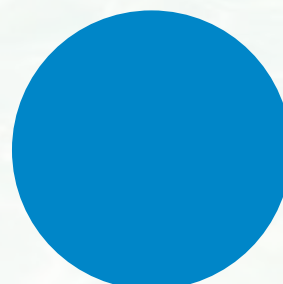
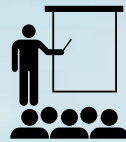


**SUMMARY REPORT OF  
INDEPENDENT HUMAN RIGHTS  
MECHANISM (SIKIKI 2)**





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This report is produced to satisfy the requirements of an Operational Grievance Mechanism (OGM). All the content herein, including images, and reports, are accurate to the best of the Sikika 2 teams knowledge and as captured during the interactions with the various parties. Any inaccuracies should be brought to the attention of the Head of Independent Human Rights Mechanism for consideration. The report is not intended for commercial use, and no commercial rights or financial/otherwise royalties can accrue from mention/image in the report.



## CHAPTER 1

# EXECUTIVE SUMMARY



*The report focuses on providing information on the results, outcomes and trends of the cases reported to the IHRM the bulk of which relate to the alleged severe human rights impacts by Kakuzi guards in early September 2014*

This summary report provides an account of the activities of the Independent Human Rights Mechanism (IHRM) of Kakuzi's Operational Grievance Mechanism (OGM) commonly locally known as SIKIKA 2 since its inception in February 2022 hitherto.

The report focuses on providing information on the results, outcomes and trends of the cases reported to the IHRM the bulk of which relate to the alleged human rights impacts by Kakuzi guards in early September 2014. It also aims to inform the public and stakeholder groups of the existence of an Independent Human Rights

Mechanism, the role it plays and its accessibility. In a nutshell, the OGM provides a systematic and transparent process for receiving, investigating and addressing company related grievances from affected workers, neighbouring communities, farmers and other stakeholders. Essentially, the overall objective of SIKIKA is to improve Kakuzi's existing processes to respect human rights, to provide access to remedy and generally to fortify relationships with its stakeholders. The IHRM forms Tier 2 of SIKIKA framework, hence the acronym SIKIKA 2, which is managed and implemented by an independent team.

The Kakuzi's OGM has been developed in line with the UN Guiding Principles on Business and Human Rights (UNGPs)<sup>1</sup>, as well as the efforts of the Kenyan Government to domesticate the UNGPs through the development of the Kenya National Action Plan on Business and Human Rights<sup>2</sup>. The UNGPs' effectiveness criteria for non-judicial mechanisms (UNGP 31) have formed the foundation for the design, development and initial implementation of the OGM

<sup>1</sup> The UNGPs are the most authoritative international standard for human rights and business. For more information about the UNGPs, see: <https://www.business-humanrights.org/en/big-issues/un-guiding-principles-on-business-human-rights/>

<sup>2</sup> Kenya has developed a National Action Plan (NAP) on Business and Human Rights. For more information, see <https://nap.knchr.org>.



## INTRODUCTION



*The IHRM came into being on 30th November 2021, when the Head of the Mechanism and the Lead Investigator were both formally inducted by Kakuzi SIKIKA.*

SIKIKA 2 is the second Tier of the Kakuzi PLC's Operational Grievance Mechanism (OGM), charged with the responsibility and mandate of undertaking independent investigations into 'serious impact on human rights that have been caused by, contributed to, or directly linked with Kakuzi and/or its (sub) contractors<sup>3</sup>. Tier 2 is a non-judicial Independent Human Rights Mechanism (IHRM) with its own procedures, supports and safe guards to review complaints about serious impacts and provide remedy to victims of such impacts. Tier 1 of the SIKIKA is an

internal mechanism meant to address operational impacts, such as health and safety, living and working conditions and other grievances that are handled and resolved at the company level.

The IHRM came into being on 30th November 2021, when the Head of the Mechanism and the Lead Investigator were both formally inducted by Kakuzi SIKIKA team led by the Managing Director. In January 2022 t the Head of the IHRM was officially appointed to steer the mechanism and strategically engage with resourceful persons in

readiness for their respective tasks.

Currently, SKIKA 2 team comprises of the Head of IHRM, Lead Investigator, three Investigators (Fact-Finders), ICT Specialist, three Legal Assistants and a Receptionist.

During induction, all members of this team Signed a Statement of Ethics and Confidentiality Agreement in accordance with the Human Rights Code of Conduct for OGMs.

<sup>3</sup> The OGM Manual defines Severe Human Rights impact as those involving personal injury or because their scale, scope and them being irremediable have caused harm to the complainant (Pg. 9 & 10)



## IHRM Mandate

- a) To facilitate access to remedy for bona fide grievances about severe human rights impacts that are caused by, contributed to, or are directly linked with Kakuzi's operations and business relationships
- b) To ensure that all safeguards and relevant supports will be provided to any complainants of severe human rights impacts that have been caused by, contributed to, or are directly linked with Kakuzi and/or its (sub)contractors.
- c) To collect and compile the information and evidence available related to grievances regarding allegations of severe human rights impacts in an impartial, thorough and rights-respecting manner.
- d) To provide recommendations to Kakuzi and the Independent Human Rights Advisory Committee (IHRAC) for unresolved complaints and/or grievance prevention.
- e) To independently investigate allegations of retaliation as a result of complaints lodged through either Tier 1 or Tier 2 of SIKIKI.



## SIKIKI 2 Offices: Location, Occupation & Set Up

The offices are located at the Horizon Business Park building in the outskirts of Kenol trading centre, and comprise of four spaces, one of which was sub-divided into three interview rooms in accordance with UN Guidelines on Fact-Finding. The stand – alone building is along the Thika-Nyeri highway, a short distance from the Murang'a Sub-County administration offices. The building was chosen because of its proximity to the community where most complainants reside. Additionally,

being a relatively new building, most of the office spaces were un-occupied, thus, the environment is quiet, conducive and enhances confidentiality due to the low human traffic/commercial activity near and within the compound.

The Fact-Finding team occupied the offices on 24th February 2022 and progressively embarked on creating a conducive work space for the TIER 2 team and the immediate users. This preparation included the partitioning of rooms, installation of proper lighting and fixtures, purchase of furniture, provision of safe drinking water and allocation of offices in line with the needs of users.



## Corner-stone of the OGM Process: UNGPs Effectiveness Criteria

In order to determine the effectiveness of an OGM, the UNGPs sets out the criteria that is required to measure the level of effectiveness. The design and processes of Kakuzi's OGM are aligned to these criteria and an Independent Monitor has been engaged to assess the process as per the criteria below:

Effectiveness Criteria	Description (developed by the Guiding Principles)
Legitimate	Enabling trust from the stakeholder groups for whose use they are intended, and being accountable for the fair conduct of grievance processes
Accessible	Being known to all stakeholder groups for whose use they are intended, and providing adequate assistance for those who may face particular barriers to access
Predictable	Providing a clear and known procedure with an indicative time frame for each stage, and clarity on the types of process and outcome available and means of monitoring implementation
Equitable	Seeking to ensure that aggrieved parties have reasonable access to sources of information, advice and expertise necessary to engage in a grievance process on fair, informed and respectful terms
Transparent	Keeping parties to a grievance informed about its progress, and providing sufficient information about the mechanism's performance to build confidence in its effectiveness and meet any public interest at stake
Rights-Compatible	Ensuring that outcomes and remedies accord with internationally recognized human rights
Source of Continuous Learning	Drawing on relevant measure to identify lessons for improving the mechanism and preventing future grievances and harm
Based on Engagement and Dialogue	Consulting the stakeholder groups for whose use they are intended on their design and performance, and focusing on dialogue as the means to address and resolve grievances

In this first public report, two thematic areas namely Accessibility and Rights Compatibility will be outlined and discussed. The two themes are centred around reducing barriers associated with accessing remedy and the integration of relevant supports and safeguards. Other areas of the effectiveness criteria are indicated across the report.

### Accessibility

The IHRM is accessible to intended users including community members that have raised complaints against Kakuzi. The IHRM has also publicized its existence through holding community barazas in conjunction with chiefs and sub - chiefs, disseminating flyers with information on the mechanism through local administration and village elders to name a few.

The channels of accessibility are as shown here below. The offices are open Monday to Friday from 8:00 am to 5:00 pm



## Accessibility procedure: Visuals charts

**SIKIKA**

Independent Human Rights Mechanism

**Access Points for Communities, Workers and Other Stakeholders**

	<b>Legal-Administrator to the Independent Human Rights Mechanism</b> <i>0740888333</i>
	<b>Head of the Independent Human Rights Mechanism</b>
	<b>Kakuzi Clinical Service Team</b>
	<b>Email</b> <i>complaints@sikikatwo.co.ke</i>
	<b>Letters</b> <i>P.O Box 6206, Thika 01000</i> <i>Attention to: Head of Independent Human Rights Mechanism</i>

Figure 2: Access point in Kikuyu Language

**SIKIKA**

Independent Human Rights Mechanism

**Njira cia gukinyia ndumiriri kuri aikari, aruti a wira na aria makonai-inii na kambuni**

	<b>Wakiri wa Mutaratara Wirugamiriire wa Ihooto Ciandu</b> <i>0740888333</i>
	<b>Munene wa Mutaratara Wirugamiriire wa Ihooto Ciandu</b>
	<b>Afisa a thibitari cia Kakuzi</b>
	<b>Email</b> <i>complaints@sikikatwo.co.ke</i>
	<b>Marua</b> <i>S.L.P. 6206, Thika 01000</i> <i>Andika kuri: Munene wa Mutaratara Wirugamiriire wa Ihooto Ciandu</i>

Figure 1: Access point in Kikuyu Language






# Accessibility procedure: Visuals charts

## SIKIKA Mfumo Huru wa Haki za Kibinadamu

SIKIKA ina sehemu mbili, moja inayosiimamiwa na Kakuzi, na nyingine inayosiimamiwa na watu huru. Mfumo wa kutafuta haki unosiimamiwa na watu huru na wa kutumia pekee kwa malalamiko kuhusu ukukwaji mkubwa wa haki za kibinadamu ambao unahusisha majaraha ambayo haina Kakuzi Ilyabababoko, au kachungu kutokwa kwa majaraha hayo, au inahusishwa moja kwa moja na majaraha hayo kapita shughuli zake au uhiano wake wa kibishara.


**Hatua 1 – Kupokelewa kwa Malalamiko**

Malalamiko yako yanaweka kuwaakikwa kwa njia ya siri kwa njia kwa njia ya mdomo au barua. Unaweza kupiga simu, kutuma barua au kufika katika ofisi za Mfumo Huru wa Haki za Kibinadamu.




**Hatua 2 – Kusajiliwa na Kutibitishwa kwa Malalamiko Yamepokelewa**

Ndani ya siku 3, ofisi katika Mfumo Huru wa Haki za Kibinadamu atasajili malalamiko yako na kujadiliana nawe kujajirwa upatoi usaidizi wa haraka na/au ufupi. Utapokea nyakata ya formu ya kuonyesha mazombi yako yamesajiliwa. Ii uwe na uhakika kwamba malalamiko yako yanashughuliwa.




**Hatua 3 – Kutengewa Atakayeshughulikia Malalamiko na Mahojiano**

Katika muda usiokodi siku 10, mchunguzi huru atakuufika kwa ikiao cha mahojiano. Utambwa kuseka kwa kina nini hasa kilikuendelea. Unataja kubwa usahidi wowote ambao huandaa unao, na pia uko huru kuandikwa na mtu unayemamini kwesha ikiao hicho.




**Hatua 4 – Uchunguzi Huru**

Wachunguzi huru watachunguza kwa kina usahidi utakokuwa umewasilishwa, watatambua eno la tukio na pia kutazunguza maelezo na habari nyingine muhimu. Wanaweza pia kuwahoji mshahidi na wafanyakazi wa Kakuzi. Wachunguzi hao huru wataweka taarifa zote zikiwa siri na kamwe hawatafichua habari na maelezo kuhusu.




**Hatua 5 –Uamuzi Huru**

Baada ya kusoma ipoti ya wachunguzi, mkuu wa Mfumo Huru wa Haki za Kibinadamu atamua iwapo kuna ushahidi wa kutisha wa kuanga mkono malalamiko yaliyotolewa au la. Utaikwa kwa mkutano, au kutakuwa na mtu atakayekutembelea, kukuzeza uamuzi uliofika na kujadiliana nawe hatua za kurekebisha zilizoendelewa, iwapo zitakuwepo.




**Hatua 6 – Utatuzi**

Iwapo utakubaliana na uamuzi wa hatua zilizoendelewa kurekebisha hali, hii itaibitishwa kupita makubaliano ya utatuzi na/au barua. Usipokubaliana na yaliyopendekezwa, unaweza kuachana na malalamiko yako, uandike barua rasmi ya kukata rufaa kwa Mfumo Huru wa Rufaa, au uwasilishwe malalamiko yako kwanguko.



**Hatua 7 – Kufungwa kwa Malalamiko**

Baada ya hatua zilizo kubaliana kukamilishwa, shughuli wa malalamiko itafungwa. Kwa kawaida malalamiko yako yanafaa kutatufwa ndani ya siku 65, isipokuwa tu wakati uchunguzi umechukua muda mrefu kuliko kawaida.




Nawepo una malalamiko kuhusu ukukwaji mkubwa wa haki za kibinadamu, tafadhali tembelea ofisi yetu, au utupigie simu kupitia 0740888333 au ututumie barua pepe kupitia [complaints@sikikatwo.co.ke](mailto:complaints@sikikatwo.co.ke) au uandike barua kwa [Head of Independent Human Rights Mechanism, Sanduku la Posta 6206, Thika 01000](mailto:Head of Independent Human Rights Mechanism, Sanduku la Posta 6206, Thika 01000)

## SIKIKA Independent Human Rights Mechanism

SIKIKA consists of two parts, one managed by Kakuzi, another managed independently. The independently-managed mechanism is only for complaints about severe human rights impacts involving personal injuries that Kakuzi may have caused, contributed to, or is directly linked to through its operations or business relationships.


**Step 1 – Receive**

Your verbal or written complaint can be submitted confidentially via phone, letter or the office of the Independent Human Rights Mechanism.




**Step 2 – Register and Acknowledge**

Within 3 days, someone from the Independent Human Rights Mechanism will register your complaint and discuss if you need urgent support and/or protection. You will receive an acknowledgement slip of the grievance registration form so that you know your complaint is being dealt with.




**Step 3 – Assign and Interview**

Within 10 days, an independent investigator will invite you to an interview meeting. You will be asked to make a statement to explain what exactly has happened to you. You should bring any evidence you may have, and you are welcome to bring a trusted person.




**Step 4 – Independent Investigation**

The independent investigators will verify all information and evidence you submitted, visit the relevant area and collect any other useful information. They may also interview witnesses and Kakuzi personnel. The independent investigators will keep all your information confidential and will never share personal information.




**Step 5 – Independent Decision**

After reviewing the investigation report, the Head of the Independent Human Rights Mechanism will decide whether there is sufficient evidence to support the complaint or not. You will be invited for a meeting, or someone will visit you, to explain the decision and discuss any proposed remedial actions, where applicable.




**Step 6 – Resolve**

If you agree with the proposed resolution, it will be confirmed in a settlement agreement and/or letter. If you do not agree, you can either leave the matter, write a formal appeal to the Independent Appeals Expert, or take the complaint elsewhere.



**Step 7 – Closure**

After the agreed actions have been completed, the complaint process will be closed. Unless the investigation process takes longer, your complaint should normally be resolved within 65 days.




If you have a complaint about a severe human rights impact, please visit our office, call us on 0740888333 or email us at [complaints@sikikatwo.co.ke](mailto:complaints@sikikatwo.co.ke) or write a letter to the [Head of Independent Human Rights Mechanism, PO Box 6206, Thika 01000](mailto:Head of Independent Human Rights Mechanism, PO Box 6206, Thika 01000)

## SIKIKA Mütaratara Wirügamirire wa Ihooto Ciandü

SIKIKA ina hoonge igiri, rumwe rurügamiriro ni Kakuzi, na rungi rukerugamirira. Rufa rurügamirire ni rwa mateta manene ma Ihooto cia mündü rüa Kakuzi yumite kana igatüma citike kana igakarano namo hari müntire wa wirü kana maandüni na mbacara yao.


**Ikinya 1 – Wamükiri**

Mateta maku na mögambo kana mandike no matirwo na thimü kana marüa kana matarwo wobü-üri ya Mütaratara Wirügamirire wa Ihooto Ciandü. Maandü macio megükorwo me ma hitto ya müntarwü.




**Ikinya 2 – kwandikthio na kümenyithio mateta maku ni makinyu**

Matuku matatu maghira mündü wa kwa Mütaratara Wirügamirire wa Ihooto Ciandü rikwandikthio mateta maku na ameyu kana wirü bata wa nahinyu wa üshio nahanya igiri. Ni üküwo itathi rü küyüna mateta riguo ümeny mateta maku ni mararwo.




**Ikinya 3 – Kwandikthio na küörü ciära**

Mitwenya 10 banatha müntarwü wirügamirire ni agaptha wobü mwarüthi. Ni üküoro wandikthio rüthi wakirwo riguo ükorwo na mateta. No üsho üra üra wihaguo, no na öke na mündü wihokete akämire.




**Ikinya 4 – Ütüria Wirügamirire**

Athuthura matekwenda mwena üyü kana üürü rimagathuthura üra waku na mathü küria kügetweto mongarie na mathüthira üra maküria. Ningi no matüeno üra na andü a Kakuzi mahüri. Athuthura aya matüinghena mateto öaku kana cia üra waku kana manene maandü megü-üwe ta rüwa. Kibarüni na mangü ta macio.




**Ikinya 5 – Itua Rirügamirire**

Thuthu wa üthika güthra na kwandikwo münene wa Mütaratara Wirügamirire wa Ihooto Ciandü nigatwa kana kwira üra mögamu wa mateta maku. Nigatwo müsamano kana Gücorwo riguo wihwo üra üri na kana ni hafi üra rü üsho na khona gükünyirwo kana üra.




**Ikinya 6 – Güthua**

Wirükana na wendekthia wa itua ni ügekira kitore küa üra kana marüa. Üngaga kügäria no ügäre na ühoru öolo, kana wandikthio rüwa rüa gücüora cira rüko kwü Mügü wa Cira Wäko Wirügamirire, kana ütwere mateta maku küngü.



**Ikinya 7 – Kühingä**

Marü mekänirio muhinga mütaratara wa mateta no ühingwo. Mateta maku magirüwo makirwo makirüthia müthia matuku 65 maghira.



Üngükorwo na mateta ma Ihooto cia mündü, üka wobü-üri itü, hüära thimü 0740888333 kana ütüümire email [complaints@sikikatwo.co.ke](mailto:complaints@sikikatwo.co.ke) kana üandiki barüa küri [Head of Independent Human Rights Mechanism, PO Box 6206, Thika 01000](mailto:Head of Independent Human Rights Mechanism, PO Box 6206, Thika 01000)

Figure 3: Accessibility Procedure in Kiswahili, English and Kikuyu



These visual procedures have been produced and distributed in the English, Kiswahili and Kikuyu language to aid the community in gaining a deeper understanding of the process. Providing a clear, simple and known procedure in a user-friendly guide has served to enhance predictability of the process and outcomes available.

During community engagements, the posters were placed at select locations. The IHRM offices have these posters on display for complainants to read through as they are attended to. The main access point used was the physical one where a majority of the community members physically visited the office. A number of community members have called to seek information on whether they can still register their complaints. SIKIKI 2 has had a number of physically

challenged complainants visiting the offices. Special arrangements have been made to serve such complainants from the ground floor without having them climb the stairs. Elderly persons have been provided with transport. Finally, all the complainants are provided with refreshment once they visit the office either to give their statements, or to get their decisions.

## Rights Compatibility

The IHRM process adopts a Human Rights based approach (HRBA) that is normatively based on international, regional and national human rights standards. This approach emphasizes on the need to fulfil human rights by identifying those left behind, their entitlements and capacity to claim their rights as right-holders' vis- a vis the obligations and capacity of duty bearers to meet

*The IHRM process adopts a Human Rights based approach (HRBA) that is normatively based on international, regional and national human rights standards.*

their obligations. The principles of HRBA are participation; accountability; non – discrimination; transparency; human dignity; equality and respect for the rule of law.

In this regard, the IHRM has integrated safeguards and supports that are provided to protect the rights of complainants, witnesses and vulnerable groups such as women, children and other individuals who may be more vulnerable to adverse impacts on their rights. The objective of integrating the relevant safeguards is to provide adequate assistance to those who may face particular barriers to access in order to ensure that the outcomes and remedies of the process are in accordance with internationally recognised human rights. The table below outlines the supports and safeguards that are available as and when required:



**Table 10.1 Overview of Potential Supports and Safeguards Available via SIKIKA (Tier 1 and 2)**

Categories	Specific Measures
General support for accessibility	Civil society organization(s) and government agencies that enable access to SIKIKA (as opposed to being an access point). This includes organisations that offer support to children and persons with disabilities
Support for complainants	Independent legal representation (pro bono lawyers and legal aid services)
	Medical expertise
	Psychosocial support/counselling
	Transportation or logistical support
	Victim protection services
	Use of experts in interviewing children
	Interpreters (including sign language where needed)
General safeguards	Risk assessments
	Confidentiality
	Use of trusted representatives and intermediaries including pro bono lawyers
	Prudence in the fact-finding process
	Protection of information
	Rapid response mechanism
Additional safeguards for women, children and vulnerable individuals	Gender sensitivity throughout SIKIKA
	Additional safeguards for grievances with allegations of violence against women
	Safeguards for interviewing women, children, and victims of trauma



## CHAPTER 2

# IHRM: TWO-IN-ONE PROCESS

The initial stage of work was a lengthy and insightful engagement by the team on the best way going forward conscious of the limited contractual time frame of the Fact Finding team, but more importantly, conforming with the best practice of approach to investigating allegations of human rights violations. Guided by the provisions of SIKIKA Guidance Manual (Feb. 2022), community/stakeholder engagements and sensitization were prioritized before investigators could reach out to the respective complainants set to be interviewed. That approach was meant to forestall possible mis-apprehensions and/or mis-conceptions of the mechanism's intent of purpose, either by the concerned communities, or human rights activists. Therefore, the ad hoc investigation was to be preceded by those engagements at the initial stage of SIKIKA 2 operations' take off and eventually blend into one process.

The effect of not separating the Fact-Finding with Stakeholders engagement was three - fold:

- a) The investigations proper were put on hold for some time until several meetings were held to sensitize the affected communities and stakeholders involved.
- b) The process of ad hoc investigation was

mutually co-joined with the process of registration and processing and adjudication and both would thenceforth run concurrently.

- c) The initiatives by both processes would, therefore, inform and reinforce each other as the pace of SIKIKA 2 gained track along the way.

It was no longer viable to separate the two distinct processes of the IHRM to run consecutively as originally contemplated, as long as team members implemented their tasks with professional integrity under the coordination of the Head of IHRM and the Lead Investigator, remaining faithful to the Statement of Ethics and Values signed by each member of the team.



(One of the areas of the Kakuzi farm photographed during the site visit of the IHRM team )

*The IHRM team undertook to visit the sites mentioned by complainants during the 2014 demonstrations.*

## STAKEHOLDERS ENGAGEMENT

The design of SIKIKA was very much a product of a robust stakeholder engagement process. By involving immediate users to submit their choices as relates to access points, modes of dispute resolution and accessibility of the mechanism, it served to create legitimacy. Upon the establishment of TIER 2, the team continued to incorporate mutual dialogue and collaborative approaches in sensitization about the IHRM, addressing and resolving grievances.

At the local level, naming the OGM 'SIKIKA' which means to be heard, was also a way of communicating in local language that the core business for the system is to hear and understand their issues. Granting the OGM a local name enhanced local ownership of the mechanism.



## Community Engagements: Form & Impact

As a first step, the Head of IHRM and the Lead Investigator made courtesy call visits to the Murang'a County Commissioner and Murang'a South and Ithanga Sub- County Deputy County Commissioners. The visits were intended to sensitize them on the mandate of the IHRM and to seek their support in mobilizing Chiefs/ Assistant Chiefs to organize community engagement meetings within their respective jurisdiction.

On 18th March 2022, the Head of IHRM and the Lead Investigator held a half-day sensitization engagement on the IHRM with 13 Chiefs and 23 Assistant Chiefs drawn from locations neighbouring Kakuzi PLC and whose communities were affected by the alleged human rights impacts (see Pic 1). The Chiefs and their Assistants were sensitized on the role of the OGM, the procedure used and the nature of cases handled by the OGM. The Chiefs and their Assistants were then requested to mobilize their communities' members for public sensitization engagements. The first Legal Assistant joined the IHRM same day.

On 23rd March 2022, the first community engagement meeting was held Gathungururu Location and the last was held at Sunset-Kakuzi on 6th May 2022. A total of 607 members of the community were sensitized



## Engagement meeting with Chiefs at the IHRM offices on 18th March 2022.

(Table 1: Community engagement) Community Attendees

Community	Attendees
Kimorori	108
Huho-ini	42
Ithanga	33
Saba Saba	65
Wempa	97
Kamahuha	33
Kangangu	145
Kirimiri	22
Sunset Kakuzi	62





Most of the meetings were attended by entire SIKIKI 2 team (Head of IHRM, Lead Investigator, Investigators, IT/data specialist and Legal Assistants), to have an opportunity to interact with the local community, and get the feel of issues on the ground before engagement with would-be complainants later. The engagements were in form of open air 'barazas' organized by Area Chiefs and Assistant Chiefs and in some venues, local political leadership attended.

The Head of SIKIKI 2 and her team explained to every audience the following issues:

- The mandate of the OGM.
- The role of the team members.
- The nature of cases that are handled by the OGM and the nature of the cases that the OGM will not handle.
- The procedures used at the OGM which was also explained on the materials distributed.
- The location of offices of the OGM and the working hours.

The team further explained that only complaints supported by credible evidence would be prioritized for fact-finding and discouraged making of unfounded complaints when meeting with the Fact-Finding Team. While emphasis was laid on the 2014 allegations of severe human rights impacts as the starting point of the IHRM investigations, other cases involving human rights violations were welcomed. The community members affected were encouraged to respond

when called upon show up.

It was also made quite clear that the IHRM investigations would not be dealing with complaints involving cases before court, cases under investigation by police or other law enforcement agencies, land cases, or complaints any previous international litigation. A question and answer session was provided where issues were clarified and questions answered.

In order to enhance accessibility, the IHRM supported attendees by

- Liaising with Chiefs to set up meetings at the nearest location comfortable with the community where they incurred no cost for attendance. The Chiefs fixed the date and the venue with the community members.
- Choosing open air areas that were well ventilated in respect with the COVID 19 protocols set out by the Ministry of Health
- Issuing favourable timings for the meeting after the community has already attended to their usual businesses for the day. These meetings were usually held between 3.00 p.m and 4.00p.m and which were chosen by the community members.





## State and Non-State Actors engagement

On 12th May 2022, the Head of the IHRM wrote to various state and non-state bodies deemed to be essential in facilitating the aim and purpose of the mechanism, especially in safeguarding and protecting the rights of individuals. The bodies were invited to participate in the mechanism's on-going process by either offering pro bono services to the indigent members of the local communities involved, or specialised support and protection to deserving cases when called upon for immediate action. These are:

- (i) CLEAR Kenya;
- (ii) Witness Protection Agency- Kenya;
- (iii) Kenya Human Rights Commission;

- (iv) National Gender and Equality Commission;
- (v) Ndula Resource Centre;
- (vi) Kenya National Commission on Human Rights;
- (vii) Kituo Cha Sheria;
- (viii) Kelin Nairobi Office;
- (ix) Katiba Institute;
- (x) The Kenyan Section of the International Commission of Jurists (ICJ Kenya);
- (xi) Federation of Women Lawyers; Cradle – The Children Foundation;
- (xii) Public Law Institute; National Legal Aid Service;
- (xiii) Law Society of Kenya, Mount Kenya Branch; and
- (xiv) Centre for Human Rights Education and Awareness.





## CHAPTER 3

# THE SPECIALIZED AD HOC PROCESS

The investigation's overall objective was to execute the provisions of the Mandate and investigate the initial cases registered at Kakuzi in 2021 and transferred to SIKIKA 2 in February 2022.

## 3.2. Methodology

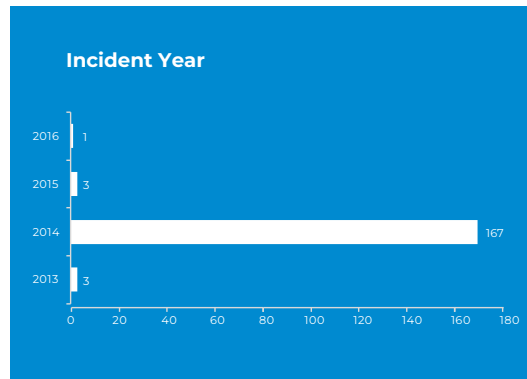
The Specialized ad hoc investigation was guided by the general principles of investigation, though conscious that investigating grievances or complaints of human rights impacts operational of grievances is not a criminal justice process per se, and well aware of the exclusions and limitations tied to the process.<sup>4</sup>

Consequently, each referral complaint was given a serial number specific to the Tier 2 Grievance Register and a complaint/case file. A Standard Operating Procedure was developed to that effect.

## Scope: Referred Complaints from Tier 1

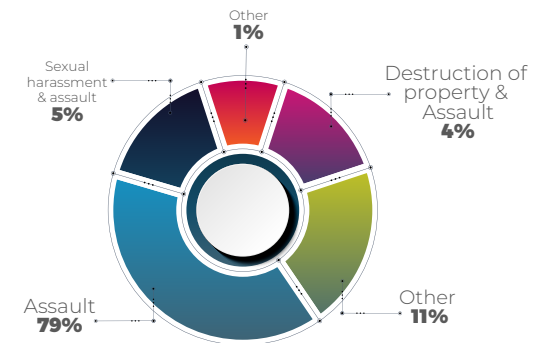
The initial investigations were initially framed on some 170 complaints registered by Tier 1 of SIKIKA,

which were considered to be in the category of severe human rights impacts. The total case load were 174 cases. The entire case load breakdown handed over to Tier 2 spanned three years as follows.



In terms of gender, the complainants comprise of 70 males and 104 females, mostly from Mangoto/Kangangu communities neighbouring Kakuzi PLC property. The nature of the grievances is as shown below;

## Nature of Grievance



## Process Approach

- a. Interviewing Victims, Witnesses, Sources & other Cooperating Persons

This has been the most critical phase of the investigation process during which the investigator aims not only to obtain evidence from different sources (victim, witnesses, neighbours, others) to corroborate evidence collected from other sources, but also to take necessary measures to prevent risk or harm to the interviewees. From the outset, the IHRM team has been well aware that

<sup>4</sup> Standard Operating Procedure on complaint, case file and exhibit numbering, case file compilation & investigation and reporting for tier 2 complaints dated 24th March 2022 and approved by Head of IHRM on 25th March 2022





the process they were to embark on would be just as good as the outcome thereof. With that in mind, face to face interviews with complainants and witnesses have been conducted in strict compliance with the SIKIKA's procedural Mutual Confidentiality and Informed Consent<sup>5</sup>. The complainants would be informed of the working of the OGM and the process to be followed in their cases. The complainants would be informed in the language that they understood through a face-to-face dialogue or through an interpreter. The complainants would then sign a Mutual Confidentiality Agreement and Informed Consent form after the said has been explained to them. The following critical areas were enforced:

- Safety and security – the complainants and their witnesses were interviewed in secure and private places in order to guarantee their security.
- Gender/Vulnerability – interviewees were diverse (men, women, children, youth, elderly, rural, urban) and some of them required a more considered approach (e.g. people with disabilities, elderly, etc. The OGM is made up of both male and female members who were able to handle the different categories of complainants. Persons with disabilities were provided with secure and accessible area for interviewing.

- Language – the languages interviewee would speak guided whether interpretation was required or whether a member of the fact-finding team from that community was required.
- Confidentiality – much of the information gathered through interviews is confidential and is not shared with those who are not involved directly in the investigation. Confidentiality applies to both the identity of the interviewee and the information (extent of their evidence) they provide. The investigator obtained the informed consent of the interviewee to use and share the information. The Interviewees also signed an Informed Consent form upon explanation.

The interview would be formalised in a written statement, which would be keenly compared with the initial grievance registration information recorded earlier, before the complaints were referred to the independent mechanism. The comparison is crucial in identifying any gaps, or variation in narrative details, followed by clarification as need be. This was meant to assess their credibility or reliability. For instance, to support their allegations, complainants are asked to avail independent witness(es) for corroboration. But more importantly, and in view of the fact that severe human right impacts essentially involve personal injury, medical records are required to verify the nature and extent of the alleged injuries.

Ordinarily, immediate report of the incident resulting to the alleged violation made to police, or other local authority would have added credence to the complaint. However, from the community engagements held earlier, participants insisted that no reports were made to the police for fear of being arrested for participating in the demonstrations. In the circumstances, complainant and witness statements and medical records are the only viable options left to assess the veracity of the allegations, as well to satisfy the evidentiary threshold of 'balance of probability.'<sup>6</sup> Further, for allegations of more serious physical or grievous bodily harm such as fractures or loss of limb, an opportunity is availed to the victims for an independent expert medical assessment to quantify the degree of the impact, probable cause and age. Similarly, an allegation of loss of life would require substantiation by availing a death certificate, or a burial permit. Other support mechanism such as counselling, witness protection was offered to complainants.

The foregoing requirements are and remain essential to support the assessment and verification of allegations of the alleged severe human rights impact in two vital ways. First, they would support genuine complaints made in good faith; second, they weed out unfounded complaints made merely for speculative gain.;

<sup>5</sup> Operational Grievance Manual requires this process

<sup>6</sup> Balance of probability means that the Head of Independent Human Rights Mechanism does not need to be completely convinced that the alleged facts have occurred, but he/ she, must be sufficiently convinced that the alleged facts more likely occurred than not (OGM Manual Pg. 57)

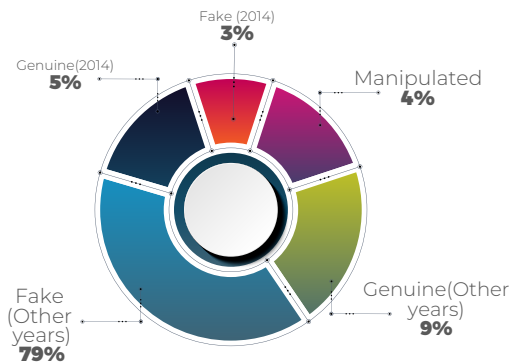


## Medical Verification Medical Records

- a) This is one of most effective methods of establishing facts in regard to allegations of severe human rights fact -finding process. It helps to verify authenticity of medical records availed by complainants to support proof of treatment for the alleged injuries. The method has significantly assisted in identifying medical records which are not genuine despite bearing brand names and official stamps of certain health facilities. In some cases, it has assisted in identifying records illegally removed from bona fide health facilities, or some records genuinely in the registers of such facilities bearing different dates from those on the record availed by some complainants. It has too, as will be seen in the findings section, identified some unprofessional medical staff who have colluded with some individual complainants to issue medical records back dated to the month and year in-issue.
- b) Besides, verification has revealed medical imposters who have been involved in issuance of medical records on payment, and without being qualified contrary to the medical designation appearing on such records<sup>7</sup>. Ultimately, verification assisted
- and still assists the investigators to formally and independently confirm the authenticity of medical records. Notable too is the fact that majority of the medical records availed were obtained in 2019/2020 covering alleged treatment backdated to 2014.
- c) During the initial investigations, most of medical records availed by complainants emanated from local and Nairobi facilities
- d) Significantly, many of the records availed from one particular facility are on cards conspicuously printed in 2018, but bearing alleged medical treatment entries dated 2014. One other institution where records were presented, does not exist in law. Site visit to confirm a pharmacy instead. The person found at the facility is not a medical doctor, but he has been identified by several complaints as the person providing documents to support complaints of alleged severe human impacts. The going charges for such 'fake' medical record, we have been informed, ranges between 1,000 to 2,000 shillings.
- e) Only a few medical records from the other medical facilities were verified to be authentic, though many of them for treatment sought much later after the alleged date of infliction and, in many instances, for conditions not commensurate with the alleged injuries.
- f) The following are some of the results from the verification process carried out using the medical records presented:
- i. Facility not found where it is said to exist. Such a facility is also not found in the government records.
  - ii. Doctor impersonation: where the person has no training and is not registered as a doctor.
  - iii. Forged documents/facility stamps not in use in 2014, or the facility medical card not in use in 2014. For example, where the medical card is printed in 2018, but has information dating to 2014
  - iv. Patient not found in the facility's Out Patient register, or any other register, or another person's name found on the said date and with the said Out Patient Number of the complainant's card.
  - v. The date on the record has been manipulated to fit the date of the alleged injuries.
  - vi. Hospital not in existence then in 2014.
  - vii. Patients name confirmed to have been treated in the medical facility, but not in 2014



The chart below shows the outcomes of the verification process



- Genuine (2014) – These are medical records that are within the time frame of the incident
- Genuine (other years) – These are medical records that are confirmed but arising from different years than the year of the incident.
- Fake (2014) – These are falsified documents from the 2014 period
- Fake (other years) – These are falsified documents that point to another time other than the 2014 incident.
- Manipulated – These are genuine documents that have been manipulated to appear as though they belong to a particular complainant and /or were given during the said 2014

## Medical verification of Injuries

Another layer of medical verification is that of medical assessments where some cases have had to be seen by medical experts to ascertain the relationship of their physical or psychological injuries and scars to the incident of 2014, or the related grievance raised.

This is the final stage of verifying the nature and extent of the injuries allegedly sustained by complainants. Where a complainant has alleged severe human rights violations, the records first have been confirmed that they exist at the facility where they presented themselves; and where they are complaining of persistent injuries, SIKIKA 2 has had them attended to by an expert and a report written.

This process has helped in determining the persistence of injuries, if any, and to assess if the injury can be reasonably attributed to the events of September 2014, or such issues pertain to other medical problems or trauma.

## Decision and Appeals

The Head of the IHRM makes the final determination on the complaint through a written Decision. The Decision is read to the complainant in the presence of a Legal Assistant. The Legal Assistant then explains further the Decision of the Head- IHRM to the Complainant

in the local dialect. A copy of the Decision of the IHRM together with a letter informing them of the outcome of the case is given to the complainant. Where the Complainants have a right of Appeal, the Legal Assistant explains the Appeal process and help the Complainant to fill out the Appeal form, identifying the appropriate ground for appeal from discussions with the Complainant. The Appeals Mechanism's role is to review appeals from the complainant, or Kakuzi. The grounds for appeal include:

- Whether there is new evidence that has come to light and was not considered before the decision of the IHRM was made.
- The Decision of the IHRM does not follow logically from the facts presented by the Fact-finding team.
- The procedure of the OGM was not followed correctly, or if the available safeguards and supports were not, or not adequately provided.

During the whole process, the complainants are allowed to participate in the process with their own lawyers, or other people whom they trust. In cases where the complaints have gone through all the processes and there is a final determination to be made on the resolution of the complaint, the complainants are provided with a pro bono lawyer if they so wish.



## CHAPTER 4

# 2022 CASES – NEW APPROACH

- a) The immediate consequence of the community engagements was a high influx in the number of complainants who presented themselves requesting to register complaints under the mechanism. This reaction can be attributed to the robust engagement process that served to build legitimacy with the community. The sessions explained the process and was largely considered independent, fair and trustworthy. The IHRM also gave an open invitation for communities to engage with the TIER 2 team.
- b) On 19th April 2022, there was a huge turnout of 184 complainants, but only two of them related to the referred complaints. And, by the close of the week on 22nd April 2022 a record influx of 543 complainants showed up, comprising of 36 referrals and 507 new complainants. In the circumstances, and to avoid undue crowding, a new approach was devised to only take personal and contact details of individuals first awaiting formal complaint/grievance registration at a later date. By 29th June 2022, the formal registration of new complaints stood at 417 cases mostly relating to the 2014 incidents. The complainants are called by phone and sent an SMS requiring them to visit the office together with their witness to give evidence, or bring more information. The same method is used to invite them to receive their Decisions.
- c) Arising from the high influx of new complainants, and learning from the process that had been followed in the ad hoc phase of the OGM, it became imperative to draw the lessons and adjust the procedure of handling intake and registration of complaints by an immediate review of the Grievance Register and the procedure of handling cases<sup>8</sup>. And, to expedite the process, on 4th May 2022, two more Legal Assistants were brought on board to assist in dealing with the sudden influx. A receptionist was also brought on board. As at end of July 2022, there were over 1,417 new complainants.
- d) The new development has necessitated a review of operational procedure as provided for in the SIKIKI's Guidance Manual. The instant effect of that move was to shorten the seeming long delay in disposing complaints not meeting evidentiary threshold.
- e) Another new triage innovation adopted is that cases that lacks sufficient evidence from the onset e.g. lack of witness medical records or had contradictory evidence are dismissed at that stage.<sup>9</sup>In the new approach adopted, complainants are asked to come with their witnesses and medical records if available. On appearance, the complaints and witnesses are interviewed and their statements taken separately by the Legal Assistants. Where comparison of complainant and witness statements differed substantially in material facts, or descriptive details of an incident, the Head of the IHRM would dismiss the complaint at this stage, without need to progress to the next stage of fact-finding. Only complaints with some semblance of evidence including supporting witness statements and medical evidence would proceed for fact-finding. Where there is a need for the complainant to bring more information, a letter is given to the complainant indicating

<sup>8</sup> Under part III of the Tier 2 Grievance Procedure (OGM manual) grievances received are formally registered in the Grievance Register. It was not possible to do so immediately with the influx. The guidelines provided for a Tier 2 Process, Steps and Forms and indicative Timeframe which gave a period of less than 75 to 90 days for completion of a complaint.

<sup>9</sup> Summary dismissal was not envisaged during the drafting of the Guidance Manual for Tier 2, but has now become a standard practice at triage stage of new complaints. The first 2022 case was dismissed on this basis on 5th May 2022.



the nature of information required and the time frame within which to provide such information. Some 100 new complaints are currently under investigations.

- f) The new cases are primarily handled by the Legal Assistants Office (LAO) and they work under a mechanism that allows them to report on regularly on the following:
  - a. The number of complainants and witnesses handled and statements recorded thereof; this aids to inform the volume of work being handled by the Legal Administrative Office.
  - b. The files movement showing every action undertaken on each file and what is pending on the same.
  - c. Observations made during the Interview Process: This reporting is done through notes in the 'Checklist Grievance Registration – First Meeting with Complainant' Form and additional 'Brief Notes'. These observations give insight into the demeanour of complainants and witnesses, statements made but recused, as well as non-verbal messages.
  - d. Cases that fall outside the Mandate of SIKIKA Tier 2 and require to be referred to SIKIKA Tier 1. This may also include cases that disclose the commission of a criminal

offence that may require reporting to law enforcement agencies.

- e. Cases that disclose an apparent need for professional support services such as legal aid, psycho-social support and social protection, financial literacy training and other services.

## Processes at the Legal Administration Office (LAO)

The process begins with the Receptionist who:

- a. Schedules an appointment with Complainants. In this appointment call, the Receptionist advises the Complainant to bring any witnesses they may have as well as any medical and other documents they may have to support their claim.
- b. When the Complainants turn up at SIKIKA 2 Offices, the Receptionist determines which complainants have appointment dates and informs the Legal Assistants for appropriate action. The process is seamless and is designed to limit the waiting time for Complainants.
- c. If the Complainant's witness is also a

Complainant, the Receptionist grants that Witness an appointment on the same day. This enables the LAO to pair the two files and forward to the IHRM Head for triaging.

- d. The Receptionist also sorts out visitors according to their purpose of their visit and directs visitors to the appropriate offices. This ensures that there is no crowding and that complainants and/or visitors are attended to within the shortest time possible in line with appointment dates issued, purpose of the visit among other reasonable considerations.
- e. The Receptionist keeps a list of visitors per day and liaises with the Cafeteria to ensure that the visitors with appointments are served with tea.
- f. The Legal Assistant receives the complaint by filling in the 'Grievance Registration Form'. The Form captures the particulars of the complainant, such as name, age, identification card number, phone number, and a description of the incident that forms the basis of the complaint. The form further identifies the stakeholder category of the complainant whether the complainant is an Employee of Kakuzi, a Community Member or falls within other category not captured by the Form. The Form further captures the perpetrator's category (whether





the perpetrator is linked to a department of Kakuzi, is a contractor or falls within a different class of persons). The LAO issues the Complainant with a formal receipt (acknowledgement slip of the grievance registration form) that the grievance has been registered. The data is then filled in an online grievance registration register which is saved in the cloud. The complainants' files are given unique identifying numbers.

- g. The LAO explains the Process of SIKIKI Tier 2 to the Complainant, ensuring that a set of component aspects about the SIKIKI Tier 2 have been explained to the Complainant. This set of aspects are outlined in the Checklist Grievance Registration – First Meeting with Complainant Form.
- h. The LAO further explains the contents of the Mutual Confidentiality Agreement and Informed Consent Form to the complainant in a language that the Complainant understands, and guides the complainant

to sign the afore-mentioned forms. It is the duty of the Legal Assistant to explain the content of these forms to the Complainant in a language and manner that the Complainant understands. The Legal Assistants are conversant with Kikuyu language which is the prevalent dialect of the affected communities. However, other languages like English and Kiswahili are used. The Complainant is then scheduled for another meeting where the Complainant Statement is taken. On the same day the Complainant is expected to bring a Witness as well as any documentary evidence that may support his/her case. The witness statement is also taken on the same day.

- i. In the course of the Interviews, the Legal Assistants ascertain vital details to ensure that the Statements recorded grant the Head- IHRM an accurate account of the circumstances surrounding the grievance. They also pose follow up questions to ensure that details such as the identity of

the perpetrator (distinguishing features), an apparent need for immediate psychological support and remedy required, are accurately captured. The Legal Assistants record the Complainant's Statement and read out the Statement to the Complainant for them to confirm if the Statement reflects a true and accurate account of their grievance. The complainant then signs their statement.

- j. The Legal Assistants then interview the Witness and records the Witness Statement. Vital details such as where the Complainant and Witness met and what injuries the Witness saw the Complainant having are noted. Details like these are essential in determining the veracity of the Complainant's account of events and makes any necessary recommendations. The witnesses to verify and sign their statements.

*{NOTE: Sometimes this process may take ONE (1) DAY. This is because of the aforementioned measures taken by the IHRM under the Head's leadership, in reducing the time spent on a single file. A file that has passed this stage is either summarily dismissed or is sent to the Investigators Team for verification of medical documents and fact finding. The Legal Assistant then comes in at the last stage where decisions are read.}*



## Bottlenecks that still exists at the Legal Assistants Office

There exist certain bottlenecks that affect the LAO which have a huge effect on the time taken to undertake its mandate; we have developed corresponding interventions to remove deal with them as shown below;

Bottleneck	Intervention
<b>Contact information</b>	
Complainants give phone numbers that do not go through when they are being called to be granted an appointment for an interview others do not pick their calls	Their cases have been placed under suspension until a time at which they will avail themselves A Text Messages (SMS) is sent to those calls that are not picked
<b>Special needs &amp; elderly complainants</b>	
Some complainants are advanced in age and converse very slowly. They require patience in order to recount the events surrounding their grievance and the times which they occurred	We ensure that we give them sufficient time and accommodate their helpers who usually assist in conveying the information for recording purposes
<b>Implementation of Schedules</b>	
After the influx of complainants to offices, it became almost impossible to serve them and we would extend working hours past 6 o'clock to try and deal with them since we are cognizant of their sacrifice to attend the OGM	The LAO implemented a scheduling system, where complainants would be given appointments and encouraged to adhere to them
<b>Personal circumstances</b>	
Some complainants have often requested for breaks during interviews due to personal issues	Breaks are given to complainants and provided support where necessary <sup>10</sup>
<b>Disorderly Complainants</b>	
There have been cases of some complainants and witnesses who come drunk and misbehave.	This has required the LAs to employ their situational awareness and judgment to maintain an orderly office, including sending complainants away with the help of Fact Finding team
<b>Co-witnesses</b>	
There has been a trend where complainants would appear another time as witnesses for others	To limit the time taken to deal with the same complainant as a witness, cases are quickly paired in order to deal with co-witnesses at the same time as when they are registering their complaints

<sup>10</sup> Mothers with children have been encourage to file their complaints. Such mothers are given opportunities to breast feed their children or take care of them when need arises. This is not seen as a bottleneck to the mechanism.



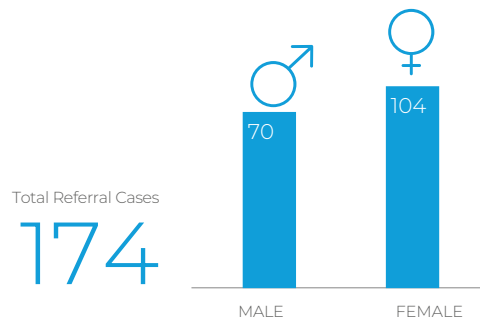
## CHAPTER 5

# CASE INVESTIGATION OUTCOME

## Ad hoc cases

After three months of incisive and extensive fact-finding, the Specialized ad hoc complaints case load has been disposed as listed hereunder:

Year	Investigation Completed	Suspended <sup>11</sup> (No show)	Total
2014	149	18	167
2016	-	1	1
2015	1	2	3
2013	2	1	3
Total	152	22	174
	Cases considered for final resolution:	9 <sup>12</sup>	
	Suspended <sup>13</sup> (Not read)	28	



**Appeal** – Cases that complainants opted to fill the appeals form

**Dismissed** – Cases already closed without any remedy considerations because of lack of sufficient evidence/ do not meet the evidentiary threshold, lack merit or any supporting documents.

**Under Review (Head)** – Cases already decided on but are waiting for Legal Aid

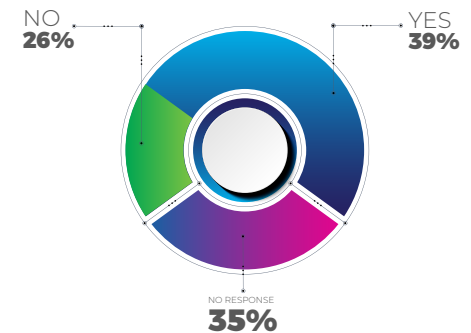
**Under verification** – Cases that required medical expert opinion (Ongoing counselling session)

**Suspended (Not read)** – Cases already decided but complainants have failed to come for the reading

**Suspended (No show)** – Cases where complainants could not be contacted to begin the IHRM process

**Resolution Consideration** – Cases that being considered for final resolution and/or compensation

### Complainants satisfaction with process



*NB: The 'NO RESPONSE' part includes all the cases that are yet to be read out to complainants.*

### Location of Complaints



<sup>11</sup> Suspended complaints are complaints whose complainants could not be reached to be interviewed by the fact-finding team, or were contacted but are yet to present themselves before the fact-finding team.

<sup>12</sup> These are cases which are considered for resolution. However, the mechanism is in the process of bringing on board pro bono lawyers to represent the complainants through this process.

<sup>13</sup> Cases that have been finalized but the complainant have not availed themselves for the reading

<sup>14</sup> The status of the Referral Cases is as at end of 31st July. The status will have changed by the time this report is published.



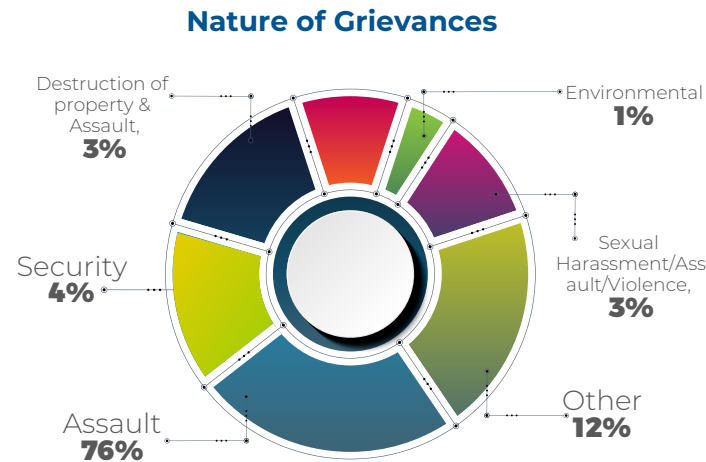


## 2022 Cases: Workload Handled by the Legal Administrative Office

Between the period 4th April 2022 and 30th July 2022, the Legal Administrative Office has dealt with 417 files opened for 417 complainants and a further 1 file registered on behalf of a community of 74 complainants. In total, the LAO has dealt with 406 complainants.

Between 4th April 2022 and 31st July 2022 the LAO has attended to 1,421 clients (complainants and their witness and those who come to register their complaint and to inquire on their files). See the table below.

*The grievances themes for the new cases are as shown below,*



### Breakdown of New Cases for the Period between 4th April 2022 and 31st July 2022<sup>15</sup>

Registered complainants – 1,421

Processed complaints/Files Opened: 414

Pending witnesses / documents: 76

Files in Investigation/ FFT Phase: 130

Pending decision: 81

Suspended after decision: 19

Dismissed: 108

<sup>15</sup> The status of the New Cases is as at 31st July 2022. The status will have changed by the time this report is published



## Observation and Key Challenges

Right from the start, the need to record statements and the further fact-finding process has been adversely affected and even slowed down by some operational challenges as follows –

- 1) Change of contact mobile numbers – specifically for referral complaints from Tier 1, where complainants were to be reached through the number recorded at the grievance registration stage. However, some of the numbers could not go through, or they were re-issued to other subscribers. This challenge has also been experienced in the new cases recorded in 2022.
- 2) Failure by complainants to observe agreed timelines (time/date) for engagements with the IHRM team.
- 3) Lack of cooperation by complainants, either in availing medical records or independent witnesses to support their allegations.
- 4) Dishonesty in the allegations made by some complainants and witnesses. This explains why complainant ST2/0171/201/R's candid response to dismissal of her complaint is recorded thus 'She is satisfied with the outcome and does not wish to appeal the decision. She is impressed that proper procedure has been followed. She says that she will not bribe her way through to get forged documents. She says that people have been paying hospitals to get medical records even if they had not attended the demonstrations at the alleged time of incident.' The members of the community in subject spent substantial amounts of money to obtain medical records to the extent of selling off personal assets. This dishonesty is seen in the medical records produced from institutions that are not licensed.
- 5) Lack of cooperation at some medical facilities during the medical records verification process.
- 6) Poor record keeping at some medical facilities, resulting to non- verification of medical records purported to have been issued from them.
- 7) Inordinate delay in providing feedback from some medical facilities.
- 8) Reluctance and procrastination by some officials/individuals to share information.
- 9) Non – responsiveness to correspondence by some offices.
- 10) The community's global understanding of the appeals process is that it offers a second chance to pursue monetary remedy and attempts are made towards that.
- 11) Expectations which exist as according to testimony given that the previous process did not require the verification of medical records.
- 12) Expectations by community members is that the process is similar to the previous one that resulted in monetary compensation even without verified evidence.



## CHAPTER 6

### Feedback from the Community

During the process of recording their grievances, statements, interviewing and giving the decisions, community members proposed two key remedial measures that Kakuzi needed to carry out:

1. Provide un-restricted and all-weather access road to the main highway.
2. Improve community relations, which include the following:
  - Establish a scholarship program.
  - Offer employment opportunities to the locals, both at the management and operational level, to give the community a sense of belonging.
  - Establish poverty eradication programs, and
  - Establish Health programs, including medical camps.

Consequently, the IHRM duly forwarded the feedback to Kakuzi Plc who not only welcomed it, but also responded to each of the underlying issues as shown in the matrix below.





## Response from Kakuzi Plc to Community Feedback

Request	Response from Kakuzi
1. Kakuzi to enhance access to community members through access road	<p>The company has facilitated construction, grading and upgrading to all weather condition of various community roads and bridges.</p> <p>Kakuzi is in the process of enhancing the existing Kangangu to the highway road</p>
2. Kakuzi to improve community relations	<p>Kakuzi acknowledged the existence of challenges in the community and has already undertaken extensive programs to enhance the relationship including changes on how it manages security and community relations</p> <p>The company has established an independent operational level grievance mechanism (SIKIKI 2) to receive and investigate any allegations including those of severe human rights abuse nature allegedly caused by, contributed to, or is linked to Kakuzi</p> <p>The company also runs Corporate Social Investment programs which focuses on Economic empowerment, Education, Water and Sanitation, Environment, Health and other interventions including infrastructure development through partnerships</p>
<p><b>• Education investments</b></p>	<p>Kakuzi continues to work with education stakeholders towards attainment of Sustainable Development Goal (SDG) 4 on Quality Education</p> <p>Directly the company has carried out the following programs;</p> <p>Kakuzi primary school renovations and books, stationery items support</p> <p>Donation of computers to Mutithi, Gathungururu, Karung'angi, Kirimiri Primary and Secondary School</p> <p>Hiring of 6 Board of Management teachers for Kitito, Kakuzi and Kinyangi Primary Schools</p>
<p><b>• Water and Sanitation</b></p>	<p>A total of 104 sanitation facilities (latrines) have been built in over 35 learning institutions giving access and safe disposal of waste to over 10,000 learners in these institutions.</p> <p>In addition, the company has installed rain water harvesting systems in over 30 institutions serving over 10,500 learners</p>



<p>• <i>Offer employment opportunities to the locals, both at the management and operational level, to give the community a sense of belonging.</i></p>	<p>The Company employs between 70% and 80% of its 3,000 employees from the local community. As we expand into new crops our employment opportunities shall also increase.</p>
<p>• <i>Establish Poverty Eradication Programs</i></p>	<p>Economic empowerment for members of our immediate community is one of the major focus areas in our Corporate Social Investment programs. The following are some of the programs undertaken</p> <p>Avocado small holder program which has directly impacted over 1200 farmers</p> <p>Bee keeping projects which have seen capacity building exercises and donations of over 60 beehives to members of the community.</p> <p>Supporting Gaka youth group with fertilizer and market linkages for their produce</p> <p>Building water intake for Athara Community to enable them to do irrigation</p> <p>Construction of Gikono farmers market</p>
<p>• <i>Health Programs</i></p>	<p>Kakuzi conducts free medical camps twice a year targeting neighbouring communities, where they receive free consultation and medication</p> <p>Kakuzi has so far provided menstrual hygiene education training to 17 schools and distributed over 5,814 sanitary towels to 2,572 school going girls within the community and 2000 sanitary towels to the larger Muranga community</p>

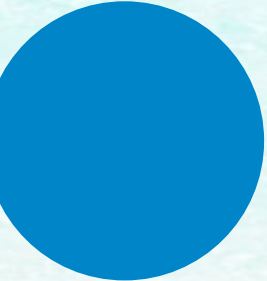
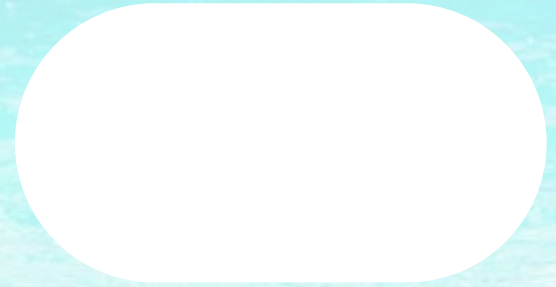
## CONCLUSION

The IHRM process has already taken shape with the just concluded Specialized ad hoc investigation and the beginning of processing of complaints filed in 2022. The infrastructure for registration, triage and fact-finding has been developed to enable the mechanism deal with second phase of its mandate. It has been a very engaging and learning journey for the entire Tier 2 team, having no peer mechanism of its kind in the region to benchmark with. It is the desire and hope of the team that the integrity of the process, the outcomes and resolutions arrived at in respect of the complaints handled shall henceforth encourage genuine and deserving complainants to engage with the mechanism.









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