

## THE KENYA HUMAN RIGHTS COMMISSION TO COMMENCE CONTEMPT PROCEEDINGS AGAINST FAZUL MOHAMMED AND THE NGO BUREAU.

The **Kenya Human Rights Commission (KHRC)** is **gravely concerned** about an internal report generated by the NGO Coordination Board, and which the Board has shared with the media, containing adverse allegations about the financial affairs of the KHRC. For reasons explained below, the KHRC will immediately move the High Court to commence contempt of court proceedings against the CEO of the NGO Board, Mr. Fazul Mohammed, whose conduct contravenes a final judgement issued by the High Court in favour of the KHRC.

The report calls on the several public authorities including the Kenya Review Authority and the Director of Criminal Investigations to investigate the KHRC and further calls on the Central Bank of Kenya to freeze the accounts of the organisation. The report also calls on the Institute of Certified Public Accountants to carry out investigations against two firms of auditors, PWC and PKF, which it alleges have assisted the KHRC in carrying out false accounting.

For the record, the KHRC would like to make it clear that the allegations about financial and regulatory impropriety are completely false, malicious and without any factual foundation. A number of the statements contained in the report are, in fact, defamatory and we are seeking legal advice on how to further proceed. As the leading human rights organisation in the country, the KHRC maintains the highest levels of financial and operational integrity, the same it demands of the public authorities whom it seeks to keep accountable.

At no time has the NGO Board involved the KHRC in the purported audit that led to these alleged findings which, therefore, amount to condemnation without a hearing.

The KHRC is astounded that the NGO Board has gone on to share with the media what is purported to be an internal report. There can be no good faith in a mode of procedure where an organisation against which adverse findings have been made first gets to learn about it from the media. The only reason why the Board has publicised the matter to the media is so as to smear the KHRC.

**This is not the first time that the NGO Board has smeared the KHRC and other civil society organisations in the media. On 29th October 2015, the NGO board issued a press statement to the effect that it had carried out a forensic audit on 10,015 NGOs, among them the KHRC, which established that some NGOs had failed to account for funds they had received despite numerous reminders from the Board. At the time, the Board announced that it had, with immediate effect, initiated the deregistration of 957 of those NGOs, including the KHRC, and had forwarded the list to several public authorities to effect the de-registration process.**

The Board claimed that the KHRC had failed to account for Sh. 1, 210, 961,093 a fact that it failed to substantiate when asked to do so by the Commission or in court when the Commission filed proceedings against the board. It is this same figure that has been cited in the internal investigative report, which means that the report is a regurgitation of what the Board attempted to do in 2015.

At that time, the High Court eventually allowed a petition by the KHRC challenging the decision of the Board which threatened to cancel the registration certificate for the KHRC.

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**Justice Louis Onguto found that the failure by the NGO board to give notice** to the NGO a hearing before arriving at a decision to cancel its registration was a violation of its constitutional rights and that this failure was compounded when the NGO board failed to furnish written reasons to the KHRC when the organization wrote asking for such reasons.

Because the substance of the latest report by the NGO Board is the same in content as the report that it issued in 2015, and against which the KHRC has a final High Court judgement, the **KHRC will immediately move the High Court to cite Mr. Fazul for contempt for regurgitating a matter that has since been conclusively determined by the High Court.** It is unfortunate that the agency that has been mandated with the responsibility of regulating and facilitating the NGO sector has resorted to unnecessarily punitive, illegal and irregular administrative actions. It is clear that this this method of working has the support of the highest authorities in the country and the only reason for supporting the consistently illegal actions of the bureau is because the political authorities are using it as a tool for shrinking civic space in the country.

**George Kegoro**  
**Executive Director, KHRC**  
**Nairobi, 7th January 2017**

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