



Kenya National Commission on Human Rights

1st floor, CVS Plaza, Lenana Road, P. O. Box 74359-00200 Nairobi-Kenya.

Tel: 254-20-2717908/2717256/2712664, Fax: 254-20-2716160

Email: haki@knchr.org



KEEPING THE FOCUS: A HUMAN RIGHTS AGENDA

The Kenya National Commission on Human Rights (KNCHR) congratulates Kenyans for turning out in large numbers and peacefully exercising their democratic right to vote. KNCHR further congratulates all elected leaders as they assume office.

KNCHR wishes to call upon the new Government to ensure that the aspirations of Kenyans as eloquently pronounced in the Constitution of Kenya, 2010 are actualized by addressing the following concerns:

STATE OF THE NATION

The Country remains polarised along ethnic lines as evidenced by the voting patterns and the reactions to the outcome of the just concluded general elections. Rather than run issue based campaigns, the lead political candidates mobilized support along ethnic lines. This runs contrary to the provisions of the Constitution which proudly takes cognizance of our ethnic, cultural and religious diversity and affirms that our diversity notwithstanding, we aspire to live in peace and unity as one indivisible and sovereign nation. While urging the government to take deliberate steps to build a cohesive nation, we remind Kenyans that the primary responsibility of building a unified nation rests with all of us.

RESPECT FOR HUMAN RIGHTS

The Constitution recognizes the aspirations of all Kenyans for a government based on the essential values of human rights; equality, freedom, democracy, social justice and the rule of law.

The Constitution is a social contract between the people and their leaders; the people who are holders of the sovereign power -entrust that power to their leaders in the hope that there will be good governance and that they will have their needs and aspirations met. These needs are expressed in the bill of rights as the minimal expectations of the people. In meeting these needs the State is expected to observe, respect, protect, promote and fulfill the rights and fundamental freedoms in the Constitution. In fulfillment of these obligations, the state is stopped from violating civil and political rights and creating an enabling environment through facilitation and resource allocation for the realization of economic and social rights.

The approval of the National Action Plan on Human Rights is a key achievement in establishing a human rights state. We urge the government to take steps to ensure its full implementation.

ADDRESSING INSECURITY

The right to freedom and security of the person is guaranteed under Article 29 of the constitution. The state therefore has the responsibility to ensure that its citizens are protected from internal and external acts of aggression. The volatile situation in various parts of the particularly the Rift Valley, North Eastern and Coast regions undermines this right. The lawlessness has occasioned loss of life, massive displacements and loss of livelihoods. We call upon the Government to take immediate steps to contain the violence and ensure the restoration of a peaceful environment that will enable the residents of these regions to enjoy their fundamental rights, live a life of dignity and contribute to the development of the country in general. In the same vein, the government should ensure institutional reforms that guarantee to Kenyans an effective, accountable and responsive security sector.

AFFIRMATIVE ACTION

Kenya has been ranked as one of the most unequal societies in the world. Gender and regional disparities have continued widening since independence. The resultant effect of this inequality is that women, persons with disabilities, youth and certain regions of the country lag behind in terms of access to the national resources and participation in governance. We are for example concerned at the conservative approach adopted by the supreme court in its interpretation of the application of the 2/3 gender principle. We urge the government to take measures to ensure that all Kenyans are afforded equal opportunity in accessing government services and to elective and appointive positions.

EFFICIENT AND RESPONSIBLE MANAGEMENT OF PUBLIC FUNDS

Under the new Constitutional dispensation there is a requirement for openness and accountability, including public participation in financial matters. The government should practice zero tolerance to corruption. Measures to be taken include facilitating the Ethics and Anti Corruption Commission to fully execute its mandate. In addition, amendments should be made to the Leadership and Integrity Act to ensure that it conforms to the provisions of the Constitution. We urge that appointments to Public Office should fully comply with the requirements of Chapter 6 of the Constitution. We urge strict adherence to fiscal discipline in the utilization of public funds and resources so as to guard against wastage, ostentatious spending and official extravagance. The Commission is concerned by the efforts of the recently elected state officials to disregard and undermine the work of the Salaries and Remuneration Commission (SRC). The Commission fully supports the ongoing measures by the SRC to tame the public wage bill. We counsel the legislators both at the national and county level to desist from enacting self serving legislation aimed at increasing their personal emoluments. We remind them of the constitutional provision in Chapter 6 that prohibits state officers from behaving in a manner that creates conflict between personal interests and the public good. The public expects that the government immediately states its position on this matter.

ECONOMIC AND SOCIAL RIGHTS

The Constitution under Article 43 entrenches citizen's rights to economic and social rights. This commitment to providing these basic services of health, housing, education, food and water must be reflected in the budgetary provisions both at the national and county level. We urge the government to prioritize the delivery of accessible, affordable and quality basic services to its citizens. While acknowledging that great strides have been made in guaranteeing access to education through the introduction of free primary education and subsidized education at secondary level, there is need for urgent measures to be taken to ensure the quality of public

education offered guarantees equal competition with that in private institutions.

Regarding the right to adequate and quality food, it is regrettable that in this day and age, Kenyans do not enjoy food security amidst availability of vast productive agricultural land. We urge the government to institute policies and implement urgent programmes to guarantee food security for all Kenyans.

HISTORICAL INJUSTICES AND GROSS VIOLATIONS OF HUMAN RIGHTS

We urge the government to address historical injustices and gross violations of human rights so as to foster healing and national reconciliation. In this regard, the Government must commit to fully implement the report of the Truth Justice and Reconciliation Commission expected to be released in May 2013. While acknowledging that efforts have been made at resettling internally displaced persons, we urge that the government moves decisively to address this matter comprehensively and conclusively. Deliberate and decisive measures must be taken by the government to address impunity and ensure accountability for political and economic crimes.

STRENGTHENING OF INSTITUTIONS

In the past five years, investment has been made towards establishing independent institutions that foster good governance and act as pivotal pillars in the Country's reform agenda. These institutions must be sufficiently resourced to ensure that they are able to fully execute their mandates. In instances where doubts are cast on the professionalism of any institution, measures must be taken to inquire into and address any issues arising. In this regard, we recommend that the Executive commissions an independent public audit of the Independent Electoral and Boundaries Commission regarding the level of preparedness and the actual conduct of the 2013 Elections to ensure that the irregularities witnessed do not recur in future elections.

FIDELITY TO THE SPIRIT OF THE CONSTITUTION

The sum total of all the issues stated herein is that in all that the government sets out to do it must maintain fidelity to the ideals of the Constitution. The government must be open to constructive criticism and allow for strong and vibrant opposition and civil society. In this regard we expect that the government shall adhere to the provisions of the Constitution that recognize the Citizen's right to participation, information and freedom of expression and opinion.

In conclusion, we call upon Kenyans to jealously safeguard the gains thus far realized and re-commit to ensuring that the ideals as pronounced in the constitution become a reality for all regardless of race, gender, sex or political affiliations.