US Department of State, 2013; Empower a Child– Kenya Annual Report, 2016*).

They push for the past human rights violations and injustices to be addressed and mechanisms instigated to avoid reoccurrences or repetition of such in future. This they do by tracing historical

injustices and human rights violations and seek remedies for them. For example, the effects of 2007 post-election violence which lead to thousands of people lose their property leading to gross abuse and violation of their human rights. These CSOs have demanded for compensation of the victims of this violence (Human Rights Watch: *World Human Rights Report*, 2015; Truth Justice and Reconciliation Report on 2007/2008 on *Kenyan Post Election Violence*).

They have also done this by fighting injustices through their social justice initiative for instance by fighting inequality by ensuring that everybody is treated in an equitable and fair manner as Empower a Child Kenya tries to ensure that educational opportunity is granted even to the vulnerable by also giving an opportunity to learn while Catholic Relief Services also ensure the refugees are also granted opportunities (EAC - Kenya: *Quarterly Report*, April 2016; CRS, 2016).

They have advocated for the weak by lobbying the government to take the necessary actions to promote their human rights for instance responding to their basic needs. The photo (picture 4.1) below shows a photo of children's home and learning center and the children who EAC-Kenya offer psycho and Social support to.

Picture 4.1: Photos showing Cheryl's Children's home and the children receiving psycho and social service from Empower a Child Kenya





Source Field work photo March 28th 2016

4.1.5 Transparency International and Civil Society Organization in enhancing social and relief services in Kenya

According to Brass (2011), the governance of service provision has become a complex intertwined affair due to the CSOs in that they sit on National policy Making Committees. Government integrates NGOs plans and budgets into national policy and government actors learn from them and copy NGO participatory accountable approach (Brass, 2011).

Therefore, the role played by these organizations in demanding and offering relief and social services is very crucial to the promotion of human rights as they enhance good governance which is a recipe for promoting human rights. When the public opinion on the role CSOs have played in demanding and offering social and relief services to promote human rights in Kenya was sort, Seventy percent of the respondents overwhelmingly said they had done these while

nine percent said they haven't done these and twenty one percent were not sure. By this we can conclude that indeed these organizations have played a great role in promoting human rights by demanding for and offering social and relief services. In addition to the responses when the public opinions/views were sort on the exact roles these organizations have played and the organizations reports reviewed on the same, it was noted that these organizations have done the following in promoting human rights by demanding for and offering social and relief services.

They have partnered with other organizations that offer social and relief services towards the protection and promotion of human rights. For instance, Empower a Child Kenya partners with learning institutions which offer education in providing materials and services that facilitate effective learning. In this way they help to ensure effective and satisfactory fulfillment of the right to education. Examples of the materials and services offered by Empower a Child Kenya to help facilitate the right to education include: Meals including breakfast and lunch to the children for the schools it partners with to help fulfill the right to basic education. They also offer other services such as counseling and feeding that help ensure the right to education is effectively fulfilled (*EAC-Kenya: Annual Report, 2016*).

The following picture shows a photo of a kitchen and water tank build to gifted hands a primary school supported by EAC-Kenya there by indirectly supporting their right to education as they cannot effectively learn on an empty stomach. On the other hand it directly supports their right to food and water for these children.

Picture 4.2: A photo graph showing a kitchen and water tank set up by empower child Kenya in Gifted hands primary to help promote the right to food and water



Source: Field Photo taken in gifted hands school on 14th march 2016 by the researcher.

Picture 4.3: School Children receiving games material and breakfast from EAC-Kenya



Source: Field photo taken by the researcher on 16th March 2016

Picture 4.4: A photo graph showing a EAC-Kenya staff offering guidance and counseling to students of one of the high schools it partners with to help enhance the right to education



Source: Field photo taken on 14th April 2016

This shows that this organization plays an indirect but very important role in promoting and providing the right to education. On the other hand Catholic Relief Services partners with refugee camps or organizations, children homes and hospitals where they offer physical material and psychosocial support such as food, blankets and psychological counseling to victims of human rights abuses and violations.

Picture 4.5: A photo graph showing a structure of an orphanage supported by Religious and civil society organizations like catholic relief services



Source: A Field Photo Taken on February 16th 2016.

Empower a Child and CRS also indirectly helps to offer services to the people by influencing government policies including that of providing social and relief services. This it does through its recommendations that it writes to the government institutions that it works with such as schools and hospitals. By these they ensure government effectively delivers social and relief services (*EAC-Kenya: Annual Report, 2016*).

On the other hand Transparency International was not so much directly involved in delivering of social and relief services but had an indirect way of ensuring these services are delivered by influencing governance. This it does by employing a sectorial approach strategy where it seeks to streamline special sectors of the government by fighting corruption to ensure they deliver efficient services that lead to the fulfillment of the rights associated with them. The sectors it handles include: The water sector which is a basic need that facilitate the right to life; Education sector which facilitate the right basic education; Human aid and relief sector. All This it does by

improving public responsibilities in service delivery through its climate and integrity program (*Transparency International–Kenya: Annual Report, 2013*).

Table 4.4: Civil Society Organizations in offering social and relief services

Respondents	Number	Percentage
Those who said yes indeed these organizations offer social and relief services	49	70
Those who said they don't	6	9
Those who were not sure	15	21
Total	70	100

Source: Oral Interviews, Held between the 3rd of February to April 28th

4.1.6 Transparency International and Civil Society Organizations in alleviating poverty and promoting local and economic development in Kenya

This was purely a public perception on the role these organizations have played in promoting local economic development. A question was asked on the public opinion as to whether Transparency International–Kenya and the CSOs have helped to promote local economic development or not and the responses were recorded in the following a table.

Table 4.5: Responses on civil society organizations promoting local economic development

Respondent	Number	Percentage
Those who said they do	60	86
Those who said they do not	4	5
Those who were not sure	6	9
Total	70	100

Source: Oral Interviews, between the 3rd of February to April 28th 2016.

Following these responses, we can conclude that these organizations have played a great role in the promotion of local economic development and alleviation poverty as majority that is eighty six percent of the respondents that is sixty out of seventy agreed that they have done so. They cited some incidences such as offering employment opportunities especially for its staff and

supporting of local market through capacity building and providing of favorable environment to do business by influencing the government economic laws and policies. Only four out of the possible seventy that is five percent responded that they have not played any role in promoting local economic development and alleviating poverty and only six out the possible seventy were not sure some of which some were in agreement with the responses of the respondents who said these organizations promote local economic development.

4.1.7 Civil society organizations in ensuring the government honor its statutory commitments to human rights treaties and the constitution

Statutory commitments to human rights in this case referred to the municipal and international laws that support human rights that Kenya is legally bound to follow, implement or fulfill. This sub-section of the research examined the role Transparency International and Civil Society Organizations in Kenya have played in ensuring the Kenyan Government adheres to municipal and international laws that promote and protect human rights. In this case much consideration was put to the local constitution and particularly its Bill of Rights and the International Human Rights treaties. This was done by assessing the role Transparency International and Civil Society Organizations has played in ensuring the Kenyan Government observes the rule of law to promote human rights, where With regard to good governance and human rights the rule of law in this research was understood to mean the following: Functional judicial and local council courts that enforce human rights; Respect of land/property rights ;Adequate punishment to those who swindle state recourses thereby causing human rights violations or abuses; Free and fair elections; Few cases of mob justice; Punitive action against human rights abuses; Respect to the court's decision by government(DENIVA, 2011).

Basing on the findings from the documents reviewed These organizations have played a significant role to ensure the government follows the rule of law to protect and promote human rights as discussed below:

1. These civil society organizations especially Transparency International has pushed the government to observe the constitution in making its decision. For instance they faulted the government on irregularly awarding the Standard Gauge Railway tender to a Chinese firm that highly inflated its cost due to corruption, this lead to loss of billions of shillings

that would have been used to support human rights. For instance by providing free medical services.

2. They monitor the government actions or failure to act on its obligations towards implementing these treaties for example their action on convention on elimination of all forms of discriminations. Catholic relief services has raised a lot of concern over the discrimination on refugees on the other hand Empower Child Kenya has raised and documented discriminations in institutions of learning basing on gender and social background (EAC-Kenya, 2016; CRS, 2016).
3. Transparency International has constantly asked for corrupt government officials who swindle the public recourses to be punished. This they have done by exposing several corruption activities taking place in public offices for instance the National Youth Service (*The Star News Paper*, 13th December 2016; *The Daily Nation*, 13th December 2016; *The Standard News Paper* 13th December 2016).
4. These civil society organizations and particularly Transparency International attend meetings on assessment of a country's implementation for these treaties and have often tabled reports of their findings and asked for relevant actions to be taken in case of failure of their implementation. These organizations push the government to respect the court's decisions which are often guided by the constitution and international customary law. For instance Transparency International faulted the president's decision of re- instating back the police recruits who the court had ordered a fresh recruitment exercise to be done in 2013 sighting corruption in the recruitment process (African Research and Resource Forum, 2009; *EAC-Kenya: Quarterly Report*, April 2016; Rose, 2016).

4.2 Conclusion

Following the findings of the research, indeed we do conclude that Transparency International and other Civil Society Organizations in Kenya have played an effective role in the protection and promotion of Human rights in Kenya through good governance. It has done this by: Monitoring government Transparency and accountability by ensuring corruption is curbed and government expenses are channeled towards providing services that lead to the promotion of human rights; They influence government policies and legislations such as the 2014 security amendment laws and affirmative action policy that makes sure nobody's right is violated; they

advocate for social change towards eliminating inhuman practices such as FGM, domestic violence and discrimination that violate human rights; Civil society organizations enhance relief services such as education and health that lead to the promotion of human rights associated with these services; They alleviate poverty and promote local and economic development and monitor the government to ensure it honors its statutory commitments to human rights, treaties, the Constitution and other written laws.

CHAPTER FIVE

CHALLENGES FACING TRANSPARENCY INTERNATIONAL AND CIVIL SOCIETY ORGANIZATIONS WITH REGARD TO HUMAN RIGHTS IN KENYA

5.0 Introduction

Following the findings in the preceding chapter, it is evident that these organizations have made an impact as far as protecting and promoting of human rights in Kenya is concerned. Their efforts in doing these has however been met with a lot of challenges which have impeded the fulfillment of their ambition to establishing a Kenya where all human rights are fulfilled. Civil society organizations have encountered challenges in their efforts to protect and promote human rights in Kenya despite their efforts not to do so. This chapter discusses the challenges these organizations have faced with regard to promoting and protecting human rights, and goes further to identify the causes of these challenges and how they can be resolved to enhance the impact of these organizations in protecting and promoting human rights.

5.1.0 Challenges facing Transparency International and civil society organizations with regard to human rights in Kenya

Civil Societies Organizations in Kenya have played a great role in promoting and protecting human rights in Kenya. However, in their effort to do this, they together with other stakeholders or partners have often raised several complaints of impediments that hinder them from achieving their full objective of promoting human rights in Kenya. There have been complaints by these organizations, the public, government and other stakeholders on various challenges that these organizations encounter in promoting human rights and that is why this research sort to establish the reality of these complaints to verify whether they are genuine complaint or just mere allegations. The research hypothesized four main challenges that are commonly talked about, these challenges included: The challenges of implementing the donors interest rather than addressing the people's needs The control by government; The challenges of Ensuring cohesion and alliance with other Civil Society Organizations; The problem of linking small local based projects with wider regions that challenges their performance (Otieno, 2016; Radley, 2008).

The research however realized and recorded more challenges that were not hypothesized from the responses of respondents in the course of carrying out the research. These challenges are discussed below starting from the hypothesized ones.

5.1.1 The challenge of civil society organizations being contractual agents of serving donors' interest

Transparency International and civil society organizations has been alleged of being a contractual agent of serving the donor's interest by the government and a section of the public and this has been a challenge to their role of promoting human rights. The reality of this was sort by seeking the opinions of experts who were considered knowledgeable on this. On the other hand public opinion on these was also sort because it is them who benefits if at all the actions of these organizations promote human rights. When asked whether indeed these organizations faced the challenge of being contractual agents of serving the donor's interest rather than that of the public sixty eight percent of the respondents said they did. This included even the responses from the civil society organizations staff and members, in fact majority of the staff from Empower a Child Kenya, Transparency International–Kenya and Catholic Relief Services confessed that this is true.

The staff of these Organizations complained this challenge hinder them from fully satisfying the needs of the communities as many times they would implement projects directed by the donors even if they did not satisfy the community's needs so. This they did so that they would receive or be assured of more donations next time. This impeded the realization of their ambition to promote human rights for it is as a result of satisfying a community's need that human rights are promoted. For instance the need for education and medical services is satisfied by building schools and providing health workers, medicines and hospitals rather than sponsoring political parties which provide no basic need to the public. Similarly the right to health cannot be satisfied fully by only providing the right to vote and it may be that the right to health is the most pressing need of the people. Following these findings the research concluded that these organizations face the challenge of being contractual agents of serving donors interests rather than the people. This affected the effectiveness of the civil society organizations that promote human rights in that, human rights are fulfilled as a result of offering services associated with them. For example the right to water is fulfilled by offering clean water and the right to food by offering food. Many

Civil Society Organizations depend on donor funds which they are often given with strict terms and conditions including how they should spend them. Some of the programs funded by these donors do not satisfy the needs of the people, this leaves them with rights associated with these needs unfulfilled.

On the responses of the respondents twenty seven percent of the respondents who were asked the same question were not sure of which majority of them sixty eight percent thought these organizations face this challenge. Only five percent of the respondents denied that these organizations do not face this challenge and could not give any concrete evidence or reason. Therefore basing on these responses, the research confidently concludes that indeed these organizations face challenge of being contractual agent of serving donors interest.

5.1.2 The challenge of civil society organizations being controlled by the government

Government actions on particular issues for instance passing of certain laws regulating the operation of institutions often pose a threat of control of these Institutions. This often challenges the independence of the civil society organizations whose independence is often affected by this control (Otieno, 2016). According to some respondents this has paralyzed the operation of certain civil society organizations hence hindered their ability to promote or protect human rights (Radley, 2008).

Besides the civil society organizations watchdog role of keeping the government of day in check has made them a threat and an enemy to the government. The Attorney General of Kenya Professor Githu Muigai was once quoted in one of the newspaper dailies saying activists and governments cannot be expected to be comfortable bedfellows when the traditional role of the lobby groups is to keep the government in check. The activists and lobby groups that he referred to in this case were the civil society organizations which cannot then be government's friend. It is with these reasons that the government tries to control them for fear of their weaknesses being exposed by them (*Daily Nation*, March 1st 2015). Other government actions that hinder their operations according to the respondents include: failure by the government to support their existence or operations, offering threats and harassment by security agents hence they cannot watch over government freely (Human Rights Watch: *World Report*, 2015; *Daily Nation*, March 1st, 2015).

When the civil society organizations and the public's opinion was sought on whether the government control was a challenge to the civil society organization in promoting or protecting human rights eighty nine percent agreed that it is true that indeed the control of government or attempt of the government to interfere with the independence of these organizations is a challenge to their effort to promote and fulfill human rights in Kenya. On the other hand five percent were not sure of which some agreed with the above respondents and only four percent denied that the control of government is not a challenge to these organizations operations towards the promotion and protection of human rights.

As a result of these, the civil society organizations have got no healthy working relationship with the government due to conflict of interests. Vibrant civil society activists are considered as government rivals and not partners in promoting good governance and human rights and these have jeopardized their role in promoting human rights. This is a confirmation that control by government is a challenge to the effectiveness of or these. This is so because the main purpose of these organizations is to act as a watchdog of the government to make sure it fulfills its mandate of fulfilling human rights. Failure to do this, the government will relent on its work and hence violate human rights. This is because the government is the main obligated duty bearer to do this. This is evidenced by Radley (2008) argument which he argues that despite their participation in influencing policies, the government often overlooks them and makes the final decisions in the of policies and laws they pass (Radley, 2008; *Daily Nation* March 1st, 2015).

5.1.3 The challenge of linking small based projects with a wider region

These organizations do have some small projects which are often offered in specific regions or areas for instance EAC-Kenya has a program of offering sanitary pads to school going girls in slums who cannot afford them. Linking these program offered mainly in slum regions with other non-slum regions where EAC-Kenya also ministers to children was a challenge. This is because not all regions say Nairobi's Runda Estate and Kibera slums were in the same social status to experience this social problem. Runda experienced a different social problem which could not be solved by this project. According to EAC-Kenya, the challenge of linking small based projects with wider regions has limited their effectiveness and that of civil society organizations in various ways. On promoting human rights, these challenges have limited the effectiveness of these organizations in that different regions have different needs for instance in suburbs basic

needs such as clothing and shelter are not a problem. These areas have met these needs including additional others such as personal means of transport hence they call for modern technological infrastructure such as road and internet. On the other hand the poverty stricken regions still call for basic needs such as shelter, to an extent that displacing them from their residence to pave way for road construction to benefit a large community is an injustice to them. These conflict of needs have made it very difficult for the programs offered by these organizations to meet the human right of everyone without interfering with those of others. This has affected their full effectiveness (Otieno and Okinyo, 2016; *A Comparison of Regional Social Status and Viability of Projects: A Report by EAC–Kenya*, 2016).

The respondents also responded overwhelmingly in agreement that this was a challenge to these organizations in offering services that lead to the protection and promotion of human rights.

5.1.4 The challenge of ensuring greater cohesion and alliance with other civil society organizations

These organizations often experience the challenge of ensuring greater cohesion with each other for fear of other organizations taking up their ideas due to competition or they may just be suspicious of the other. This has limited the effectiveness of these organizations in that it has initiated suspicion, competition and jealousy among them. This results into duplication of projects by these organizations because they do not share freely what they do and at the end of the day you will find that there is a jam in offering of particular service and a gap in others. The end result of these is that the services which are less offered result into unfulfilment of human rights associated with them (Rose, 2013; Radley, 2008; Dochass, 2000).

When this question was posed to the respondents, fifty eight respondents out of the possible seventy representing eighty three percent agreed with this while twelve out of the possible seventy representing seventeen percent were not sure. None of the respondents denied that these organizations face the challenge of ensuring greater alliance and cohesion among themselves.

5.1.5 The other challenges that hindered civil society organizations from promoting and protecting human rights in Kenya

In promoting and protecting human rights in Kenya civil society organizations and Transparency International have faced a number of other challenges which hindered them from fully doing these. These included the following:

- i. Negative ethnicity has been encouraged so much in Kenya to an extent that some of the efforts made by these organizations fail to be recognized on tribal basis for example if they fault human rights violations or abuses committed by a particular group of association such as political party associated to a particular tribe in a bid to promote human rights, Their effort is often rejected by members of that tribal association. These limit their effectiveness because no matter how good ideas they have, they fail to be implemented.
- ii. Limited finances due to over relying on donor funding. These organizations to a large extent depend on donor funding to run their programs of which the recent increase of poverty in the west according one of the respondents has limited the finances they receive there by setting a big blow to the operation of their programs. This has affected negatively the effectiveness of these organizations since for these programs to be implemented there is need for finances. Lack of finances hence results to failure of these programs to kick off and it is these programs that fulfill human rights. This means that their failure is as good as the failure of human rights fulfillment.
- iii. The culture of impunity and Corruption that is mainly caused by greed of certain individuals of these organizations who want to use these organizations to enrich themselves instead of letting them serve their intended purpose of promoting of human rights. This has lowered the rate of implementation of human rights as these organization play an important role in doing this (Raddley, 2008).
- iv. The tough economic times due to inflation. Inflation has raised the cost of living including the one for running these organizations in Kenya making them need more finances than before to sustain their operation and it is these finances they lack. This has made their operation to be very difficult and hence not very effective.
- v. High ignorance among the public, majority of the ordinary men are not aware of the existence of these organizations. They don't know their role of promoting and protecting

human rights hence they don't make use of them. These has left these organizations idling in cases that they should have even acted to promote human rights for instance in raising the voices of the weak to the state as they often do through the media.

- vi. Political issues such as lack of good political will towards civil society organizations has triggered activities such as passing of draconian laws by the parliament to intimidate these organizations from exposing government evil doings. This has affected the effectiveness of these organizations by hindering them from freely playing their role such as sensitizing people. The end result of these is that people have remained ignorant and have failed to take the appropriate actions to fulfill their rights. A good example is that despite the existence of free primary education in Kenya there are still many illiterate people because they are not aware of this right.
- vii. Fear of the political class of being replaced by Active civil society organization workers. Active civil society organizations activists are considered as potential strong future politicians, owing from past experience where this organizations have acted as training ground for people who turned to be prominent politicians hence they are viewed as threat to the political class. In this way they are fought by the government from executing their duties freely and hence a big blow to the effectiveness of these organizations in promoting human rights as they rely on the roles of these people.
- viii. On the other hand good governance practices are not embedded in the local government and this is also a challenge to local government partnering with civil society organizations in promoting human rights at this level. These as limited the effectiveness of these organizations as the main purpose of devolution is to bring services close to the people. These organizations help in providing goods and services that help to promote human rights hence failure by local governments to work with them lowers their effectiveness as they fail to get the right avenue to offer these services (Raddley, 2008; EAC-Kenya, 2013; World Bank, 2008; CRS, 2014; TI- Kenya, 2014).

5.2 Causes of the challenges facing civil society organizations in promoting human rights in Kenya

The research also sought the organizations and the public opinion on the causes of the fore mentioned challenges of civil society organizations in promoting human rights and noted several causes which include the following

- i. Government interference, this was as a result of many reasons such as lack of good political will for instance these organizations were seen as government betrayers that expose their evil deeds. Another reason for government interference according to the respondents was the government's desire to be a channel of international funding in fact they said that the reason why political activist fought for devolution from the central government was not to satisfy the need of the common people but to avoid the money from international partners being channeled to the civil society organizations because they know that if they are channeled to the local government they can still easily get access to them. In fact one time the current government issued a statement that all the foreign funds given to run these organizations (CSOs) should be channeled through them, something that didn't work but lead to initiation of a law that limited the foreign financing of these organization not to exceed thirty percent of their total budget of which if it exceeded they were subject to taxation. All these make these organizations less effective as they interfere with their operation hindering them from realizing their objectives (Lagon, 2016; *The Star News Paper*, January 8th 2016; *The Daily Nation*, January 8th 2016 Publication).
- ii. Another reason is the culmination of backward cultural practices such as Female Genital Mutilation among certain communities such as the Kuria, Gusii and Maasai which has hindered cooperation of these communities with the Civil Society Organizations.
- iii. Another challenge facing these organizations in protecting and promoting human rights according to the respondents is the failure by these organizations to carry out enough feasibility study for the human rights projects they initiate. In fact Empower a Child Kenya at one time confessed closing down life skill trainings they offer to schools for running short of enough counselors and finances. This

was because they had little knowledge on categories of students who existed in these schools where they offered this service hence they didn't plan for sufficient counsellors. These often interfere with the sustainability of these programs which is important for their effectiveness in promoting human rights (EAC - Kenya: *Quarterly Report*, April 2016; CRS, 2016).

- iv. Another cause of these challenges is the failure of these organizations to involve the participation of the beneficiaries of the goods or services they offer in initiating and sustaining these services. Empower a Child again confessed experiencing this with the life skills training it carries out in schools where students at one particular time accused them of teaching them things which they are not involved in setting up the programs by seeking their view.
- v. Greed among the civil society organizations officials, some unscrupulous employees among the non-profit organizations have jeopardized their image by misusing these organizations, for instance by not properly allocating the finances provided to promote human rights. Some of these employees use these organizations as a business to make money hence making these organizations lose their meanings. This often occurs as a result of failing to get the right people in these positions as a result of engaging tribalism and nepotism in the recruitment exercises. This makes these organizations lose their meanings hence become ineffective.
- vi. The problem of poor infrastructural network in the country such as poor roads and telecommunication network which in some cases has increased the tax rates leading to the cost of running these organizations being high hence limiting their achievement as far as promoting and protecting human rights is concerned.

5.3 Solutions to the challenges facing civil society organizations in protecting and promoting human rights in Kenya

These challenges have limited the potential of these organizations to fully promote and protect human rights. As a result of these, the research upon establishing the causes of these challenges from the response of the respondents, it sort their opinion on how these challenges can be

handled in order to enhance the potential of these organizations to fully promote human rights in Kenya and the following were their responses. The respondents raised several ways of which these challenges can be resolved basing on their nature and their experience with them as discussed below:

- 1) Corruption should be eradicated by all means including preventing it from occurring for instance by putting up systems that are efficient and do not give room for it to manifest before being detected. It also supports addressing existing corruption cases for instance by penalizing the perpetrators of all sectors and even recovering the lost resources from them so that they can be channeled to serve their intended purpose of promoting human rights. However transparency as well should be encouraged at all sectors of public and private sectors to close loop holes for advancing corruption deals. These can enhance the effectiveness of these organizations in promoting and protecting human rights in Kenya as human rights needs resources. Closing loop holes for corruption ensures resources are properly channeled and this will render these organizations effective as it is them that oversee this process.
- 2) Encouraging and ensuring government cooperation with these organizations according to the respondents was another way of resolving the challenge facing CSOs in promoting human rights in Kenya. This is because one of the challenges limiting the achievements of these organizations is frustration from the government. The government should allow them to operate freely and even avoid manipulating their decisions to favor the government's wrong interests. As a matter of fact the government should embrace positive criticism from them as they act as a watchdog to the government and hence keeping the government in check can ensure the government does its work including promoting human rights as it's the main obligated duty bearer to do this. In this way the organizations will be more effective as they are co-partners with the government in promoting human rights.
- 3) Capacity building of these organizations should be ensured. This can be done by allocating to them more resources from the stakeholders and equipping their staff with the necessary skills. This can be done by embracing of their budgets with these activities by donors and carrying out seminars and workshops to train these organizations on how to more effectively promote and protect human rights. This will make them more

effective in promoting human rights as if their capacity is more build would empower them more to do their job.

- 4) Promoting of unity among Kenyans, divisions of Kenyans along tribal lines was so common and was a big hindrance to the success of these organizations in promoting human rights. This is because if these organizations made an independent observation on a particular group or institution that is affiliated to a particular ethnic group, if the observation was negative instead of the group correcting the mistake it was also taken negatively by that group. For instance, in the recent corruption that rocked Kenyans, Kenyans took ethnic sides instead of becoming realistic, and this limited the effectiveness of the organizations that address these human rights challenges such as transparency international. This is because their efforts were not taken positively by some Kenyans.
- 5) The human rights bodies should increase their efforts and become more aggressive and proactive in educating the civilian on their roles of promoting human rights, and the current constitutional rights by telling them of these rights more so those who are illiterate. In this way they will increase their effectiveness as they will make the citizens to claim their rights if they are aware of them.
- 6) Championing laws that are favorable to human rights and free operation of civil society organizations. This is because it is these laws that create order and offer remedies in case of disputes that may trigger human rights abuses and violations. For example, in the year 2015 the civil society joined the opposition in opposing the security laws that were a setback to various fundamental human rights. Therefore the CSOs should participate in crafting and agitating for laws that will enhance human rights and make civil society more effective by being autonomous.

5.4 Summary of the Research

This work was a research on the role Transparency International and civil society organizations have played in promoting and protecting human rights in Kenya through governance. It concentrated more on their effectiveness in promoting human rights from 1988 to 2016 and presented its findings in three main chapters. Chapter two sought to find out the status of human rights in Kenya and the effects these organizations have had on achieving this status more so on the understanding, awareness and provisions of human rights in Kenya. The research found out

that, human rights in Kenya is well understood, known, provided for and practiced in Kenya though not satisfactorily. The high knowledge and understanding was as a result of basic education due to free primary school education and the new constitution, 2010 whose euphoria made people think it would over whole their life. This prompted them to read it. On the other hand the high level of provisions of human rights was as result of the effort of the civil society and the international community.

In chapter three the research focused on the background of Transparency International and the Civil Society Organizations in Kenya. This it did with aim of establishing the mission, vision, and objective of which these organizations were established. It also sought the beneficiaries that benefited from the actions of these organizations. The research found out that Transparency International was formed mainly with the mission of ensuring government transparency and accountability by fighting corruption. It has therefore been very effective in promoting human rights by reducing corruption which wipes away meant to promote human rights. These organizations hence according to the respondents have been very effective in promoting human rights.

Chapter four covered the effects these organizations have had in protecting and promoting human rights in Kenya. It found out that these organizations have been effective in promoting and protecting human rights by: Ensuring accountability and transparency of government, influencing government policies, advocating for social change by offering social and relief services, alleviating poverty and promoting local economic development and ensuring the government honors its statutory commitments to human rights.

In chapter five the research found out that these organizations face several challenges such as limited finance and ignorance of Kenyans that limit their effectiveness in promoting human rights. These challenges are caused by ignorance, control by government among others of which can be resolved to enhance the effectiveness of these organizations to protect and promote human rights. In deed these organizations have been very effective in promoting and protecting human rights despite the challenges they have faced in doing so. The paper therefore ends by giving recommendations of how these challenges can be resolved to enhance the effectiveness of these organizations in promoting and protecting human rights in Kenya.

5.5 Conclusion

Following the above findings, the research concludes that CSOs have played a great role in promoting human rights in Kenya by influencing how the Kenyan government governs. This they have done in several ways like influencing government policies and ensuring it honors its international human rights treaties. They have however been faced with a number of challenges in doing this for instance suspicion and limited recourses that impedes the full realization of their objective to fully protect and promote human rights in the country.

5.6 Recommendations of the research

Following the findings of this research the research do makes the following recommendations:

- 1) The government should appreciate the civil society and recognize the important role they play instead of viewing them as a threat of exposing their wrong doing as far as human rights are concerned. Civil society organizations and government should identify pragmatic linkage with the view of improving governance towards the promotion of human rights in Kenya. For instance by identifying the sectors that they should partner in. Besides the civil society organizations which operate in the domain of governance and human rights should re-think their strategies and approaches under multiparty politics to avoid being misconstrued as echoing voices of the opposition.
- 2) The civil society organizations should carry out enough feasibility study before setting up projects and programs to enhance human rights to ensure their sustainability. Civil society organizations should involve the participation of the community members in initiating services that promote their human rights for instance providing of relief food, health and education services. This they can do by asking them exactly what is their needs concerning these rights.
- 3) There is need for disseminating information concerning civil society organizations and human rights to the public. This calls for concerted efforts of both the public and the government. The media should be used constructively by these organizations to create awareness about them and their role in promoting human rights.
- 4) These organizations should be properly financed to help prioritize human rights. This comes at a time when human rights in Kenya are held with little regard giving them very

little priority in the name of focusing on development. Development cannot be sustainable without human rights. People should be helped to practice and fulfill all human rights without prioritizing any as all of them affect the enjoyment of the other. This can only be done if these organizations are properly financed to help prioritize human rights.

- 5) Civil society organizations should avoid duplication of efforts and unnecessary competition within themselves. The way to go is identifying of cross fertilization and aim at building synergies to impact positively on human rights.

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APPENDIX I: List of the people interviewed, places and Dates of Interview

1. Respondent 001, Interviewed at Kenya Institute of Development Studies an affiliate college of Laikipia University on 16th March 2016.
2. Respondent 002 and her team of 6 Member chama group interviewed by the researcher at a chama's meeting in a member's house in Tena Estate in Umoja Nairobi on 12th March 2016.
3. Respondent 003 of Transparency International Kenya and his twelve member team Interviewed at a Nairobi Hotel on 12th March 2016.
4. Respondent 004, Interviewed at focused group discussion in Kasarani on 28th April 2016.
5. Respondent 005, Interviewed at focused group discussion in Kasarani on 28th April 2016.
6. Respondent 006. A media professional interviewed at nation media in much 16th 2016.
7. Respondent 007. A student at Kenyatta University interviewed in the same venue on 29th April 2016.
8. Respondent 008, Human rights advocate Interviewed at a law firm office in Nairobi on 31st April 2016.
9. Respondent 009, An Entrepreneur interviewed at his don holm business premises on 28th April 2016.
10. Respondent 010, Interviewed at focused group discussion in kasarani on 28th April 2016.
11. Respondent 011. A media professional interviewed at nation media in much 16th 2016.
12. Respondent 012, Interviewed at focused group discussion in Kasarani on 28th April 2016.
13. Respondent 013, Interviewed at focused group discussion in Kasarani on 28th April 2016.
14. Respondent 014, Interviewed at focused group discussion in Kasarani on 28th April 2016.
15. Respondent 015; Interviewed at focused group discussion in Kasarani on 28th April 2016.
16. Respondent 016; Interviewed at focused group discussion in Kasarani on 28th April 2016.
17. Respondent 017; a member of the National Council of churches interviewed at his church office on 16th March 2016.
18. Respondent 018; a member of the National Council of churches interviewed at his church office 16th march 2016.
19. Respondent 019; Senior Civil servant interviewed at the ministry of foreign affairs 28th April 2016.
20. Respondent 020; interviewed at National Youth Recourse center on 28th April 2016.

21. Respondent 021 a member CRC interviewed on 9th march 2016.
22. Respondent 022 and his three member team interviewed at Empower a Child Premise in Nairobi Jamhuri estate on 28th Febduary 2016.
23. Respondent 023, interviewed at National Youth Recourse center on 22th April 2016.
24. Respondent 024, interviewed at National Youth Recourse center on 22th April 2016.
25. Respondent 025, interviewed at National Youth Recourse center on 22th April 2016.
26. Respondent 026, interviewed at National Youth Recourse center on 22th April 2016.
27. Respondent 027, interviewed at National Youth Recourse center on 22th April 2016.
28. Respondent 028, interviewed at National Youth Recourse center on 22th April 2016.
29. Respondent 029, Interviewed at focused group discussion in Kasarani on 28th April 2016.
30. Respondent 030, Interviewed at focused group discussion in Kasarani on 28th April 2016.
31. Respondent 031, Interviewed at focused group discussion in Kasarani on 28th April 2016.
32. Respondent 032, Interviewed at focused group discussion in Kasarani on 28th April 2016.
33. Respondent 033, Interviewed at focused group discussion in Kasarani on 28th April 2016.
34. Respondent 034, Interviewed at focused group discussion in Kasarani on 28th April 2016.
35. Respondent 035, a human rights advocate interviewed at his office in a Nairobi street on 13th March 2016.
36. Respondent 036, a human rights advocate interviewed at their office in a Nairobi street on 13th March 2016.
37. Respondent 037, a human rights advocate who was interviewed at their office in a Nairobi street on 13th March 2016.
38. Respondent 038, a human rights advocate who was interviewed at their office in a Nairobi street on 13th March 2016.
39. Respondent 039, interviewed in a Nairobi Embasava Sacco Passengers Service Vehicle on 16th April 2016.
40. Respondent 040, An Entrepreneur interviewed at his Nairobi central business district business premises on 28th April 2016.
41. Respondent 041, An Entrepreneur interviewed at his don holm business premises on 28th April 2016.
42. Respondent 042, An Entrepreneur interviewed at his Nairobi Kawangware estate business premises on 28th April 2016.

43. Respondent 043, An Entrepreneur interviewed at his house apartment in Nairobi west land's on 16th April 2016.
44. Respondent 044 Interviewed at Kenya Institute of Development Studies an affiliate college of Laikipia University on 16th March 2016.
45. Respondent 045 Interviewed at RICATI Institute an affiliate college of Moi University in Nairobi on 16th March 2016.
46. Respondent 046; A Civil servant interviewed at the ministry of justice offices on 16th April 2016.
47. Respondent 047; Senior Civil servant interviewed at the ministry of foreign affairs 28th April 2016.
48. Respondent 048; A Civil servant interviewed at the ministry of education 28th April 2016.
49. Respondent 049; A media professional interviewed at Citizen Television Station Nairobi in Mach 16th 2016.
50. Respondent 050; Interviewed at focused group discussion in Kasarani on 28th April 2016.
51. Respondent 051; Interviewed in an Umoinner Sacco Public Service Vehicle on 18th April 2016.

APPENDIX II: COMMUNITY QUESTIONNAIRE

Public perception survey on

The role of Transparency International and other Civil Society Organization in enhancing human rights in Kenya

Questionnaires to be administered to selected ordinary Nairobi respondents, Key informants and focused group Discussions

Questionnaires identification Number.....

Interviewers Name.....

Interviewers ID Number.....

Date of interview

Place of interview.....

Introduction:

A University of Nairobi Master of Art in human rights Student is conducting a perception Survey on the role of Transparency International and the civil society organizations in promoting and protecting Human rights in Kenya through governance. The objective of this is to get your view on the effectiveness of the civil society organization in the protecting and promoting Human rights in Kenya. Your sincere response will assist in achieving the objective of the study. All responses are confidential and no single person will be mentioned. All information will be aggregated and processed to get general perception of the public.

A) Basic information

Name of respondents (Optional)

A.1 Location

Where do you live?

County

Sub County /District

Division

Location

A.2 Age

How old are you (Not necessary real but give an average)

Please tick

18 -25

26 -35

36-45

46 -55

Above 55

A.3 Gender of respondent

(Please tick)

Male

Female

A.4 Occupation

What do you do for a living?

(Please tick)

Business person

Hawker

Other

Civil servant

Professional (For example retailer/ carpentry)

Market vendor

NGO/CSO worker

Transporter

Construction worker

Media person

Student

Clergy

Politician

A.5 Highest Formal Education

What is the highest level of formal Education you have attained?

(Please tick)

Never been to school

Primary Education

Ordinary level

Advanced level

Post-secondary education (i.e. Technical Institutions)

Tertiary Education

B.1 Civil society membership

a) Are you a civil society worker/ member?

Yes No

B.2 On human rights

a) Do you understand what is meant by Human rights? (If yes answer B.2 (b) and (c)).

Yes

No

b) Name two human rights you know?

c) Are human rights provided for in Kenya?

Yes (*Very well*)

yes (*abit*)

NO

C.0 On understanding Transparency International, civil society organizations and their effectiveness in enhancing human rights in Kenya through governance

C.1 a) Do you know Transparency International? (Please tick one)

Yes

No

b) Do you know the meaning of civil society? (If yes answer C.1 (c))

Yes

No

c) Name at least one civil society organization close to your area or the one you know?

Can name

cannot name any

C.2 Are the following actions of Transparency International, Catholic relief Services, Empower a child Kenya or any other civil society organizations in your area effective in promoting human rights?

i) (a) Monitoring accountability of government activities with regard to human rights?

Yes

No

Not Sure

(b) Ensuring government transparency in its undertakings?

Yes

No

Not Sure

ii) (a) Engaging in influencing government policies? (With regard to human rights)?

Yes

No

Not Sure

(b) Advocating for social change towards the protection and promotion of human rights?

Yes

No

Not Sure

iii) (a) Demanding for efficient public services?

Yes

No

Not Sure

(b) Engaging in activities that offer Social and general services that Promote Human Rights?

Yes

No

Not Sure

iv) Watching over the government to ensure the government honors the constitution and the international treaties?

Yes

No

Not Sure

v) Supporting of programs that promote local economic development, poverty alleviation and other development activities?

Yes

No

Not Sure

vi) What are some of the challenges that hinder Transparency International and the civil society organizations from being effective in promoting and protecting human rights in Kenya?

APPENDIX III

INTERVIEW GUIDE FOR KEY INFORMANTS

ORIWA ONYANGO ALLAN

PUBLIC SURVEY ON

**THE ROLE OF TRANSPARENCY INTERNATIONAL, CATHOLIC RELIEF
SERVICE, EMPOWER A CHILD KENYA AND OTHER CIVIL SOCIETY
ORGANIZATIONS IN PROMOTING AND PROTECTING HUMAN RIGHTS IN
KENYA**

**TO BE ADMINISTERED TO KEY INFORMANTS ON THE ROLE TRANSPARENCY
INTERNATIONAL AND OTHER CIVIL SOCIETY ORGANIZATION HAVE PLAYED IN
PROMOTING HUMAN RIGHTS IN KENYA**

Interviewer's Name.....

Interviewer's ID Number.....

Date of interview.....

Introduction:

A University of Nairobi Master of Art in human rights Student is conducting a survey on the role Transparency International and Civil Society Organizations have played in promoting Human Rights in Kenya. The objective of this is to get your view on how effective these organizations have been in promoting and protecting Human Rights in Kenya. Your sincere response will help in achieving this objective. All responses are confidential and no single person will be mentioned. First I want to begin by asking you some basic information.

A) Basic Information

- 1) Respondents Name (optional).....
- Gender
- Age
- Profession
- Title

B) ON UNDERSTANDING, PROTECTION AND PROMOTION OF HUMAN RIGHTS

- 2a) What are human rights?
- b) What do you understand by the promotion and protection of human rights?

C) ON UNDERSTANDING OF TRANSPARENCY INTERNATIONAL AND CIVIL SOCIETY ORGANIZATIONS

- 3. (i) What are civil society organizations?
- (ii) What do you know of Transparency International?

D) ON THE EFFECTIVENESS OF TRANSPARENCY INTERNATIONAL AND CIVIL SOCIETY ORGANIZATIONS IN THE PROTECTION AND PROMOTION OF HUMAN RIGHTS IN KENYA

4) (a) In your opinion, are Transparency International and Civil Society Organizations effective in promoting and protecting Human Rights in Kenya

YES NO NOT SURE

b) What do you think about the effectiveness of these organizations in protecting and promoting human rights in Kenya?

c) How can you rate Transparency International and civil society organizations effectiveness in promoting Human Rights in Kenya in doing the following?

- (i) Monitoring government accountability
- (ii) Ensuring government transparency in offering services
- (iii) Influencing government policies
- (iv) Advocating for social change
- (v) Delivering of social and relief services
- (vi) Watching over the government to ensure it honors the constitution and international human rights treaties.
- (vii) Alleviating poverty and supporting economic development

5) (a). Are there other ways in which these organizational are effective in promoting and protecting human rights?

Yes No Not Sure

(b).If yes which ones

E) ON THE CHALLENGES LOWERING THE EFFECTIVENESS OF TRANSPARENCY INTERNATIONAL, CATHOLIC RELIEF SERVICES, EMPOWER A CHILD KENYA AND OTHER CIVIL SOCIETY ORGANIZATIONS IN PROMOTING TO HUMAN RIGHTS IN KENYA

I) Do following challenges lower the effectiveness of Transparency International and the civil society organizations in promoting human rights in Kenya?

(a) The challenge of implementing the donors' interest rather than addressing the people's needs?

Yes No Not Sure

(b) The challenge of control by government?

Yes No Not Sure

(c) The challenge of ensuring cohesion and alliance with other civil society organizations? No Yes Not Sure

(d) The problem of linking small locale based projects with a wider region challenge their performance or recognition?

Yes No Not Sure

F)

a). Do these organizations face any other challenges that lower their effectiveness in in protecting and promoting human rights?

YES NO

b) If yes which ones?

c) What are the causes of the above challenges and how can they be solved in order to enhance the effectiveness of these organizations in promoting and protecting human rights?