



E-Haki news

A monthly reflection of the human rights agenda in Kenya, September 2013

Editor's
corner

KNCHR's 10th Birthday

To commemorate our 10th Anniversary, the KNCHR is pleased to launch E-Haki news. It is intended that this will be an authoritative source of current human rights issues in the country. In reporting on Human rights observance in all spheres of life we aim to contribute to the development of a culture of Human Rights within the country.

As we marked this significant anniversary on the 29th July 2013 we had occasion to reflect on our achievements and contributions to fostering accountable leadership that respects the rule of law. We are proud of our growth over the years. We now stand tall. We have 'A' Class status with the International Coordinating Committee of National Human Rights Institutions.

'Reports that have defined reform in this country include' *The Cry of blood (2008), Behaving badly (2006), On the brink of precipice (2008), Mountain of Terror (2008), 29 days of Terror in the Tana Delta (2012)* among others. We are gratified to learn that the reports have been cited widely both at the national and international level.

In this initial newsletter, we reflect on these gains, looking into the promising journey ahead as reforms entrenched in the new constitution continue to take shape. We recognize the efforts the government is continuously making in ensuring the enjoyment of human rights by all in Kenya while remaining firm in our commitment to play our watchdog role as guaranteed in the constitution.

Down memory lane

By James Mwenda

The establishment of the Kenya National Commission on Human Rights in July 2003 could be equated to the attainment of self-government in 1963. It was greeted with lots of optimism and equally high expectations.

It was the year of unmatched euphoria, having dethroned the independence party KANU, which was synonymous with oppression and egregious human rights abuses. In one poll, Kenyans were ranked as the most optimistic people in the world. Among the expectations probably was that there would be no more human rights abuses in Kenya. At that point in our history Kenyans were optimistic and supportive of the institutions that were set up to promote the protection of their rights.

The team appointed to head the human rights agenda in Kenya was composed mainly of prominent human rights practitioners and advocates. They assumed office on the 29th July 2003. They set the ball rolling with a smooth election of the Chair and the vice chairperson.

The Commission took a deliberate decision to interpret its mandate as widely as possible in doing so it was informed by the Paris Principles which are guidelines on the establishment of national human rights institutions. Chief among the principles is that of independence.

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A country in mourning



KNCHR joins the rest of the Country in mourning the loss of lives as a result of the terrorist attack at the Westgate Mall in Nairobi and laud our Security Officers for the bold and selfless response to this National Crisis.

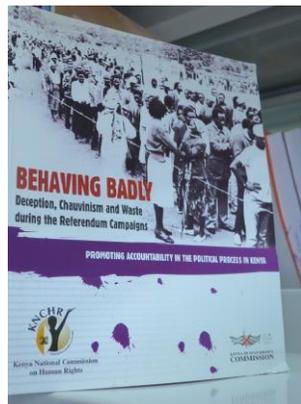
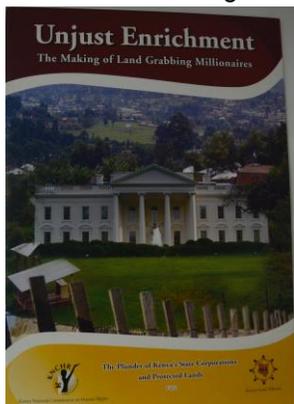
The Commission, then lead by Maina Kiai fiercely defended its mandate; as was laid down by the constitutive act- KNCHR Act of 2002.

From the outset the Commission asserted its independence and resisted what it perceived as external attempts to constrict its work. The Commission set out to ensure that the state embraced a culture of respect for human rights.

And the ball was set rolling in 2006 as; the Commission released a report on the waste within government dubbed *Living Large*, which demonstrated how the political class and the bureaucrats lived beyond the means of the economy. The Commission successfully framed corruption and abuse of office as a human rights concern. Consequently, the then Minister for Finance issued stern instructions that no state officer should have more than one vehicle and directed that all excess government vehicles should be sold. The report received immense public support.

The next publication "Unjust Enrichment" exposed the magnitude of land grabbing by the state officers and other operatives. The land grabbed in many cases was quickly transferred to either relatives, close allies or even sold to government institutions at exorbitant prices. The report was mainly extracted from the report of the Commission of Inquiry into the Illegal/ Irregular Allocation of Public Land (Ndung'u Report).

In the life of the first Commission, total independence was exercised in line with the law and international standards. This earned KNCHR the honour of being one of the top NHRIs in Africa. Actually it was graded as an "A" human rights institution in the world.



KNCHR influence in the human rights discourse in Kenya

In the recent past Kenya has undergone numerous reforms aimed at transforming the country from an authoritarian state to a constitutional democracy. The Kenya National Commission on Human Rights has played a central role in ensuring that Human Rights Principles and Standards are at the centre of these reforms. Achievements include the formulation of a robust Chapter on the Bill of Rights in the 2010 constitution, the enactment of Key legislation including, National Police Service Act, the National Police Service Commission Act, the Independent Police Oversight Authority Act, and the IDP policy in Kenya. The Commission also served as a Member of the Judicial Reforms taskforce, which participated in the development of the vetting tool for judges and magistrates.



Maina Kiai - Founder Chair

Mr Kiai fondly known as 'Chief' is remembered and recognized as one who fearlessly and without discrimination stood up for the voiceless at a time when democracy was suppressed by the ruling power.

Florence Jaoko - Chairperson

She is the first woman to serve as Chair to the Commission. She is remembered for her vigor in formulating and influencing the implementation of various human rights policies.



Dr. Samuel Tororei - Acting Chair 2012

Dr Tororei is remembered for being hands on as would be seen in his frequent field trips to meet with Wanjiku and experience 'her' issues first hand. This attribute ensured that there was extensive follow up on key issues for adequate action.



Ann Kyalo Munyiva Ngugi - Acting Chair 2013

Serving as sole commissioner and also the acting chair for a one year period, Commissioner Ann will be remembered for her diplomatic yet strategic zeal targeting duty bearers for the infusion of human rights based approach in dealing with the public.



KNCHR today

New Strategic thinking

Over the years, KNCHR expanded beyond the city and in a span of 10 years opened up three other regional offices to include Kitale, Wajir and most recently in 2012, Mombasa.

The new strategic plan 2013/18 guided by four key pillars; Institutional reforms, Access to justice, Economic and social rights and organizational effectiveness, KNCHR envisions opening up four more regional offices for the continued realization and enjoyment of human rights in Kenya, focusing efforts on ensuring every citizen knows and understands the provisions in the constitution.

The Constitution three years on

With aspects of the 2010 constitution already being implemented such as those of devolution, the new laws continue to face teething pains as varied institutions try to get a footing and adhere to the new guidelines.

Amendments to the National police Act

Recognizing that security is a basic, foundational and fundamental right the Constitution aims to strengthen the security agencies so as to facilitate the efficient security service delivery for the nation. Among the institutions created are the National Police Service and National Police Service Commission by virtue of Article 243. Bills have been introduced in Parliament seeking to amend both the National Police Service Act and the National Police Service Commission Act. The Commission has advised against the amendments that seek to enhance the powers of the inspector General at the expense of the National police Service Commission. The detailed advisory is available on our website.

Article 260

The proposal to amend Article 260 so as to re designate Members of the National and County Assembly and the Judiciary so that there are not State Officers is a bold statement by the legislators of their disdain for the constitutional tenets of responsible and accountable leadership. KNCHR advises against this amendment.

Internally displaced persons a growing human rights wound

In seeking a solution to the emerging human rights issue of IDPs, the commission pushed for the adoption of the IDP policy to cushion citizens against unlawful and inhumane evictions that render them homeless. It is therefore unacceptable that this notwithstanding, evictions are still conducted in breach of the provisions in the policy. A case on point is the recent evictions in Narasha in Naivasha. KNCHR instituted a fact finding mission and a report can be accessed on our website. The report has been forwarded to the Inspector General, we expect that disciplinary action shall be taken against those found culpable.

Integrated Commissions

KNCHR is proud to be a member and host secretariat to a joint constitutional commissions complaints receiving mechanism, IPCRM (Integrated Public Complaints Referral Mechanism), dubbed **Sema!**

Together with National Cohesion and Integrated Commission, Commission on Administrative Justice and Ethics and Anti Corruption Commission and partners Transparency international and the National Anti Corruption Campaign steering committee, the mechanism aims at devolving complaints mechanisms for effectiveness of both public and private institutions.

Sema!

Piga Ripoti

Your Complaints referral Centre

The mechanism allows member of the public to walk into any of the offices of the above mentioned institutions in Wajir, Mombasa, Nyeri, Kisumu and Kitale and register their complaints on corruption, human rights violations, administrative injustice or hate speech. A receiving officer will transmit the complaint to the respective institution for action and the complainant given feedback within 10 days of filing the complaint.

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