



KENYA NATIONAL COMMISSION ON HUMAN RIGHTS

Enhancing the realisation of your rights

E - Haki news

A monthly reflection of the human rights agenda in Kenya.

October 2013 Edition

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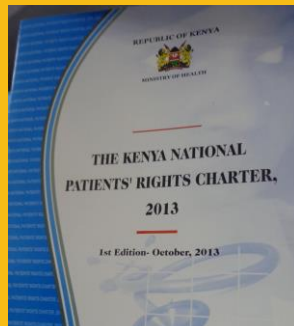


KNCHR is recognized for mainstreaming gender & disability in its work by Gender and Disability Centre.

Healthcare Service delivery

By Lynesther Mureu

Many times people have decried the poor state of health services in the country in both public and private hospitals. Just two months ago, shock and disbelief rent the air when a video clip was released in the media of a female patient in labour being mishandled in a government facility in Bungoma, receiving slaps and insults from caregivers who ordinarily ought to be a source of solace and relief.



In an effort to secure the rights of such patients, the government launched the National Patients Rights Charter early October, a factor that was necessitated by dynamics of medical practice, current constitutional dispensation and review of legislation relevant to health. “For the first time in Kenya, health is recognized as a constitutional right, thus creating new opportunities and challenges for health care providers to offer the highest attainable standards of health services to their clients,” says part of the Charter.

The charter

Speaking during the launch of the Charter which KNCHR played a role in formulation, the Commission CEO Ms Patricia Nyaundi lauded the Ministry of Health for this move terming it the right steps towards the realization of aspects of Article 43 of the constitution. “Kenya can now take a seat among progressive nations that have developed policies that recognize citizens’ rights to health services,” she said.

The Charter elaborately outlines 14 rights of patients, 15 responsibilities of patients, dispute areas and resolution avenues. As human rights watchdog body, KNCHR will be working closely with the Ministry of Health to monitor the dissemination and implementation of the Charter.

Devolution as a tool for peace and conflict resolution

By Keith Chagalwa

The success of devolution in Kenya places heavy weight on public participation for development to be felt to the utmost corners of the country. It has been said that communities have lagged behind because of poor resourcing from national government as well as inequitable distribution of resources which has more often caused conflict amongst communities.

In seeking to redress development through devolution in conflict prone communities, the Kenya National Commission on Human Rights is currently undertaking a pilot project in Mombasa through which citizens will be empowered to influence development in their counties by demanding accountability from their leaders. The project is set to take place between October 2013 and February 2014 and will be spearheaded by KNCHR's Mombasa regional office.

It is believed that successful implementation of devolution will address some of the conflict triggers in Mombasa including historical marginalization

The project dubbed, 'Reducing Conflict through Devolution: A Case Study of Mombasa County' aims at building a critical voice of rights holders for accountability by their elected leaders.

It is believed that successful implementation of devolution will address some of the conflict triggers in Mombasa including historical marginalization. All 30 wards in Mombasa County shall have full day educational activities on devolution and human rights, incorporating focus group discussions, county hall debates and

theatre to empower citizens on public participation.

So far three forums have already been held in Frère town ward, Kongowea ward and Ziwa La ng'ombe ward in Kisauni constituency. Trainers of trainers' sessions will also be held on issues of human rights, advocacy and lobbying in order to empower communities and their leaders beyond the life of the project.



Participants at one of the forums

As a means of measuring effectiveness of devolved government, communities will develop a score card on agreed parameters and use the same to inform the development roadmap of the county in the coming year.

KNCHR also held meetings with the Governor, Senator and local MP's to discuss the vision of the project. The leaders have also been invited to attend and participate in the public forums in order to hear firsthand the views of 'Wanjiku' as they implement their projects.



Editorial

KNCHR leadership - Firm as a rock

One of America's founding fathers Thomas Jefferson said, "In matters of style, swim with the current; in matters of principle stand as a rock". In the recent past, there has been growing concern among various actors owing to the delay in appointing the Chair and other members of the Commission. Since November 2012 the Commission has had a single commissioner. The delay in appointing Commissioners has impeded the commission in fulfilling its mandate.

The importance of the Commission cannot be refuted. This must be the reason that many have spoken and urged the Government to constitute the Commission without further delay. A strong vibrant National Human Rights Commission is a key pillar in the promotion and protection of Human Rights. Notwithstanding the 'leadership vacuum' that we have had to bear with over the last year, the Commission has endeavored to fulfill its watchdog and supervisory role on both state and non state actors as relates to promotion and protection of human rights. KNCHR successfully conducted elections monitoring and published its 2013 findings and we are to date involved heavily in the work around devolution. In this edition we carry a special feature profiling the ongoing project in Mombasa County that seeks to showcase devolution as a tool for conflict resolution. The success of this pilot will inform the possible roll out and replication of the project in other parts of the country in order to ensure devolution enhances the enjoyment of rights by all in Kenya.

We are keenly following up the extra judicial killing of human rights defender Hassan Guyo in Moyale... *Cont'd next page*

As a result of our efforts, the military responded to KNCHR letter of accountability by instituting an inquiry late last month, albeit 2 months after the incident.

KNCHR is also extending its presence in Kisumu County by the end of the year. We are excited at the growth and the prospects it offers as we increase access to our services at the regional level.

The Commission remains aware of the vast challenges ahead in the full realization of human rights for all but has not been cowed by the same but rather continues to set a firm foundation that shall be found standing and ready to be built by the new leadership coming in the next few months. As we wait, we remain firm as a rock.

Kenyans await government action post TJRC report

By Josephine Muchilwa

The setting up of the Truth Justice and Reconciliation Commission (TJRC) created a ray of hope for many who had suffered historical injustices with an aim of reconciling communities in order to spur peace. The Commission, whose work was to date back to injustices of more than 40 years and to those as recent as 5 years ago was occasioned by the post election violence of 2008. KNCHR formed part of the lobby groups that advocated for the formation of TJRC through its years of attempting to deal with human rights violations that resulted in varied injustices.

Finally, the TJRC released its report and findings but it is saddening to note that the contents of the same, which are key to peace and stability in the country, have not found space for discussions in the parliamentary corridors for our

leaders to debate and analyze the report for further and credible action to be taken. Victims, both those who gave their testimonial accounts to the Commission have waited with baited breath for action in terms of compensation and admissions from the government in vain.

In bridging this gap, KNCHR has instituted public forums with a simplified version of the voluminous report to ensure that the public, especially in affected areas are made aware of findings and are able to interact with the contents of the report.



President Uhuru Kenyatta is handed the final report

KNCHR has currently held forums in Kisumu, Mombasa, Nyandarua, Makueni and will be venturing in Nairobi, Nakuru, Isiolo, Garissa and Mount Elgon to create awareness of the report. During the time TJRC was at work, KNCHR played a key role in preparing victims when the hearings began, this occasioned by the fact that many of them had reported their plight with the commission even before the Commission was formed.

Consequently, KNCHR prepared memoranda touching on access to justice, torture, extrajudicial killings and detention and handed them to the TJRC which were later adopted in the final report. We are proud to report that the efforts of KNCHR and Kenya Transitional

Justice Network formulated chapter four of the final TJRC report which centers on the Implementation and Reparation framework.

Defending Human Rights; a risky undertaking?

By Lynesther Mureu

“Everybody has the right individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international level.”(Article 1, UN Declaration on Human Rights Defenders 1998).

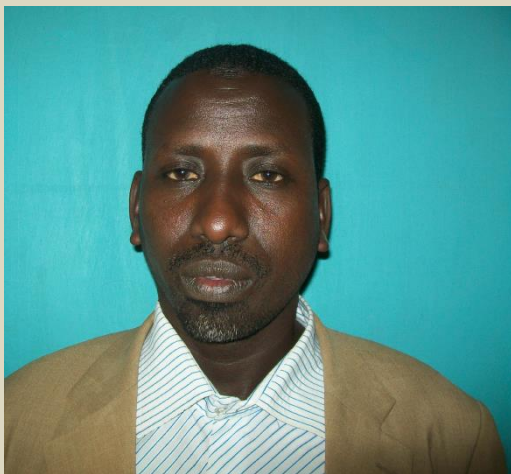
Human rights defenders (HRD) can be defined as ordinary people taking extraordinary risks to promote and/or protect human rights. Whether they may be members of civil society organizations, community leaders, paralegals, social workers, media personalities, volunteers, HRD’s build bridges between vulnerable people who are not enjoying their basic human rights largely from the state.

The innocent killing by state security agents of Hassan Guyo, a human rights activist in Moyale two months ago has sparked debate within civil society and in the human rights circles concerning security and rights of human rights defenders countrywide. Albeit their formal recognition in international circles as in the case above from the UN, these persons continue to be at risk and remain targets of the state to be silenced.

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As in the latest killing of Mr. Guyo, such senseless acts by agents sent to regions to secure communities further propel insecurity of a region where communities chose to turn against security agents or members supporting the state.

Well known to the KNCHR through the North Eastern Wajir office, Mr. Guyo has been a ray of hope for the people in Moyale who, in the absence of infrastructure to help them file human rights violations in Wajir, had been commuting and communicating the same to KNCHR for redress.



The late Hassan Guyo

Mr. Guyo met his death barely an hour after arriving from Wajir as he went to visit victims of skirmishes that rocked Moyale town on the fateful day of 7th August 2013. While on his way to the hospital, he found a barricade mounted by Kenya Defense Forces with several people lying on the floor being beaten by the officers.

Upon instruction by the officer to turn back, he and his motor cycle rider were aimed by the officers and the fateful bullet caught Guyo on the back. He died of injuries as the KDF officers denied Kenya Red Cross officials from attending to him at the scene.

His suppression through death has raised pertinent questions on the role of the state in promoting and protecting human rights. Use of force by security agents on civilians is a serious violation of human rights and is further worsened by denying victims' access to medical attention as was in the case of Guyo.

The sluggish attitude by the state to address or hold culpable officers who snapped the life of the human rights defender is a far cry for the aspirations of Kenyans for a government based on essential values of human rights, equality, freedom, democracy, social justice and the rule of law espoused in the preamble of the constitution of Kenya.

KNCHR has in the month of October instituted investigations through visits to Moyale in its effort to ensure justice for Guyo and his family as one way of safeguarding the rights of all Kenyans regardless of their location in the country. The Commission restates that right to life is a fundamental human right.

We continue to call for support for Human Rights Defenders and call on the state to guarantee an enabling environment.

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*Feedback to
ehaki@knchr.org*