



57TH ORDINARY SESSION OF THE AFRICAN COMMISSION ON HUMAN AND PEOPLE'S RIGHTS

STATEMENT BY THE KENYA HUMAN RIGHTS COMMISSION (KHRC) AND THE KENYAN SECTION OF THE INTERNATIONAL COMMISSION OF JURISTS

Madam Chairperson, esteemed guests, all protocols observed.

Chairperson

We would like to bring to your attention and highlight key concerns regarding the state of human rights in Kenya.

In the words of Benjamin Franklin, *"Any society that chooses to lose a little liberty in exchange for a little security will deserve neither and loose both."*

The Government continues to target CSOs. In October 2015, the Non-Governmental Organizations (NGO) Coordination Board issued through the media, a notice de-registering 959 civil society organizations, including KHRC without following due process. This decision raises serious concerns about the regulation of the sector. This comes in the wake of similar decision by the Government in April 2015, branding two human rights organizations: Muslims for Human Rights (MUHURI) and Haki Africa as terrorist organizations, in addition to 84 other organizations. The Board also deregistered 486 organizations in December 2014.

Even as we welcome the decision by the Government to suspend the NGO Coordination Board's October 29 notice, we remain concerned by the increased attempts to target human rights defenders for their work. This includes organizations, groups and individuals working on state accountability, transparency and human rights.

Chairperson,

Since the last Ordinary Session, Kenya continues to face insecurity and successive challenges in the realization of human rights within its criminal justice sector, especially in the context of counter-terrorism. Civilians and refugees continue to be subjected to brutality, profiling, increased surveillance, torture, summary executions, extra judicial killings and enforced disappearances by security agencies.

The government is yet to address long-standing historical injustices and tribal clashes and continuing political incitement that catalyzed conflict. In addition, the situation is worsened by delays in realizing police, prisons and judicial reforms, and the increasing political interference in the functions of independent institutions.

The Government continues to breach constitutionally guaranteed rights through claw-backs in new legislation which pose danger to civic space, democracy and civil liberties. For example, the Kenya Defense Forces (KDF) Amendment Bill 2015 raises concerns about the increasing militarization of law enforcement; the Security (Amendment) Act 2014, the Public Order Act, the Penal Code, Kenya Information and Communication Act and the Media Council Act continue to be used to arbitrarily and unlawfully limit freedoms of the media, assembly and expression, including rights of persons in detention.

The Government needs to appreciate the interrelatedness of civil and political rights and economic, social and cultural rights. Kenyan citizens continue to face challenges in realizing rights to land, health, education, housing and development. Corruption in government and weak corporate accountability remains a major hindrance to realization of these rights with little or no visible efforts by the Government to put in place measures to fight corruption, and promote transparency and accountability in the use of public funds. In its fight against corruption the Government needs to ensure that corrupt public officers are prosecuted and public funds lost through corrupt activities are recovered and used appropriately.

During this Session, the 8th-11th Combined Periodic Report of the Government of Kenya will be considered by the Commission. In that regard, we call upon the Commission to urge the Kenyan Government to:

1. Cease arbitrary deregistration, barriers to registration and operation of non-governmental organizations, including any legislative, policy or administrative action that impedes on the free action of CSOs, the media, trade unions and all organized civic groups in a free and democratic society;
2. Uphold all human rights obligations and abide by the Constitution when undertaking counter-terrorism security operations, including: ensuring that conclusive investigations are undertaken with respect to all complaints and/or suspicion of terrorism and ensure that inquests are commenced without delay on missing persons and extrajudicial killings cases;
3. To respect the rule of law, the independence of the judiciary, implement decisions of judicial bodies at the national, regional and international levels; respect the independence of Constitutional Commissions, Independent Offices and support the implementation of their mandates;

4. Enact Community Land Bill, Evictions and Resettlement Procedures Bill, and implement the recommendations of the Truth, Justice and Reconciliation Commission;
5. Take positive and firm measures to guard against ethnic polarization and its root causes, including speedy prosecution of all persons who are accused of perpetrating hate speech and ethnic incitement;
6. Uphold its constitutional obligations on non-discrimination to enact appropriate legislation and affirmative action measures to ensure the protection of rights of women, youth, minority and marginalized groups, including their rights to participate in governance.

Thank you



Kenya Human Rights Commission (Observers status number 191)

Signed



Kenyan Section of the International Commission of Jurists (Observers status number 118)

Signed

Endorsed by:



Independent Medico Legal Unit (Observers status number 450)

Signed



Refugee Consortium of Kenya

Signed