



# PERCEPTION SURVEY REPORT

on levels of understanding economic and social rights among Kenyans

## About The East African Centre for Human Rights

EACHRights was founded in May 2010 and registered as a Trust in Kenya in November of the same year. The organization was established to undertake human rights work within a regional context. Its creation followed consultations with academics and human rights practitioners from United Kingdom, Kenya, Uganda, Tanzania and Ethiopia. These consultations revealed a lacuna with regard to economic, social and cultural rights in Kenya, and within the East African region. A concept paper was written in December 2010 which indicated that there were new developments and opportunities in the country that needed to be exploited, namely the promulgation of the Constitution of the Republic of Kenya, 2010, the developments at the African Court of Human and People's Rights, the developments at the East African Court of Justice (EACJ), the developments at the African Committee on the Rights and Welfare of the Child (ACRWC), the adoption of the Optional Protocol on Economic, Social and Cultural Rights, the ongoing judicial reforms in Kenya, the Vision 2030 and the Millennium Development Goals (MDG) to mention a few

The organization is the first regional human rights institution of its kind in East Africa that seeks to initiate and implement programmes that will promote, protect and enhance human rights generally, but with special emphasis on the promotion of economic, social and cultural rights in Kenya, Uganda and Tanzania. In order to avoid duplication and enhance synergies of efforts, due consideration was taken of the programmes being implemented and work being done by other human rights organizations in Kenya.

### Vision

The vision of EACHRights is “to be the leading human rights organization in East Africa.”

### Mission Statement

EACHRights' mission statement is “to enhance and promote the realization of human rights in East Africa with special emphasis on economic, social and cultural rights as a contrivance to achieve social justice.”

### Overall Objectives of EACHRights

- Promote, protect and enhance human rights with a special emphasis on economic, social and cultural rights;
- Realise equitable development through the enhancement of human rights;
- Enhance awareness of human rights through training and capacity building;
- Enhance realisation of human rights through litigation at the national Courts, regional and international Courts, Committees, Commissions and Tribunals;
- Enhance equality and equity for marginalised groups including but not limited to women, children and persons with disability.

## Contents

List of Tables	2
List of Figures	2
Abbreviations	3
Acknowledgements	4
Foreword	5
Chapter One: Introduction and executive summary	6
Chapter Two: Survey findings	7
Chapter Three: Conclusions and recommendations	24
Appendix 1: Data Collection Tool for Key Informants	26
Appendix 2: Data Collection Tool for Focused Group Discussions	30
Annexure 1: List of KII respondents	32
Annexure 2: List of participants in the FGD	32

## List of Tables

Table 1:	Respondents' levels of awareness of human rights	7
Table 2:	Respondents' understanding of civil and political rights	8
Table 3:	Respondents' reasons for rating their knowledge of civil and political rights	9
Table 4:	Respondents' understanding of economic and social rights	10
Table 5:	Respondents' reasons for rating their knowledge of economic and social rights	12
Table 6:	Reasons for respondents' satisfaction with government	15
Table 7:	Reasons for respondents' dissatisfaction with government	15
Table 8:	Reasons for respondents' satisfaction with CSOs	17
Table 9:	Reasons for respondents' dissatisfaction with CSO	17
Table 10:	List of remedies available to citizens to claim their ECOSOC rights	18
Table 11:	What can be done to actualize ECOSOC rights?	22

## List of Figures

Figure 1:	Nature of respondents for the KII	7
Figure 2:	Level of knowledge of civil and political rights	8
Figure 3:	Examples of civil and political rights	10
Figure 4:	Level of knowledge of economic and social rights	11
Figure 5:	Examples of economic, social and cultural rights	12
Figure 6:	Respondents' comparison of levels of attention of rights	13
Figure 7:	Programme, project or activities on ECOSOC rights	13
Figure 8:	Level of satisfaction with Governments' performance on ECOSOC rights	14
Figure 9:	Rating government performance on economic and social rights	16
Figure 10:	Level of satisfaction with CSOs' performance on ECOSOC rights	16
Figure 11:	Ratings of CSOs on ECOSOC rights	17
Figure 12:	Is the public aware of and understand how to claim ECOSOC rights?	18
Figure 13:	How can the public be assisted to claim economic and social rights?	19
Figure 14:	Is it possible for citizens to enjoy ECOSOC rights?	20
Figure 15:	Active and meaningful citizen participation	20
Figure 16:	Equality and non-discrimination	21
Figure 17:	Transparency and accountability	21
Figure 18:	Gender	22
Figure 19:	Affirmative action for vulnerable groups	22

## Abbreviations

<b>ACRWC</b>	African Committee on the Rights and Welfare of the Child
<b>BoD</b>	Board of Directors
<b>CBO</b>	Community Based Organizations
<b>CLAN</b>	Children Legal Action Network
<b>CP</b>	Civil and Political
<b>CSO</b>	Civil Society Organizations
<b>EACHRights</b>	East African Centre for Human Rights
<b>EACJ</b>	East African Court of Justice
<b>ECOSOC</b>	Economic, Social and Cultural
<b>FBO</b>	Faith Based Organization
<b>FGD</b>	Focus Group Discussion
<b>FPE</b>	Free Primary Education
<b>HRBA</b>	Human Rights Based Approach
<b>ICCPR</b>	International Covenant on Civil and Political Rights
<b>ICESCR</b>	International Covenant on Economic, Social and Cultural Rights
<b>IDP</b>	Internally Displaced Persons
<b>IEC</b>	Information, Education and Communication
<b>KII</b>	Key Informant Interview
<b>KNCHR</b>	Kenya National Commission on Human Rights
<b>MDG</b>	Millennium Development Goals
<b>NGO</b>	Non-Governmental Organization
<b>OVC</b>	Orphans and Vulnerable Children
<b>PMU</b>	Programme Management Unit
<b>UDHR</b>	Universal Declaration on Human Rights
<b>UNDP</b>	United Nations Development Programme

## Acknowledgements

I would like to take this opportunity to thank all those that took part in this survey and thereby making it a success. I begin with the respondents from government and civil society that filled the questionnaires. I also wish to thank all those members of the civil society and the public as a whole that took time to participate in the Focus Group Discussions (FGD). Indeed, the combined knowledge and experience of all these people provided invaluable information that contributed to the findings of the survey and for that I am very grateful.

My appreciation also goes to the consultancy and data collection team which comprised of Kamau Kiiru, Pdraig McGurl, Shaban Muhadia, Nancy Toroitich, Joseph Gicheha, Joy Mogoko, Wesley Wallace, Phyllis Mutua, Patriciah Machio and Hellen Mutellah for the hard work and commitment to the process. Further, I wish to appreciate the role played by Farida Bascha and Sheila Warindi of Children Legal Action Network (CLAN), Estones Adebe of Nuru Development Centre and Moses Oluchiri of Family Community Centre for coordinating the three FGDs that were carried out in Kibera, Kawangware and Jericho.

I also wish to thank the Board of Directors of The East African Centre for Human Rights (EACHRights), and in particular Ms. Christine Alai, Chairperson, Board of Directors (BoD); Mr. Vincent Kimosop, Vice Chairperson, BoD, and Mr. Otieno Okero, member BoD for their leadership and wise counsel all through the entire survey. My appreciation also goes to Commissioner Wambui Kimathi and Commissioner Lawrence Mute, both of the Kenya National Commission on Human Rights (KNCHR) for their advise and for reviewing the data collection tools.

EACHRights is greatly indebted to Mr. Zaya Yeebo, Programme Manager, Amkeni WaKenya together with the entire team at the Programme Management Unit (PMU) together with United Nations Development Programme (UNDP) for their encouragement and faith in EACHRights. This project would not have been possible without the grant from Amkeni WaKenya.

*Asanteni sana.*

### **Gilbert O. Onyango**

Regional Director/Founder

The East African Centre for Human Rights (EACHRights)

## Foreword

The Universal Declaration of Human Rights<sup>1</sup> (UDHR) recognizes the equality, inalienability, universality and indivisibility of all human rights. Because it was drafted in the period of the Cold War, the inter-relationship between human rights was never agreed upon. This inter-relationship got entangled in politics of that period as the Western States and Socialist States each had their set of ideologies to support. This led to civil and political rights on the one hand and economic, social and cultural rights on the other to be codified in different international human right treaties namely the International Covenant on Civil and Political Rights (ICCPR), which Kenya acceded to on 23rd March 1976 and the International Covenant on Economic, Social and Cultural Rights (ICESCR) which Kenya acceded to on 1st May 1972.<sup>2</sup> This codification further categorized the rights into first generation and second generation rights. Indeed over the years, economic and social rights were overshadowed by civil and political rights. They were disputed on the grounds that they were collective rights and that they confused goals and rights by entailing positive obligations that were not realistic to fulfil and lastly, they identified no duty holder.<sup>3</sup> All these ‘weakened’ the position of ICESCR in the international discourse.

However, the 1990s saw a collapse of the Soviet Union. Its demise brought the emergence of a new global order that ensured that human rights gradually regained prominence. There were a series of world summits held from 1990s onwards.<sup>4</sup> One such summit was the 1993 Vienna World Conference which led to the adoption of the Vienna Declaration and Program of Action<sup>5</sup> establishing an agenda for the new world order. This Conference was more significant as it underscored the indivisibility of and the equal prominence of all human rights.<sup>6</sup> The United Nations General Comments<sup>7</sup> that were issued by the Committee on Economic, Social and Cultural Rights in 1990 further reinforced economic and social rights as being of the same value to civil and political rights.

Chapter 4 of the Constitution of Kenya, 2010 for the first time provides for an unprecedented Bill of Rights. It also makes very elaborate provisions with regard to the economic, social and cultural rights and also more importantly the enforcement of Human Rights. But worth noting is Article 43 which provides that-

- (1) *“Every person has the right*
- (a) *to the highest standard of health, which includes the right to health care services, including reproductive health care;*
  - (b) *to accessible and adequate housing, and to reasonable standards of sanitation;*
  - (c) *to be free from hunger, and to have adequate food of acceptable quality;*
  - (d) *to clean and safe water in adequate quantities;*
  - (e) *to social security; and*
  - (f) *to education*

But equally important is Article 22 which deals with “Enforcement of Bill of Rights” and it states that

- (1) *“Every person has the right to institute Court proceedings claiming that a right or fundamental freedoms in the Bill of Rights has been denied, violated or infringed, or so threatened”*

It may be for the aforementioned reasons and considering the state of the nation in the years past that for many years, many NGOs in Kenya may have concentrated on civil and political rights at the expense of economic, social and cultural rights leading to a gap in the understanding of the latter. Indeed, it took Kenya over 34 years to submit her initial report<sup>8</sup> on the Convention on Economic, Social and Cultural Rights which it did on 7<sup>th</sup> September 2006<sup>9</sup>. It may therefore be said that the lack of attention given to social and economic rights has led to minimal understanding of these rights thus hampering any attempts at their realization. It could also be argued that hitherto, interventions around issues of economic and social rights were needs based and were seen as a subject of charity. Indeed, for the most part, understanding of these rights by most individuals in the country is on a more developmental rather than human rights based.

### Gilbert O. Onyango

Regional Director/Founder

The East African Centre for Human Rights (EACHRights)

<sup>1</sup> A/RES/217A(III) adopted on 10th December 1948

<sup>2</sup> G.A.Res.2200A(XXI) both instruments were adopted on the 16th December 1966

<sup>3</sup> David Beetham, Democracy and Human Rights, p. 115

<sup>4</sup> Some of the World Conferences were: World Conference of Human Rights in Vienna (1993); Fourth World Conference on Women in Beijing (1996); World Social Summit for Development in Copenhagen (1996); the World Food Summit in Rome (1997); the World Summit on Sustainable Development in Johannesburg (2002)

<sup>5</sup> A/CONF:157/23

<sup>6</sup> Supra no. 21, p.39

<sup>7</sup> General Comment 2: International Technical Assistance Measures and General Comment No. 3: The Nature of States Parties' Obligations

<sup>8</sup> E/C.12/KEN/1 11 September 2007

<sup>9</sup> See [http://www.bayefsky.com/reports/kenya\\_e\\_c12\\_ken\\_1\\_2006.pdf](http://www.bayefsky.com/reports/kenya_e_c12_ken_1_2006.pdf)

## Chapter One: Introduction and executive summary

### 1.1 Background of the perception survey

Recent developments have shown promise with regard to the potential for the realization of human rights in Kenya. The Constitution of Kenya, 2010 has for the first time recognized ECOSOC rights. In a bid to contribute to their promotion, EACHRights applied for and received a grant from Amkeni WaKenya to implement a project titled “ECOSOC Rights in Kenya: Perceptions to Realisation”. One of the activities of the project was to undertake a perception survey on the status of ECOSOC rights in Kenya.

### 1.2 Objectives and methodology of the perception survey

The objective of the perception survey was to establish the levels of understanding and appreciation of ECOSOC rights among government, Civil Society Organizations and the general public and to identify the current and potential interventions that would help Kenyans realize these rights. In particular, the survey sought to understand people’s perception in the following areas:

- (i) People’s general knowledge of ECOSOC rights;
- (ii) Measures that have been taken to promote and protect ECOSOC rights;
- (iii) Remedies for the violation of ECOSOC rights;
- (iv) Application of Human Rights Based Approach (HRBA) and;
- (v) What could be done to actualize ECOSOC rights

The survey used both quantitative and qualitative research methodologies. The survey targeted respondents from government, Civil Society Organizations, the United Nations and the general public through the use of Key Informant Interviews (KII) and Focus Group Discussion (FGD) to obtain data.

The data collection tools were developed through a participatory process. They were subjected to review by human rights experts with experience on ECOSOC rights together with members of EACHRights Board of Directors who also ensured that they captured the objectives of the perception survey and were appropriate for the target audience.

The data collection was purposive. This was to ensure that all relevant would be data sources were identified. Mapping of organizations and individuals was based on their area of work and specialization. Thereafter, a schedule was developed for the purposes of data collection.

## Chapter Two: Survey findings

### 2.1 Nature of survey respondents

The survey was conducted in Nairobi between August and November, 2011. There were a total of 33 respondents that filled in the KII questionnaires. The respondents in the KII were selected from Government ministries and Non-Governmental Organizations working on human rights. This is graphically illustrated in the figure below.

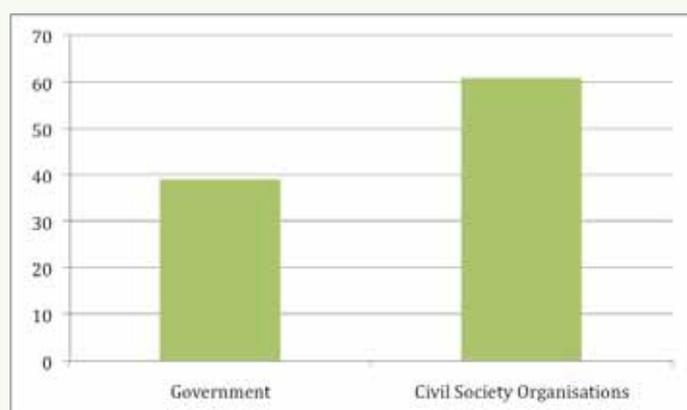


Figure 1: Nature of respondents for the KII

There were a total of 52 participants that took part in the FGDs. These comprised of CBO's, community leaders and members of the public from the three target areas namely Kibera, Kawangware and Jericho. The list of respondents is contained in Annexure 2.

### 2.2 Level of awareness of human rights

In assessing the levels of awareness of human rights, the respondents were asked to share their thought on the term "human rights". The findings revealed that a majority of the respondents were generally aware of human rights. A summary their responses are listed in the table below.

Table 1: Respondents' levels of awareness of human rights

#### What is your understanding of human rights?

- Right that belong to all humans
- They cannot be taken away irrespective of where one is born
- Inherent rights that belong to all human beings
- Entitlement to human beings of all races
- The rights that a person is entitled to by virtue of the fact that they are human beings
- The inherent entitlement to human being
- The rights that a person is born with
- The entitlement of a human being by virtue of being human
- These are rights recognized by the Constitution
- Social and economic rights
- Rights that are aimed at preserving dignity
- They are the standard by which one deals with human beings
- Right to access health services
- Requirements that human beings are born with regardless of their race or creed
- The backbone of access
- The station and position of a person in society
- It should be by a governing body to its citizen

The findings revealed that a majority of the participants in the FGDs were also generally aware of human right. However, the survey revealed that levels of awareness varied in the three target areas with Kibera being the highest, followed by Jericho and then

Kawangware being the lowest respectively.

### 2.3 Understanding of civil and political rights

The respondents were asked what they understand by the term “civil and political rights.” Their responses indicated that there is a general understanding of civil and political rights. However, it is worth noting that one respondent referred to “access to economic right” as civil and political rights. A summary of their responses are in the table below.

Table 2: Respondents’ understanding of civil and political rights

#### What is your understanding of civil and political rights?

- What is fundamental is the freedom of citizen propelled by policies to support the citizen. As citizens to communicate on issues and get them acted on. Policies for citizens to demonstrate democracy
- Those that deal with freedom of association, representation, governance issues and politics of the day
- These are rights to communicate, express oneself, support party (politics) without restriction
- These came at the aftermath of World War II and emanate from the UDHR. They are entitlements that are provided for by law and claimed
- Political participation in voting and choosing person to represent them. Civil rights involve rights that one has which if infringed affect the person and not the public
- They attach predominantly to the public realm
- Civil and political rights touch on rights of access to economic rights, opportunities for economic growth. It includes the ability to trade within the country
- These are rights to belong to a political party, participate in democratic processes including politics and elections
- This is a category of privileges and freedoms that citizens are entitled to and protects them from abuse or infringement by any state or person
- Public services given by the government to ensure the well being of its citizens
- Services or freedom that empower the citizens
- More of political and civil rights. They are more of secondary rights
- These are rights relating to the person’s integrity
- They are first generation rights and are considered as negative rights
- Kenya ratified the convention and therefore bound to fulfill the rights
- Enabled one to operate as a dignified and true human beings with the bound of laws
- These are provisions that enable a conducive environment for citizens’ participation and involvement in the affairs of the country, nation and state

Among the FGD participants, it was noted that their levels of understanding of civil and political rights was also generally high. Of note was a comment from the Kawangware FGD where a participant defined civil and political rights as-

*“...the right to enjoy socio-economic welfare such as equality, health services, right to work...”*

**Kawangware FGD participant**

### 2.4 How would you rate your level of knowledge of civil and political rights?

The survey sought to establish whether or not the respondents were confident with regard to their level of knowledge of civil and political rights. 41 percent of them indicated that their knowledge was excellent, 56 percent indicated that it was good while 3 percent said that their knowledge was poor as more particularized in the figure below.

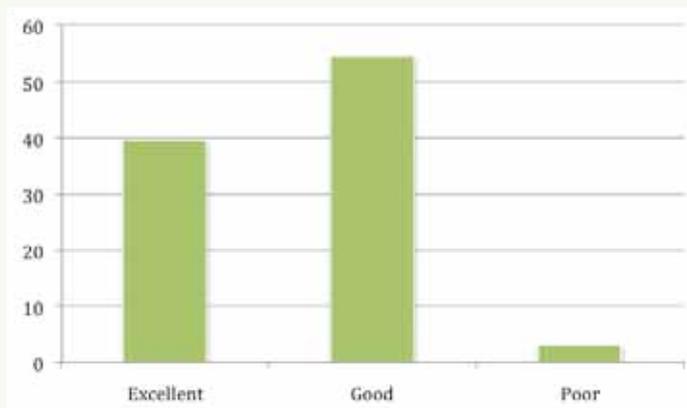


Figure 2: Level of knowledge of civil and political rights

The respondents said that their knowledge had improved because they work on issues of human rights; others said they have undergone training or read widely on human rights; they have been involved in local or international human rights processes; and they have taken an interest in laws that are debated in Parliament.

However, one of the respondents from government attributed their low level of understanding of human rights to the fact that the concepts are complicated and further, there are no training programmes and opportunities available for government officials. Other respondents also indicated that the public may not understand civil and political rights.

*Table 3: Respondents' reasons for rating their knowledge of civil and political rights*

#### **Explain your reason for the rating**

- As a person I work on election processes
- Level of education; well educated to understand the issues; experienced in local government, exposed to political both at local and national levels; level of work as senior officer; exposed to work with senior local government and politicians; exposed to judicial matters in court, local authorities
- Most knowledge has been obtained through self education, observation and participation
- I am still learning, we have bills that are still being drafted and tabled before parliament. Still more to learn. I practice virtues that support rights
- I know what should be done. Knowledge to facilitate the realization and enjoyment of these rights. Section 2(a) :- provisions in law in 1992
- Believe in the rule of law and honor the rights of person or groups
- I understand what they entail, what the limits are and what is acceptable. The Constitution educates people on what their rights are
- I have not received formal training. Most knowledge has been obtained through self education, observation and participation
- Knowledge gained from school, reading articles on newspapers and TV
- I know how to vote; being given the freedom, knows his rights and can question when violated. Constitution has them in the Bill of Rights
- As a person I understand rights, the constitution, legal perspective, positive perspective, participate and engage in various forums
- It is not my specialty
- I know what they are. It is historical and some of us where the champions for the clamor of political rights. This question is not necessary. You are the one to analyze the data and rate me
- Good in the sense that it is the area in which I work. I work on matters of governance and advocacy which are basically human rights and civil rights. Politically, of course we engage with the government that is not very much. We are limited in that regard

With regard to the FGDs, it should be noted that participants from Kibera indicated that their knowledge of civil and political rights was good. They attributed this to the fact that they have undergone a lot of capacity building on human rights but were quick to point out that levels of understanding among the general public may be low.

Another issue that was raised by the participants of the FGDs was the fact that the many people have little confidence in the government to protect their rights. An example of this came from the Jericho FGD where a participant stated that-

*“On a scale of one to ten, I would rate the level of awareness of civil and political rights at 10. This is because while growing up, civic education was included in the school curriculum. But the problem is that the society we live in is very corrupt to the extent that if for example one is arrested, they must bribe someone for them to secure their freedom. Ignorance on the part of the public has also contributed because Government officers do not inform the public that their rights have been or are being violated.”* **Participant from Jericho FGD**

The survey revealed that there is need for greater awareness creation on human rights among the government officials and the public as a whole. In particular, the citizens should be empowered on how to claim their rights.

### **2.5 Examples of civil and political rights**

The respondents were asked to list some of the CP rights that they know. The figure below represents a summary of their responses.

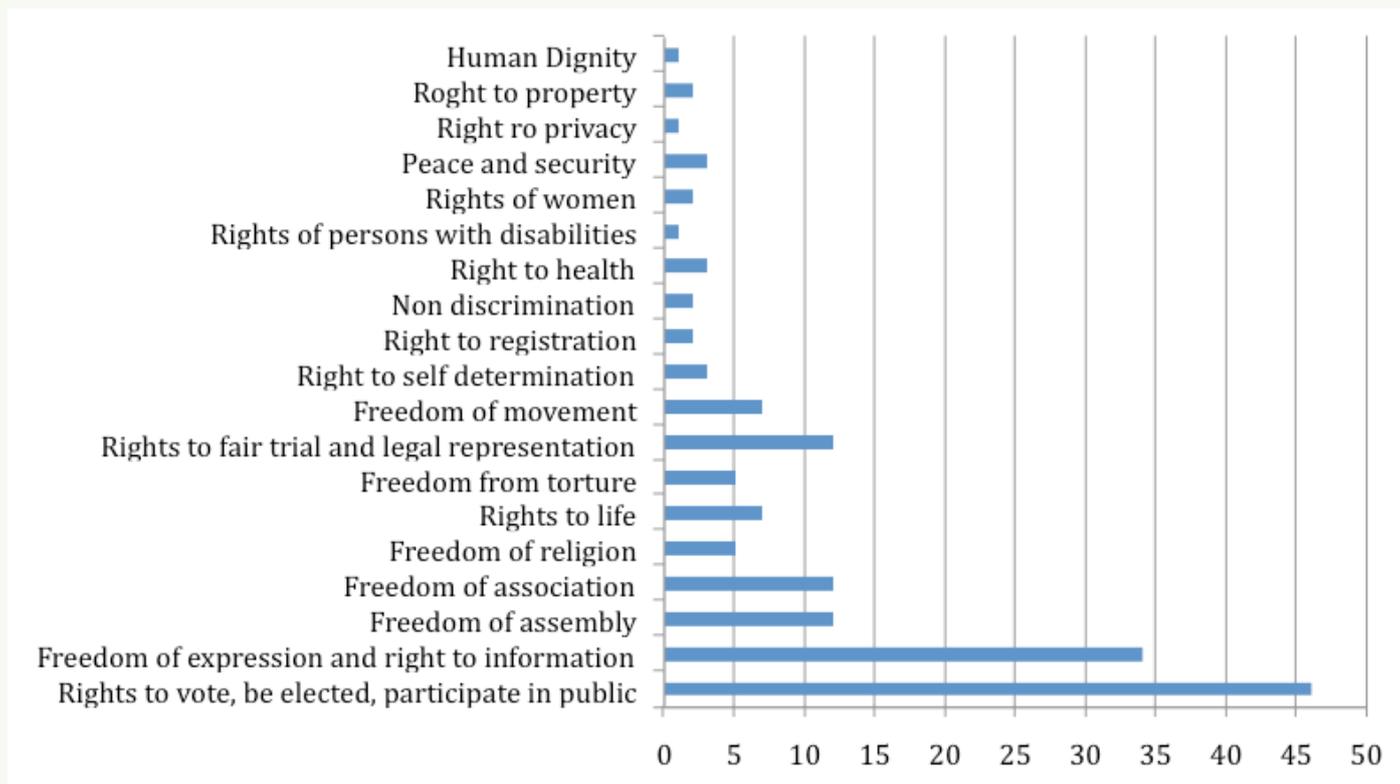


Figure 3: Examples of civil and political rights

Despite the fact that over 97 percent of the respondents had indicated that their knowledge of CP rights was either good or excellent, some of the examples they gave indicate that they do not know all the rights and further that they may not be able to differentiate between CP rights and ECOSOC rights.

Further, it is clear that a majority of the respondents know CP rights especially the right to participate in electoral processes and public affairs; freedom of expression and the right to information; freedom of assembly; and freedom of religion. However, some of the respondents mentioned right to health, the right to reproductive health, right to property as CP rights while others mentioned the rights of women and persons with disabilities.

Worth noting were respondents from government. Indeed, one said that they did not know any example of a CP right. Another respondent listed water supply, sewage disposal, clean environment, security, adequate lighting in towns, protection from health hazards, fair land rates, fair service charge rates and fair rents as civil rights.

## 2.6 Understanding of economic and social rights

The respondents were asked what they understand by the term “economic and social rights.” A majority of respondents indicated that they understand. However, some of them still consider them as privileges while others equate economic development with economic rights. Their responses are summarized in the table below.

Table 4: Respondents’ understanding of economic and social rights

### What is your understanding of economic and social rights?

- The basic needs which relate to the dignity of persons, survival of the persons, plenty to ensure that you live
- They include owning property engaging in productive activities, employment, business, family, clan, friends and social welfare
- ECOSOC rights are privileges enjoyed by citizens and human beings
- The rights to afford a good standard of living, housing, sanitation, food, health and education
- These are rights that accrue to citizens by virtue of being members of State
- Primary rights that any human being would look up to for example good health
- Access to basic human needs, security and positive culture awareness
- Economic rights are the rights of citizens to be involved in the economic dealings of the government. For example, I have a right to know how my taxes have been utilized; I have a right to be involved in the budget making process; I have a right to know that kind of loans the government has been taking; I have a right to know what kind of implications these loans will have on my children; and the right to demand for the prosecution of perpetrators of economic crimes for example corruption. Social

- rights are the right to interact, to visit social place such as stadium, disco; and to marry anyone
- Economic rights are needs or obligations for personal economic development, for example to start a business for personal development
- Economic rights are the rights to participate in economic and national development
- They are rights that enable one to live a decent life of dignity
- Provisions that address the basic needs and attend to the basic development of any human society
- Entitlements for one to be economically stable
- These are rights that include material needs for human beings
- Basic services that ensure citizens have sources of income, right to own property and security
- Entitlement to cultural expression, to services and resources
- Right that pertain to the day to day life and they affect both the duty bearer and the claim holder as contained in Article 43 of the Constitution of Kenya, 2010
- They are primary rights that any human being will look up to and if you do not have them, then you cannot enjoy your civil and political rights for example, if you are sick, you cannot go to vote

## 2.7 Level of knowledge of economic and social rights

The levels of respondents' knowledge of ECOSOC rights was quite high among the respondents with only one respondent citing that their knowledge was poor though not giving a reason. 42 percent felt that their knowledge is excellent while 55 percent said it is good. This is more particularized in the figure below.

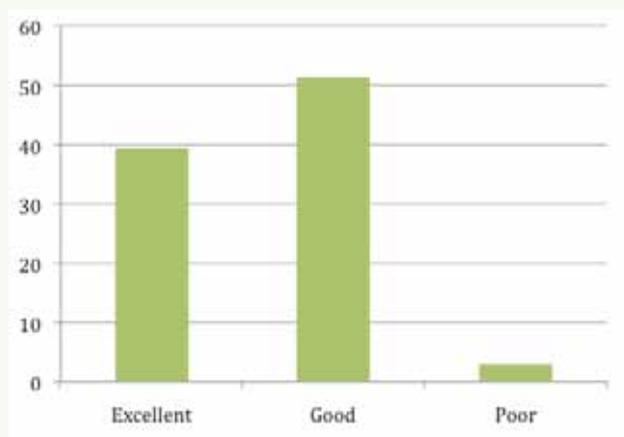


Figure 4: Level of knowledge of economic and social rights

A majority of the respondents indicated that their level of knowledge was either excellent or good and attributed this to the work they do, their interest, personal initiative, and reading about ECOSOC rights. Very few indicated that they have undergone formal training on human rights. They said there is need for capacity building.

Table 5: Respondents' reasons for rating their knowledge of economic and social rights

### Explain your reasons for the rating

- I know what they provide and what they are and what instruments, treaties or laws provide and protect them
- Have written article on the rights and done research, facilitate meeting on it, interacted with people who deals with it. Levels of exposure is pretty good
- Personal reading and experience with the community has further informed my knowledge
- Work in partnership with other Ministries. Further, Kenya should seek to realize the Millennium Development Goals as they have a direct impact on ECOSOC rights
- I have undergone training
- Know them from the Constitution, social perspective and engaged in various forums
- There is room for more training
- I am not as aware
- I understand in terms of government and budgeting process. I understand the government revenue generated process both locally and international institutions which gives me a better insight
- It is not a necessary question as you are the one to gauge my level of knowledge
- I work for the government and my docket deals with economic and social rights. Many of the projects that we undertake are human rights based thus am well informed in the area

- Knowledge gained from school, media and interacting with fellow citizens
- Most of these things do not come from training and understanding, but you come to know them through experience and association
- I have been reading articles, teaching on the Constitution, presenting papers on human rights listening to TV
- My level of experience, level of education, participation in social issues. I am a farmer and know what farmer requires for social rights. I know the Constitution of Kenya. I also am aware of the work done by human rights organization such as KNCHR and other Civil Society Organizations

In response to the question regarding their understanding of ECOSOC rights, participants from the Kibera FGD indicated that their knowledge of these rights was average because they have undergone capacity building on human rights and are community paralegals.

## 2.8 Example of economic and social rights

The respondents were asked to list some of the ECOSOC rights that they know. The figure below represents a summary of their responses.

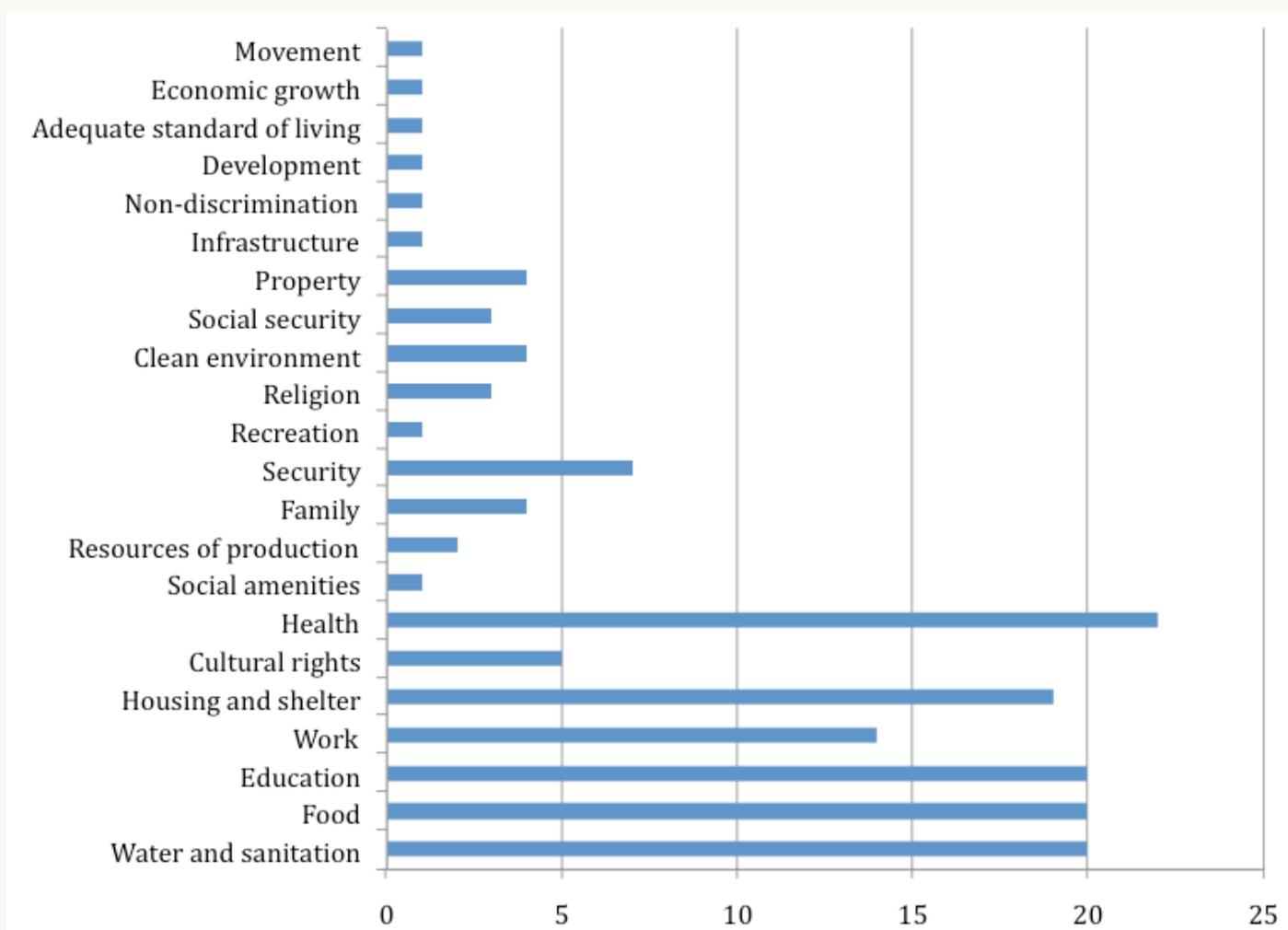


Figure 5: Examples of economic, social and cultural rights

Despite the fact that over 97 percent of the respondents had indicated that their knowledge of ECOSOC rights was either good or excellent, some of the examples they gave indicate that they do not know all the rights and further they cannot differentiate between ECOSOC and CP rights.

## 2.9 Comparison on levels of attention between civil and political rights and economic and social rights

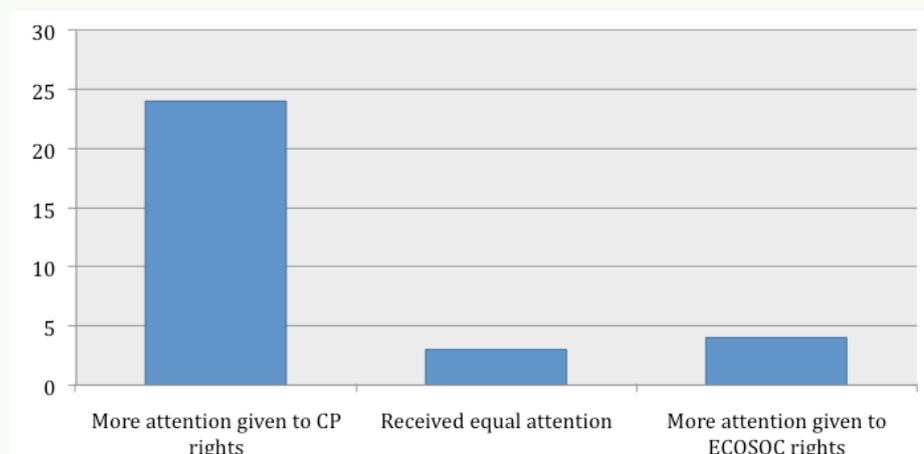


Figure 6: Respondents' comparison of levels of attention of rights

From the above, it is evident that the respondents were of the view that CP rights have received greater attention as compared to ECOSOC rights. This is the same result that came out of the FGDs. One respondent in Kibera was of the view that this was because the society is fashioned to cushion and promote owners of capital. The same views were expressed by the participants in the Jericho FGD where one said-

*"...it is all about politics, votes and winning elections. This is evidenced through the media. Previously, the news was 30 minutes long. It now takes 2 hours out of which 1½ is about Kibaki and Raila politics..."*

**Participant from Jericho FGD**

Another said-

*"...Kenya is basically a political country. This is based on how the systems have been set. Most development or economic issues are decided by through the political arm..."*

**Participant from Jericho FGD**

## 2.10 Programmes, projects or activities being implemented on any ECOSOC rights

The respondents were asked what programmes, projects or activities they were undertaking in their institutions that touch on any ECOSOC right. A summary of their responses hereunder.

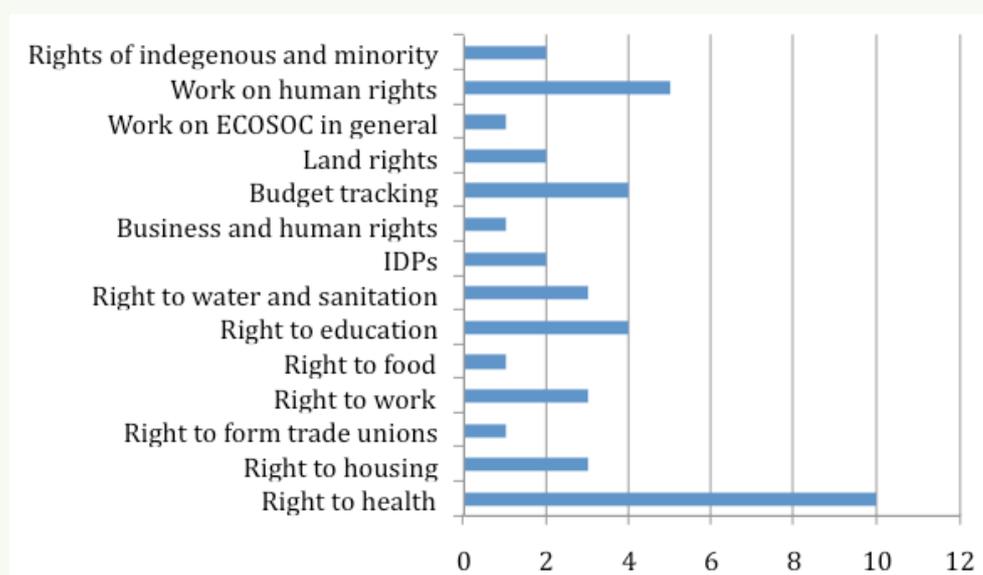


Figure 7: Programme, project or activities on ECOSOC rights

The survey revealed that a majority of the respondents implement programmes and activities on the right to health, right to education, right to housing, right to work, right to adequate water and sanitation. Further, a number of the respondents also indicated that they work on general human rights, which includes ECOSOC rights.

Human rights based approach and in particular budget tracking is key in assessing the level of progressive realization of ECOSOC rights. To this end two respondents are in the process of developing manuals on understanding rights based approach to programming. With regard to budget tracking, it must be noted that 4 respondents are implementing projects on the same and in particular on the Constituency Development Fund (CDF) and education bursary schemes. While working on the right to health, two respondents indicated that they are specializing on mental health, reproductive health while a third is working on issues of HIV/Aids.

Another example worth noting was by an institution that is currently undertaking a study among the pastoralists and minorities groups to determine the link between ECOSOC rights and violent conflict. Of interest also is an institution that is undertaking programmes on business and human rights.

### 2.11 Will the Constitution of Kenya, 2010 improve the lives of Kenyans?

The respondents were asked whether the provisions on ECOSOC rights as contained in the Constitution of Kenya, 2010 will improve the lives of Kenyans. They responded that it will but went ahead to qualify their responses saying that there is need for monitoring implementation; the government should be pressured to ensure that resources are utilized appropriately through meaningful public participation in the budget process; the Constitution in itself will not guarantee the enjoyment of the rights, but for it to make a difference in the lives of Kenyans, there is need for capacity building for government official, good governance and upholding Constitutionalism.

With regard to the public, the respondents were of the view that to make the Constitution of Kenya, 2010 work for Kenyans, there is need for more emphasis on the right to education as it will increase the levels of literacy among citizens and will therefore improve their ability to make the right decisions. Further, the government should encourage greater accountability through social accountability programmes which seeks to encourage citizens to participate in decisions that affect them.

The participants in the FGDs were of a similar view but more concerned that politicians may hijack the implementation of the Constitution of Kenya, 2010. One participant in the Kibera FGD said-

*“...politicking is killing the implementation of the new Constitution as its text and spirit can only be implemented in spaces of political maturity and goodwill...”* **Participant Kibera FGD**

### 2.12 Level of satisfaction with the government’s performance on ECOSOC rights

The survey also sought to establish the respondents’ levels of satisfaction with the government’s performance in regard to the promotion of ECOSOC rights. In response, 76 percent indicated that they were not satisfied, while 24 percent said they were satisfied with the government’s performance. This is illustrated in the figure below.

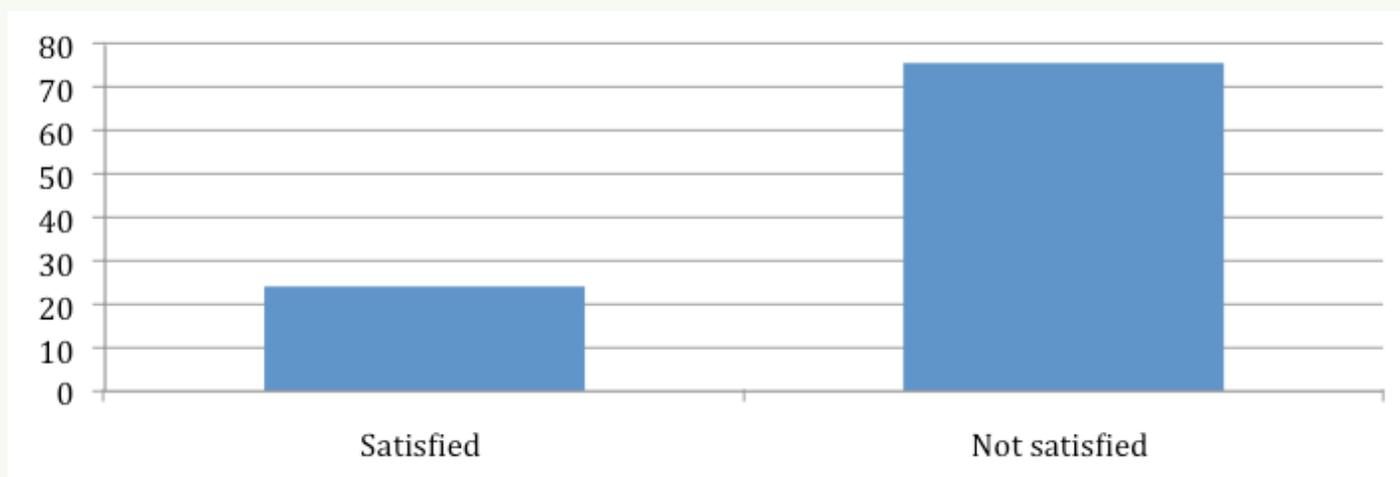


Figure 8: Level of satisfaction with Governments’ performance on ECOSOC rights

Some of the reasons that the respondents cited for their satisfaction are listed in the table below.

*Table 6: Reasons for respondents' satisfaction with government*

#### **Reasons for respondents' satisfaction with government**

- People are generally happy but there is still room for improvement as is evidenced by the number of demonstration.
- Things are changing and the government is delivering as it is committed to achieving Vision 2030
- The government has not taken any active steps in promoting ECOSOC rights and further, there have been no cases in Court.
- Happy but there is still need for more civic education
- There has been improvement in access to water, provision of education, improvement of quality of education, adult literacy all of which have surpassed the targets of Vision 2030
- There are numerous laws that will help in the realization of human rights
- There has been an increase in the budgetary allocation for health services
- There have been deliberate steps to improve infrastructure
- ECOSOC rights are being realized progressively and they come together with civil and political rights. To this end, there is an improved environment for CSOs to raise the awareness among the citizens

The respondents that were satisfied with the government's performance noted the Constitutional, legislative and policy measures that are in place which if implemented would contribute to the realization of ECOSOC rights. They singled out the governments' commitment under the Millennium Development Goals (MDG), the economic and social pillar of Vision 2030, the efforts to provide Free Primary Education (FPE) and adult literacy. Further, the government has put in place free medical treatment for children under 5 years.

Those that were dissatisfied on the other hand gave the following reasons-

*Table 7: Reasons for respondents' dissatisfaction with government*

#### **Reasons for respondents' dissatisfaction with government**

- The Government takes advantage of the term progressive realization saying that these rights will be achieved over a long period of time
- There are many Kenyans facing starvation due to the government's neglect and failure to provide infrastructure, irrigation, etc. This may be attributed to the failure to prioritize the Food Security Policy. Further, the government has marginalized certain areas of the society
- There is lack of political will
- There is inadequate budgetary allocations to health
- The government has failed in resettling the IDPs as the "Operation Rudi Nyumbani" failed
- There is a lot of talk from government but there is a lot that can be done to improve its performance. This would include for example measuring how well it is doing in the realization of ECOSOC rights
- The high poverty levels are due to failure on the part of the government to promote ECOSOC rights
- There is need for the government to deal with corruption as it has an effect on the realization of ECOSOC rights. Further, the inefficient bureaucracy undermines all efforts
- I have not seen any evidence of the government promoting ECOSOC rights. In fact, more than 70 percent of Kenyans are unaware of their human rights
- Enough is not being done, there is lack of capacity, understanding of issues, negative attitudes, lack of respect for the rule of law, poor governance, disregard for the Constitution

Those that were not satisfied indicated that there was laxity on the part of the government to allocate more resources that would ensure that ECOSOC rights are progressively realized. They said that more needs to be done with regard to policy reform and implementation of the Constitution. Further, there is need for greater political will to fight corruption which affects the resources that would otherwise ensure the realizations of these rights. There was also the issue of capacity gap among government officials on how to promote ECOSOC. Connected to this was the concern that the violation of ECOSOC rights is exacerbated by the high levels of poverty in the country and the low levels of awareness of ECOSOC rights among the claim holders particularly the vulnerable and marginalized.

### **2.13 Ratings of government on specific ECOSOC rights**

Respondents were asked to rate the government's performance with regard to the promotion of specific ECOSOC rights. Their responses are summarized below-

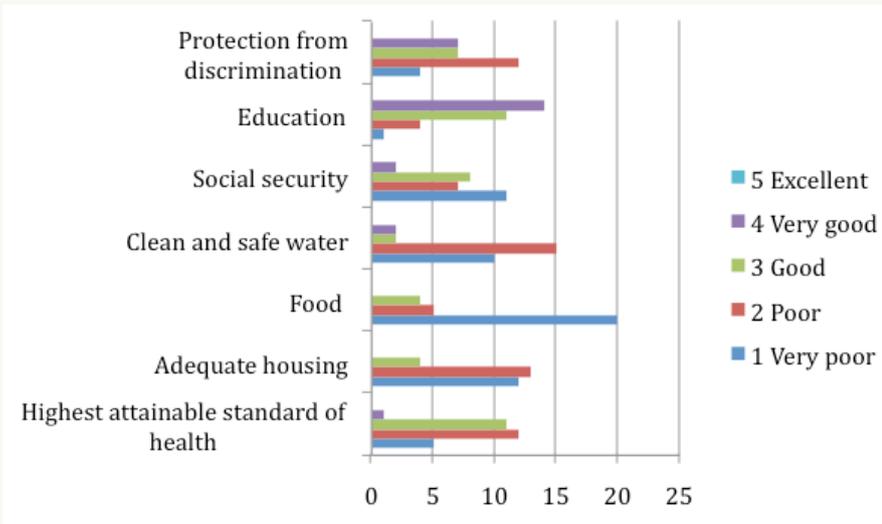


Figure 9: Rating government performance on economic and social rights

The government was rated 1 (very poor) with regard to the right to be free from hunger and to have adequate food of acceptable quality; right to accessible and adequate housing and reasonable standard of sanitation; and right to social security in that order. The government was rated 2 (poor) in its provision of clean and safe water in adequate quantities. It was rated 3 (good) for its intervention with regard to the right to education and the right to the highest attainable standard of health. Finally, it was rated 4 (very good) in the realization of the right to education. It is worth noting that the government did not get an excellent rating with regard to the provision of any ECOSOC right.

From the Kibera FGD, the government was rated 1 (very poor) on its performance with regard to the promotion of the right to accessible and adequate housing and reasonable standards of sanitation, the rights to be free from hunger, and to have adequate food of acceptable quality, the right to clean and safe water in adequate quantities and the right to social security and protection from discrimination. On the right to education, the government was rated as 2 (poor) on the promotion of the right to education in addition to the right to the highest attainable standard of health, the government scored 3 (good).

From the two sets of responses, that is, the respondents that took part in the KI and those from the participants that took part in the FGDs, it is clear that according to the duty bearers, the government has performed very well with regard to the realization of the right to education. However, the claim holders (in this case the participants in the FGDs) do not think so as they rated the government's performance as very poor.

#### 2.14 Level of satisfaction with CSOs' performance on specific ECOSOC rights

The survey also sought to establish respondents' levels of satisfaction with CSOs performance in regard to the promotion of ECOSOC rights. In response, 65 percent indicated that they were not satisfied, while 32 percent said they were satisfied. 3 percent did not share their opinion. This is illustrated in the figure below.

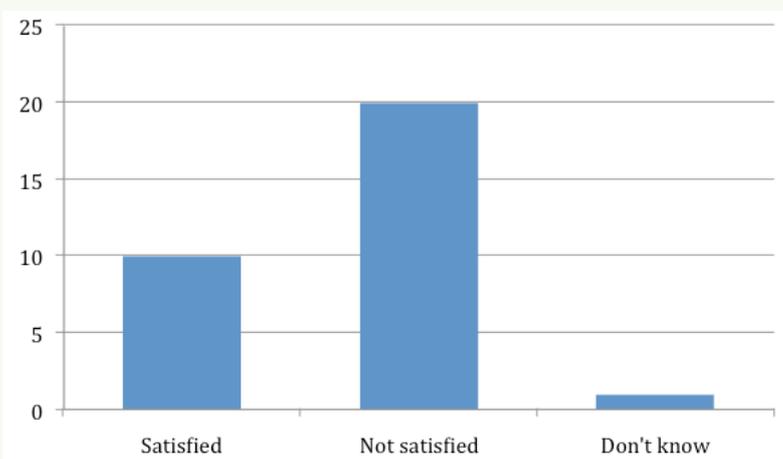


Figure 10: Level of satisfaction with CSOs' performance on ECOSOC rights

Some of the reasons that the respondents cited for their satisfaction are listed in the table below.

Table 8: Reasons for respondents' satisfaction with CSOs

#### Reasons for respondents' satisfaction with CSOs

- CSOs are doing a good job but they need to be more factual.
- CSOs are watchdogs but they can do better
- CSOs must help government policy makers to translate rights into things that they can relate to, so as to ensure progressive realization of these rights as there is a deficit in terms of understanding

The respondents that were satisfied with the CSOs noted their contribution and role in keeping the government in check. However, they were of the view that CSOs can improve in their interventions by being more factual and not reactionary.

Those that were dissatisfied with CSOs gave the following reasons-

Table 9: Reasons for respondents' dissatisfaction with CSO

#### Reasons for respondents' dissatisfaction with CSOs

- CSOs need to better understand ECOSOC rights
- There is lack of commitment among CSOs
- Most NGOs only focus on soliciting funds and fail to translate them to real development
- The results of the activities by CSOs are not visible as they have not been able to transform societies' in economic well being
- CSOs are generally uncoordinated
- More emphasis has gone into CP rights. I cannot identify an organization working on ECOSOC rights
- CSOs need to restructure their programming to make them rights based
- CSOs are more of noise makers as they advocate for rights but almost never implement or play a role in providing them
- CSOs just talk too much theory with little to show in reality. For instance, in Nyanza Province, for over 20 years, CSOs have been working on HIV/Aids but the prevalence of the disease is still high as they have nothing to show for it
- CSOs lack the capacity and do not understand issues

A majority of those that were not satisfied indicated that CSOs lacked the capacity in terms of understanding the rights and issues. They were of the view that CSOs need to undertake more research so as to get the factual information. Others were of the view that CSOs are only after raising funds and are not committed to making a change in the lives of citizens because the results of their activities were not tangible. A majority of respondents indicated that CSOs interventions are disjointed. Finally, CSOs have mainly concentrated on CP rights at the expense of ECOSOC rights.

### 2.15 Ratings of CSOs on ECOSOC rights

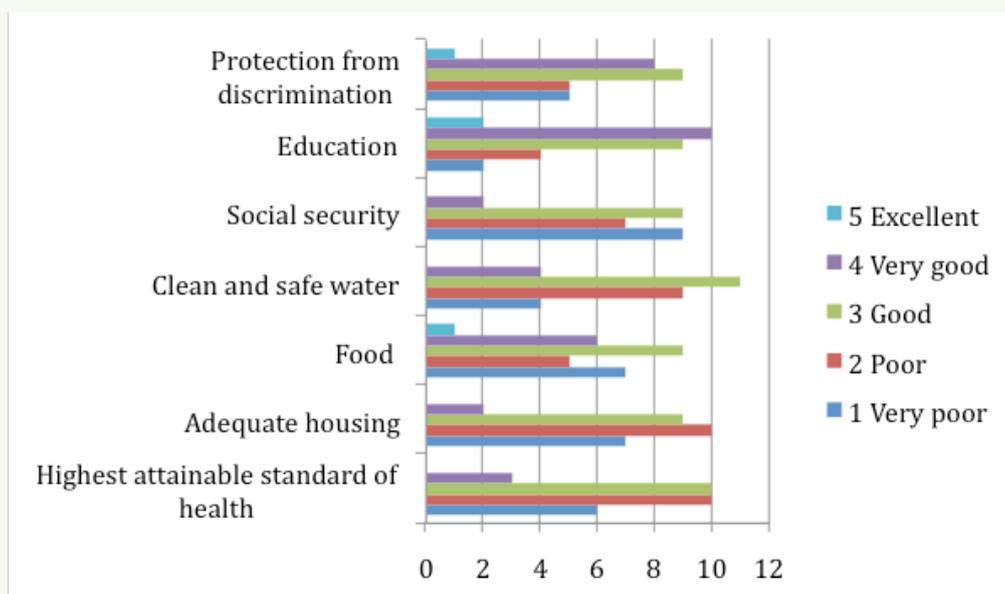


Figure 11: Ratings of CSOs on ECOSOC rights

CSOs were rated 1 (very poor) for not developing programmes that seek to promote social security. CSOs were rated 2 (poor) when it came to initiating programme geared toward the promotion of the right to the highest attainable standard of health; and adequate housing and reasonable standard of sanitation. They were rated 3 (good) when it came to programmes around the provision of clean and safe water in adequate quantities. CSOs excelled with regards to programmes on the right to education where they were rated 4 (very good). Unlike government, CSOs were rated 5 (excellent) when it came to protecting citizens from discrimination, right to education and right to be free from hunger and to have adequate food in adequate quantities. With regard to the FGDs, of note was the Kibera FGD where CSOs were rated 4 (very good) on all rights apart from the promotion of social security where they were given a rating of 3 (good).

### 2.16 Is the public aware of and understand how to claim ECOSOC rights?

74 percent of the respondents indicated that in their view, the public is not aware of and understand how to claim ECOSOC right while 23 percent were of the view that the public are aware and 3 percent did not know whether the public are aware of how to claim ECOSOC rights.

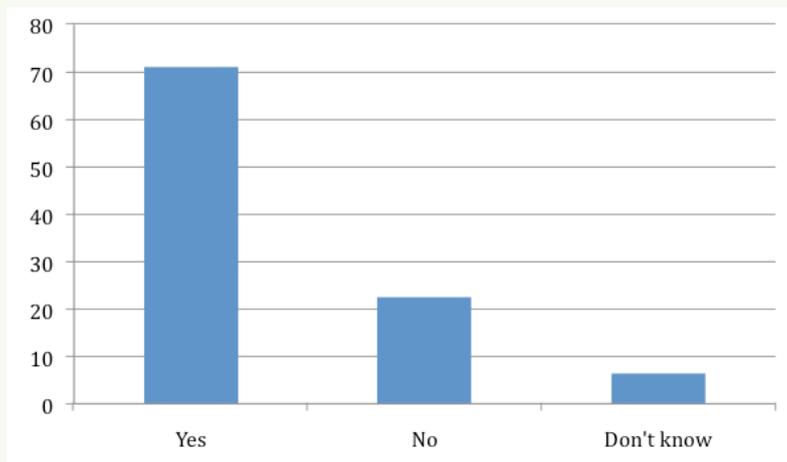


Figure 12: Is the public aware of and understand how to claim ECOSOC rights?

Of those that were of the view that the public is better equipped to claim their ECOSOC right, they cited the fact that the Constitution of Kenya, 2010 has enlightened the community, however they stated that there is need to do more awareness and advocacy to educate the public. Those that stated that the public is not aware were of the view that the language used in the Constitution of Kenya, 2010 is too complex and the public do not have information on how to go about it. They emphasized the need to create awareness on these rights.

### 2.17 Knowledge of remedies available to citizens whose ECOSOC rights have been violated

The respondents were asked to list some of the remedies available to citizens whose ECOSOC rights had been violated. The table below is a summary of those remedies.

Table 10: List of remedies available to citizens to claim their ECOSOC rights

Remedies available to citizens
• Judicial review
• Litigation
• Participate in governance issues
• Report to police
• Tribunals
• Dispute resolution mechanism
• Report at KNCHR
• Seek compensation
• Creation of public awareness and education
• The need for Courts to understand what ECOSOC rights
• Demonstrations and strikes
• Report to the Ombudsman
• Seek audience with government officials

- File a Constitutional reference for violation of one's rights as guaranteed under the Bill of Rights
- Seek administrative action
- Push the government to provide social security
- Build government capacity
- International community must do their part
- There are also several institutions that have mandate to address the issue, such as tribunals
- CSO's should partner with the government to promote ECOSOC rights so as to ensure that the citizens enjoy the rights

## 2.18 How can the public be assisted to claim ECOSOC rights?

When asked how the public can be assisted to claim their rights, the respondents indicated that the first step towards claiming ECOSOC rights is building capacity and empowering citizens. Implementing relevant policies and legal instruments, providing legal aid, capacity building of states and institutions, establishing local and global partnerships as well as carrying out recommended trainings are some of the steps suggested by respondents to build capacity. Below is a list of some ways that the public can be assisted

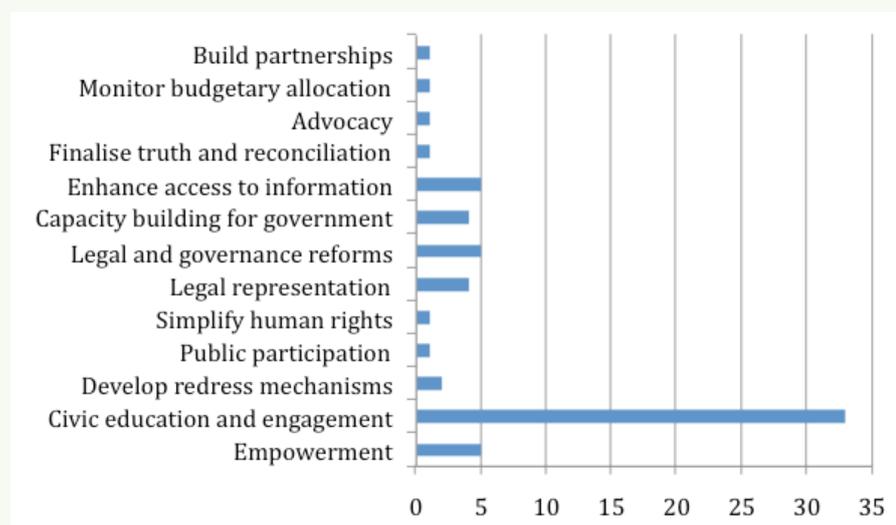


Figure 13: How can the public be assisted to claim economic and social rights?

From the above, the respondents were of the view that civic education and engagement, empowerment, legal and governance reforms, enhanced access to information and capacity building for government officials will go a long way in enabling citizens to claim their ECOSOC rights. One respondent proposed that the establishment of an informal court system where petitions can be filed without the need for filing fees. Another respondent proposed the inclusion of human rights in the educational curriculum in schools and colleges. Finally, one of the respondents proposed greater media awareness and sensitization as this will reach a greater number of citizens.

## 2.19 Is it possible for citizens to enjoy ECOSOC rights?

When asked whether or not they think that citizens can enjoy their ECOSOC rights, 71 percent of the respondents said 'Yes' indicating that all citizens can enjoy the rights to health, housing, adequate food, clean and safe water, social security and education. 23 percent on the other hand are skeptical and believe that it is not possible while 6 percent reported that they do not know. Some of the challenges that may limit full enjoyment of ECOSOC rights are the lack of knowledge of these rights by concerned parties, lack of funds to implement the programmes as well. Some also cited the capitalistic system that breeds inequality as it makes the rich richer and the poor poorer.

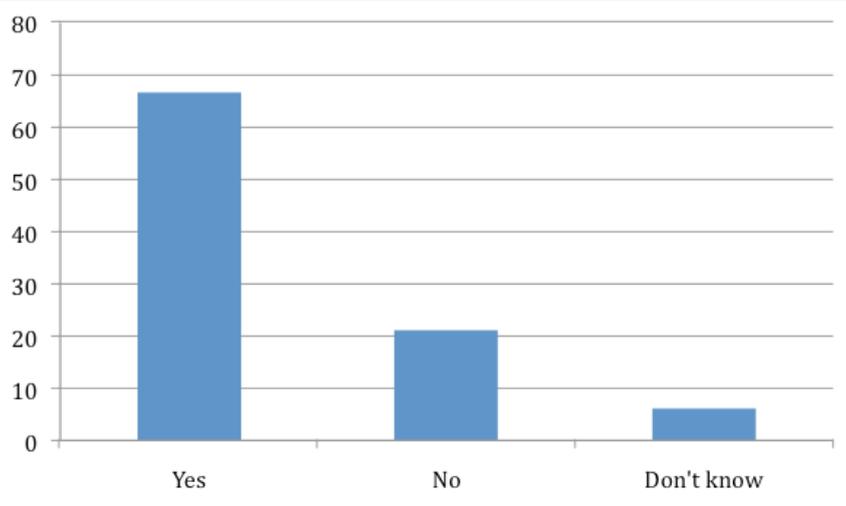


Figure 14: Is it possible for citizens to enjoy ECOSOC rights?

### 2.20 Analysis of application of Human Rights Based Approach

The survey also sought to establish whether or not institutions have infused apply human rights principles including the human rights based approach as part of the guiding principles when designing, implementing and evaluating their programmes. The findings are categorized according to active and meaningful citizen participation, equality and non-discrimination, transparency and accountability, gender, and affirmative action.

#### Active and meaningful citizen participation

In response to the question of whether or not an organization ensures active and meaningful participation of the public, 82 percent of the respondents indicated that they do so while 9 percent disagreed and a further 9 percent said they did not know. This is illustrated in the figure below.

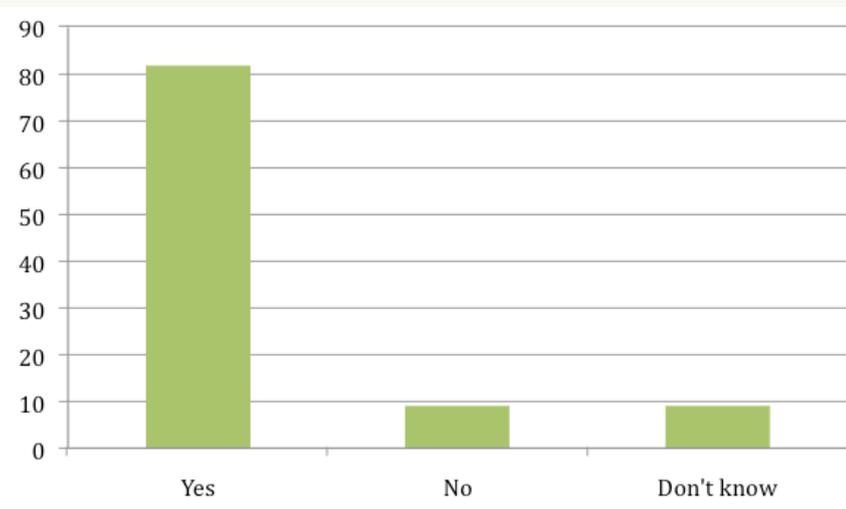


Figure 15: Active and meaningful citizen participation

A majority of the respondents reported that they ensure active and meaningful participation of the public. They do this through round table discussions and community meetings that provide a platform for the public to raise issues that are of concern to them, air their views, deal with the marginalized communities, encourage partnership engagements among private and public groups, among others. Of note is one respondent who indicated that they look at issues that affect a higher population while another expressed reservations because ensuring participation always takes time.

#### Equality and non-discrimination

The respondents were asked whether they apply the principles of equality and non-discrimination. In response, 91 percent said yes while 9 percent were not sure whether the principle is consciously employed. This is more particularized below-

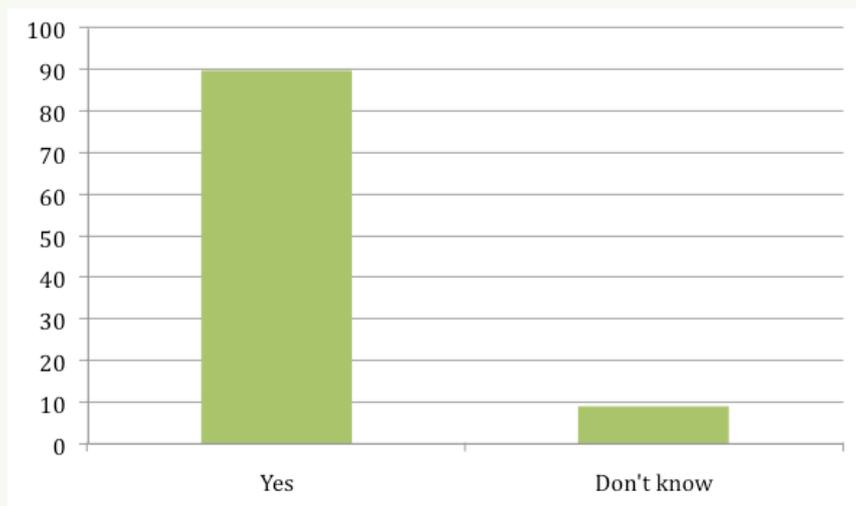


Figure 16: Equality and non-discrimination

According to respondents who participated in the survey, there exists equality and non-discrimination. This is attributed to the fact that there are policies in place that ensure protection from violation of such rights. In addition, institutions are mandated to ensure an environment that is non-discriminatory and gender equality. There is a healthy balance in terms of gender, provision for the protection of the rights as well as support of women, the mentally ill, HIV/AIDS infected, the disabled, among others.

#### Transparency and accountability

With regard to transparency and accountability, 91 percent of the respondents said that they apply the principle while 9 percent indicated that they do not know.

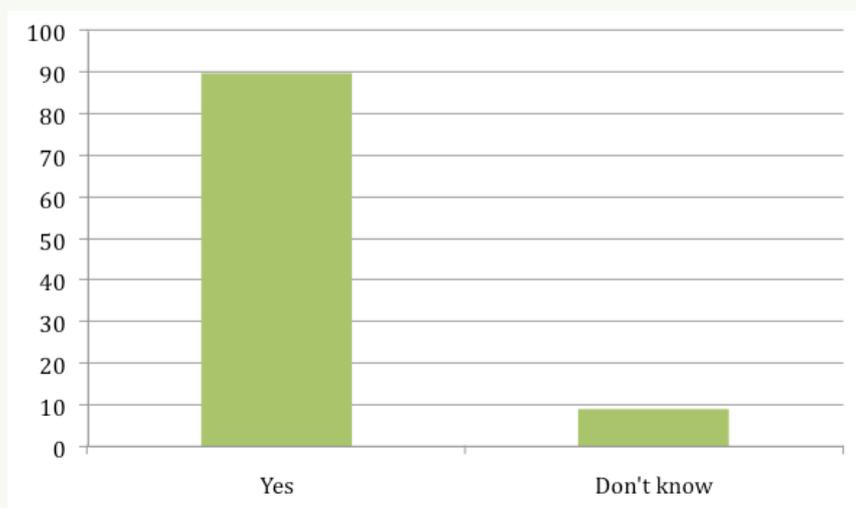


Figure 17: Transparency and accountability

Of note is that the respondents indicated that over 75 percent of government resources are not subjected to any criteria for allocation. These allocations are done at the whims of those in power. The respondent called for openness and transparency in government tendering which is currently very restricted.

#### Gender

When asked whether they consider gender issues in their programming, 88 percent of the respondents said they do while 9 percent said they were not aware and a further 3 percent said they do not consider gender in their programming.

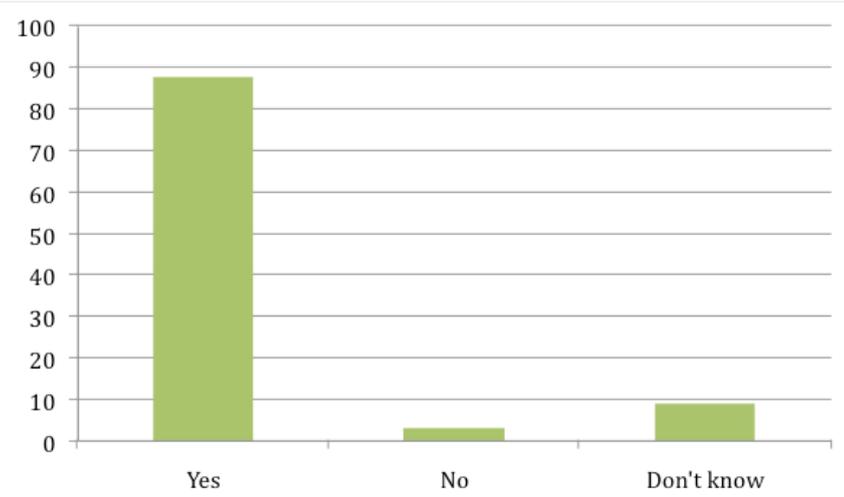


Figure 18: Gender

Of those that responded in the affirmative, they pointed out that they always ensure that there is equal opportunity and representation. Others have gender policies within the institutions. Of note was a respondent from government who pointed out that their ministry has more women than men.

All those that responded in the negative said that the issue of gender equality is superficial in that the recruitment of employees does not take one's gender into consideration but the qualification of applicants.

**Affirmative action for vulnerable groups**

79 percent of respondents reported that there exists affirmative action for vulnerable groups. 9 percent of the respondents disagreed with this and a further 12 percent do not know that it exists.

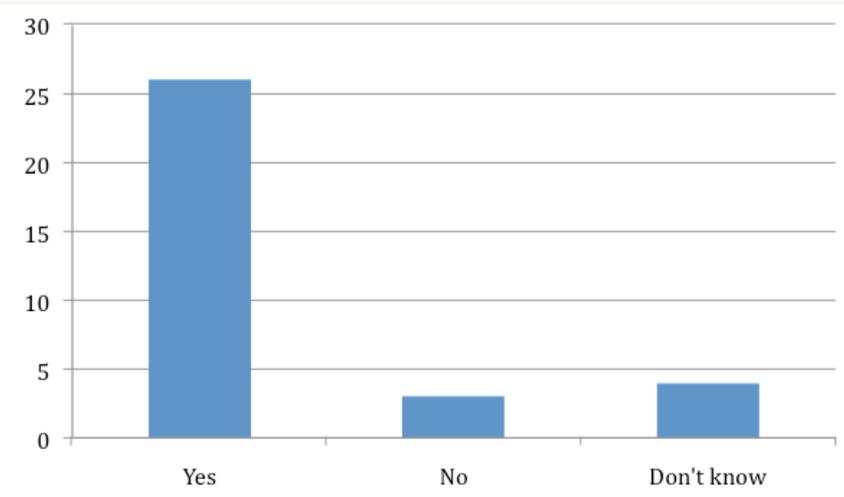


Figure 19: Affirmative action for vulnerable groups

According to the respondents that said 'Yes' they gave the following examples namely that they are involved with the marginalized and ensure that every group is represented in the committee; another indicated that paralegal networks have structures that guide affirmative action of vulnerable groups. Another respondent said that they have a program that seeks to provide for the basic needs of Orphans and Vulnerable Children (OVC). Finally, one respondent indicated that they have in place a programme that audits how government ministries are implementing affirmative action. The respondents that said 'No' attributed it to limited capacity when it comes to applying affirmative action for vulnerable groups.

## 2.21 Actualization of ECOSOC rights

The survey also sought to get views on what could be done to actualise ECOSOC rights in Kenya. Some of the responses are listed in the table below

Table 11: *What can be done to actualize ECOSOC rights?*

### What can be done to actualize ECOSOC rights?

- Undertake awareness campaigns on economic and social rights and the roles each group plays in ensuring access for all
- Ensure collaborative processes in the development and implementation of policies
- Ensure accountability and transparency in the allocation of resources
- Undertake a needs assessment to identify those that have been marginalized in society before undertaking any programme that targets the community
- Undertake a needs assessment to identify those that have been marginalized in society before undertaking any programme that targets the community
- Ensure the views of all stakeholders including, citizens, CSOs, NGO, relevant government institutions are considered in the development of projects geared towards the realization of ECOSOC rights
- Accountability both from government and CSOs
- Undertake basic civic education for citizens on ECOSOC rights and how to claim their rights
- Undertake civic education for citizens on the Constitution
- Develop, enact and implement laws and polices geared towards the realization of ECOSOC rights
- CSOs and citizens should remain vigilant and monitor governments obligation towards the realization of ECOSOC rights
- Cultivate a culture for the respect for human rights as this will create an environment that respects human rights and citizens will be confident to demand for their rights if violated
- Government should treat ECOSOC rights as they have an obligation to fulfill and not as favors to be handed down to the citizen
- Enforcement of the Bill of Rights
- Reforms
- Use of legal remedies i.e. court, tribunals, commissions
- Debts of the country should be disclosed to citizens and foreign debts should be regulated

## Chapter Three: **Conclusions and recommendations**

### **3.1 Knowledge of human rights**

The survey revealed that a majority of the respondents were aware of CP and ECOSOC rights. They attributed their knowledge to the fact that they had undergone training on human rights or had learnt on the job. But, they noted that the levels of knowledge among the public is still very low.

With regard to the level of attention between civil and political rights and economic and social rights, the survey confirmed that CP rights have received greater attention as compared to ECOSOC rights.

### **3.2 Measures taken to promote and protect economic and social rights**

The survey revealed that a majority of the respondents implement programmes and activities that touch on ECOSOC rights. These include the right to health, right to education, right to housing, right to work, right to adequate water and sanitation. The survey also revealed that very few of the respondents were undertaking programmes, projects or activities on the right to be education, free from hunger, and to have adequate food of acceptable quality and social security.

The survey revealed that the provisions on ECOSOC rights that are in Constitution of Kenya, 2010 will lead to the improvement of the lives of Kenyans. However, the government has to take measures to promote these rights. To this end, the government should ensure equitable and accountable utilization of resources, meaningful public participation in the budget making process, capacity building and constitutionalism.

The survey revealed that the majority of the respondents were not satisfied with governments' performance with regard to ECOSOC rights due to the limited resources allocated to them. Further, the government has performed poorly with regard to reducing corruption and this has a direct effect on the resources available to promoting ECOSOC rights. There is also the issue of capacity gaps among government officials on how to promote ECOSOC rights. Finally, the high levels of poverty and low levels of awareness also contributed to the government's poor performance. Therefore, the government has to fully implement the Constitution and put in place relevant legislative and policy measures that would contribute to the realization of ECOSOC rights.

On specific ECOSOC rights, there was a general satisfaction with the government's performance toward the realization of the right to education, the right to the highest attainable standard of health. But it performed poorly with regard to the provision of clean and safe water in adequate quantities; right to food; and right to social security.

But of note was the difference in perception among the key informants who filled the questionnaires and the participants that took part in the FGDs (most of whom were members of the public). The FGD participants indicated that the government had failed with regard to the right to accessible and adequate housing and reasonable standards of sanitation, the rights to be free from hunger, and to have adequate food of acceptable quality, the right to clean and safe water in adequate quantities and the right to social security and protection from discrimination. With regard to the right to education, the survey revealed that the public was still not satisfied with government's performance.

The respondents were critical of what CSOs have done to promote ECOSOC rights and attributed their dissatisfaction to the fact that CSOs lacked capacity in terms of understanding the rights and issues. Further that a majority of the CSOs mainly concentrated on CP rights at the expense of ECOSOC rights.

The survey revealed that it is possible for citizens to enjoy ECOSOC rights but they are not aware of and understand how to claim them due to the lack of knowledge and inequality

### 3.3 Application of Human Rights Based Approach

On the application of Human Rights Based Approach, the survey revealed that a majority of the respondents were applying human rights principles of active and meaningful citizen participation, equality and non-discrimination, transparency and accountability, gender, and affirmative action in their programming. The survey however revealed that in most instances, the respondents might not consciously be aware that they were applying this principle. A majority of the participants were also of the view that application of the human rights based approach was expensive and in other instances, respondents indicated that their programming was informed by issues and views of the majority.

### 3.4 Recommendations

- There is need for greater awareness creation and capacity building on human rights among key stakeholders including government officials, CSOs and the public
- There is need to empower citizens in order to enhance their capacity to claim their rights.
- More attention needs to be put towards the realisation of ECOOSC rights from all stakeholders.
- There is need for stakeholders including government officials, CSOs to undertake more programmes on the right to education, free from hunger, and to have adequate food of acceptable quality and social security.
- The government and CSOs should take measures to inform the public of what programmes, projects or activities they were undertaking on particular ECOSOC rights and the target area and population in order for citizens to benefit from them.
- Citizens and CSOs should be more vigilant to ensure the government implements the provisions in the Constitution of Kenya, 2010 to ensure that ECOSOC rights are realised
- There should be equitable and accountable utilization of resources.
- There should be meaningful public participation in the budget making.
- There should be political will to ensure ECOSOC rights are taken seriously.
- There is need to increase budgetary allocation on ECOSOC rights.
- The fight against corruption should be enhanced as it affect the ealisation of ECOSOC rights.
- Establish a monitoring framework for monitoring government's progress towards the realisations of particular economic and social rights.
- CSOs need to be more transparent and accountable particularly to the beneficiaries
- CSOs need to undertake more work toward the promotion of the right to social security, the right to the highest attainable standard of health; and adequate housing and reasonable standard of sanitation. CSOs scored poorly in regard to their efforts in promoting.
- Increase collaboration among government, CSOs and Development Partners that seek to undertake joint intervention strategies in the promotion of ECOSOC rights.
- There is need for more funding towards programmes that enhance economic and social rights of the citizens both for Government and CSOs.
- More efforts need to be put toward to ensure that programming takes HRBA into account.
- Simplification of laws and policies to make them more understandable by the public
- Provision of legal aid.
- Capacity enhancement of citizens of how to claim their rights through existing redress mechanisms.
- Targeted advocacy and lobbying strategies.
- Enhance access to information.
- The government should infuse human rights training into school curriculum which will cultivate a culture of human rights respect

## Appendix 1: Data Collection Tool for Key Informants

### DEMOGRAPHICS

P1. County: \_\_\_\_\_

P2. Respondents Name (optional): \_\_\_\_\_

P3. Respondents Designation: \_\_\_\_\_

P4. Respondents Organisation: \_\_\_\_\_

P5. Contacts: Telephone; \_\_\_\_\_ E-mail; \_\_\_\_\_

P6. Organisation Category

- (1) Government Institution
- (2) Civil Society organisation
- (3) UN
- (4) Other (specify) \_\_\_\_\_

1. What is your understanding of human rights?

\_\_\_\_\_

2. What is your understanding of civil and political rights?

\_\_\_\_\_

3. How would you rate your level of knowledge of civil and political rights?

- (1) Excellent
- (2) Good
- (3) Poor

Please explain

\_\_\_\_\_

4. Please give examples of civil and political rights that you know.

1 \_\_\_\_\_

2 \_\_\_\_\_

3 \_\_\_\_\_

5. What is your understanding of economic and social rights?

\_\_\_\_\_

6. How would you rate your level of knowledge of economic and social rights

- (1) Excellent
- (2) Good
- (3) Poor

Please explain

---

7. Please give examples of economic and social rights that you know

1 \_\_\_\_\_

2 \_\_\_\_\_

3 \_\_\_\_\_

8. In your view how would you consider the level of attention given to civil and political rights vis a vis economic and social rights in Kenya?

---

9. Has your institution undertaken any programme, project or activity on any economic and social rights? Please explain.

---

10. The Constitution of Kenya, 2010 recognises economic and social rights; in your view will this improve the lives of Kenyans? Please explain.

---

11. Are you satisfied with the Government's performance regarding the promotion of economic and social rights?

- (1) Yes
- (2) No
- (3) Don't know

Please explain

---

12. On a scale of 1 – 5 (where 1 is very poor and 5 is excellent) how would you rate the Government's performance in regard to the following economic and social rights as recognized under the Constitution.

Rights	Score				
	1	2	3	4	5
The right to the highest attainable standard of health	1	2	3	4	5
The right to accessible and adequate housing, and to reasonable standards of sanitation	1	2	3	4	5
The rights to be free from hunger, and to have adequate food of acceptable quality	1	2	3	4	5
The right to clean and safe water in adequate quantities	1	2	3	4	5
The right to social security	1	2	3	4	5
The right to Education	1	2	3	4	5
Protection from discrimination	1	2	3	4	5

13. Are you satisfied with Civil Society Organization’s performance regarding the promotion of economic and social rights?

- (1) Yes
- (2) No
- (3) Don't know

Please explain

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14. On a scale of 1 – 5 (where 1 is very poor and 5 is excellent) how would you rate the performance of civil society organizations in regard to the following economic and social rights as recognized under the Constitution.

Rights	Score				
The right to the highest attainable standard of health	1	2	3	4	5
The right to accessible and adequate housing, and to reasonable standards of sanitation	1	2	3	4	5
The rights to be free from hunger, and to have adequate food of acceptable quality	1	2	3	4	5
The right to clean and safe water in adequate quantities	1	2	3	4	5
The right to social security	1	2	3	4	5
The right to Education	1	2	3	4	5
Protection from discrimination	1	2	3	4	5

15. In your opinion, do you think the public are aware of and understand how to claim their economic and social rights?

- (1) Yes
- (2) No
- (3) Don't know

Please explain?

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16. In your opinion, what remedies are available to citizens when their economic and social rights are violated?

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17. How can the public be assisted to claim their economic and social rights?

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18. In your view is it possible for all citizens to fully enjoy economic and social rights, that is the right to health, housing, adequate food, clean and safe water, social security and education?

- (1) Yes
- (2) No
- (3) Don't know

Please explain:

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19. What are the guiding principles that your institution employs in project design, implementation and evaluation? Do you take into consideration the following principles:

(i) Active and meaningful citizen participation

- (1) Yes
- (2) No
- (3) Don't know

Please explain

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(ii) Equality and Non discrimination (women, children, people living with HIV/AIDS, people with disabilities)

- (1) Yes
- (2) No
- (3) Don't know

Please explain

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(iii) Transparency and accountability

- (1) Yes
- (2) No
- (3) Don't know

Please explain

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(iv) Gender

- (1) Yes
- (2) No
- (3) Don't know

Please explain

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(v) Affirmative action for vulnerable groups

- (1) Yes
- (2) No
- (3) Don't know

Please explain

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20. In your opinion what can be done to actualize economic and social rights in Kenya?

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## Appendix 2: Data Collection Tool for Focused Group Discussions

# OVERALL QUESTION TO ANSWER IN FOCUS GROUP DISCUSSIONS

**Date of Focus Group:** \_\_\_\_\_

**Location of Focus Group:** \_\_\_\_\_

**Participant summary:** No. of women: \_\_\_\_\_ No. of men: \_\_\_\_\_ No. of children: \_\_\_\_\_ **Total No.:** \_\_\_\_\_

**Name of Note taker:** \_\_\_\_\_

Let us begin. Let us find out some more about each other by going around the room one at a time. Tell us your first name, what you do for a living and the communities you serve. I will start.

### 1. GENERAL KNOWLEDGE OF ECONOMIC AND SOCIAL RIGHTS

1. What comes to mind when you talk about human rights?
2. What are civil and political rights? Please give examples.
3. What are economic and social rights? Please give examples.
4. In general how would you perceive peoples' knowledge of civil and political rights, yours included, compared to economic and social rights?

Depending on the response given please request the participants to elaborate.

### 2. MEASURES TAKEN TO PROMOTE AND PROTECT ECONOMIC AND SOCIAL RIGHTS

5. Would you consider the level of attention given to civil and political rights vis a vis economic and social rights in Kenya adequate?

Depending on the response given please request the participants to elaborate.

6. What programmes, projects or activities on any economic and social rights are currently being implemented by the Government in the following areas?

- The right to the highest attainable standard of health
- The right to accessible and adequate housing and to reasonable standards of sanitation
- The right to accessible and adequate housing, and to reasonable standards of sanitation
- The rights to be free from hunger, and to have adequate food of acceptable quality
- The right to clean and safe water in adequate quantities
- The right to social security
- The right to education
- Protection from discrimination

Please describe them.

7. Are these programmes, projects or activities sufficient?
8. What programmes, projects or activities on any economic and social rights are currently being implemented by Civil Society Organizations? Please describe them.  
Based on the same criteria as that above
9. Are these programmes, projects or activities sufficient?
10. With the recognition of economic and social rights in the Constitution of Kenya, do you think that this will improve the lives of Kenyans? Please explain.

### 3. REMEDIES FOR THE VIOLATION OF ECONOMIC AND SOCIAL RIGHTS

11. Is the general public aware of and understand how to claim their economic and social rights?

Depending on the response given please request the participants to elaborate

12. What remedies are available to citizens when their economic and social rights are violated?
13. How can the public be assisted to claim their economic and social rights?
14. Is it possible for all citizens to fully enjoy economic and social rights, that is, the right to health, housing, adequate food, clean and safe water, social security and education?

Depending on the response given please request the participants to elaborate

#### 4. APPLICATION OF HUMAN RIGHTS BASED APPROACH

15. What comes to mind when you talk about “Human Rights Based Approach”?
16. In your view what are the guiding principles that institution employs in project design, implementation and evaluation? Do they take into consideration the following principles:
  - (i) Active and meaningful citizen participation?
  - (ii) Equality and non-discrimination (women, children, people living with HIV/AIDS, people with disabilities)
  - (iii) Transparency and accountability
  - (iv) Gender consideration
  - (v) Affirmative action for vulnerable groups

Please explain

17. What can be done to actualize economic and social rights in Kenya?

## Annexure 1: List of KII respondents

<b>MINISTRY/ORGANISATION</b>			
1.	Office of the Prime Minister	13.	SODNET
2.	Ministry of Public Health	14.	CLARION
3.	Ministry of Justice, National Cohesion and Constitution Affairs	15.	Kenya National Commission on Human Rights (KNCHR)
4.	Ministry of Housing	16.	Centre for Economic and Social Rights
5.	Ministry of Medical Services	17.	Legal Resource Foundation
6.	Ministry of Water and Sanitation	18.	Elimu Yetu Coordination
7.	Ministry of Higher Education, Science and Technology	19.	Maji na Ufanisi
8.	Ministry of Gender, Children and Social Development	20.	Hakii Jamii
9.	Ministry of Education	21.	Institute of Economic Affairs
10.	CEMIRIDE	22.	Action Aid Kenya
11.	Institute for Legislative Affairs (ILA)	23.	Safer World
12.	EACOR	24.	FIDA
		25.	HENNET

## Annexure 2: List of participants in the FGD

### Kibera Focus Group Discussion

1.	Linnet Omiyo	HAKI
2.	Moses Ogola	Institute for Development and Welfare Services (IDEWES)
3.	Dedan Athiende	Kenya Organization of People Living With HIV/AIDS (KOPLWA)
4.	Aggrey Okang'a	Kibera Slum Education Program (KISEP)
5.	Sarah Odera	Institute for Development and Welfare Services (IDEWES)
6.	Eunice Nzyoka	Kibera Slum Education Program (KISEP)
7.	Eunice Kaburu	Youth Development Forum (YDF)
8.	Dickson Nyamai	Youth Development Forum (YDF)
9.	Job Omondi	HAKI
10.	Kassim Issa	Kenya Organization of People Living With HIV/AIDS (KOPLWA)
11.	Stefanie Brucher	Children's Legal Action Network (CLAN)

### Kawangware Focus Group Discussions

<b>NAME</b>	<b>ORGANISATION</b>	<b>AREA OF WORK</b>
1. David Nyongesa	Hand of Hope Recovery Centre	Health/Savings
2. Washington Mwale	S.P.C. Shallomers Group	Economic Empowerment
3. Edward Githaiga	Youth Economic Empowerment Project (YEEP)	Youth Entrepreneurship, ICT and Project Management
4. Grace K. Akinyi	WEMA Support Group	Kabiro Human Development Centre
5. Carolyne Kiai	Kawangware Urumwe	Youth Group Youth Peer Education. Youth Facilitator.
6. Joseph Otuko	ForeFront Kenya	Capacity building and Development
7. Olang'o Evance	Nuru Development Centre	Capacity building
8. Ivan Ksibwa	Angaza Jamii Member	Youth
9. Catherine Njeri	Sisi Kwa Sisi Women Group	Building our Society
10. Everline Ingosi	Kabiro Sisi Sisi	Building Our Society
11. Nancy Nteere-Chemei	Action Network for the Disabled (ANDY)	Health, Economic Empowerment, Education
12. David Osotsi	ODESAC Sacco	Savings and Credit
13. Immaculate Wanjala	Kito International	Street Youth Empowerment
14. Lilian Akinyi	Maisha	Women Rights
15. Florence Keya	NDC	Youth Empowerment
16. Dickson Salano	Kenya Artistic Youth Association	Community
17. Cecilia Isavari	Mtuni Women	Revolving Fund
18. Maj (Rtd) T. Wabwire	National Community Policing Development Association	Community Livelihood Improvement and Proactive Crime Prevention
19. Estones A. Adebe	Nuru Development Centre	Economic Empowerment
20. Jackline Mwale	SPC Shallomers Group	
21. Maureen Imali	NDC Intern	





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