

Damaaja Tutetee Haki



KENYA HUMAN RIGHTS
COMMISSION



MIZIZI YA HAKI

KHRC's PROFILE

The Kenya Human Rights Commission (KHRC) is a premier and flagship Non-Governmental Organization (NGO) in Africa that was established and incorporated on 9th April 1992 by Kenyans exiled in the United States of America (USA) and later registered in Kenya on 20th of January 1994. KHRC founders are among the foremost leaders and activists in struggles for human rights and democratic reforms in Kenya and beyond.

The KHRC is committed to its **mandate** of *enhancing human rights-centered governance at levels* and a **vision** to *secure human rights states and societies*. Our **Mission** is to *foster human rights, democratic values, human dignity and social justice*. This mandate and vision are executed under four independent strategic objective and thematic programmes; *Transformative Justice (TJ)*; *Economic and Social Justice (ESJ)*; *Political Pluralism and Diversity (PPD)* and *Institutional Support and Development (ISD)* all with an aim to synergise and to deliver at county, national, regional and global levels.

Towards this, the KHRC works with more than thirty Human Rights Networks (HURINETs) and other grassroots communities (based in more than thirty counties in Kenya); partners with more than thirty national level- state and non-state actors and coalitions; and more than fifty sub-regional, regional and international human rights organizations and networks.

The KHRC has for many years been recognized for countless and remarkable capacities and accomplishments, including but not limited to; Tenacity, ability and commitment to provide the requisite political and technical responses and leadership to key human rights issues at all the levels in society, Pioneering of work addressing key societal concerns, e.g. workers' rights; LGBTI rights, constitutional democracy, electoral governance, trade justice, corporate accountability, transitional justice among others, Building human rights movement through facilitation of community-based human rights networks and incubation and support of nascent human rights organizations at all levels and the continued production of and support to a pool of internationally and nationally recognized workers and scholars within the fields of governance and human rights.

ISBN: 978-9966-100-44-3

Published by: Kenya Human Rights Commission (KHRC)

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EDITORIAL



Dear Reader,

It is with great pleasure that I share with you Mizizi Ya Haki, Edition 3; 2016-2017. Mizizi Ya Haki is a newsletter which offers a platform to over 25 Human Rights Networks (HURINETs) situated all over the country. Mizizi editions gives a glimpse into the interventions that HURINETs carry out in various communities with an aim of ensuring that people live a life of dignity while also ensuring that the HURINETs are in a position to self-mobilize and organize community events that bring the public together to discuss matters human rights.

This particular edition covers different articles from the counties. Nakuru County was a host to International human rights day in 2016 and a myriad of issues were raised concerning police relations with the public, members of the public felt that the police are not diligent in execution of their roles. In Isiolo the human rights day was marked at the County headquarters with the main topic of the day being internally displaced person who live in abject poverty to date. One of the HURINET coordinators narrates passionately, on how Kenyans complain that public participation is not common in many sector yet when the same people, Kenyans are invited into forums they do not attend and he examines this phenomena and concludes by noting that citizens fail to participate by choice. Do you agree?

Makueni celebrated milestones that devolution has had in County with access to water being a popular achievement with majority of residents as they do not have to walk long kilometers to access water. Kakamega HURINET gives an account of exploitations that sugar cane farmers go through when selling cane to millers despite high taxation. Detail of accounts on the Kisumu-nandi border is not left out. A new entrant in Mizizi Ya Haki is here; an open letter to the president on the state of insecurity and violation of Human Rights in Kenya, past and present.

In this year that Kenya Human Rights Commission (KHRC) is celebrating its 25th anniversary, HURINETs are also be to celebrated as they have kept KHRC's vision of a human rights state and society. I am pleased to announce that HURINETs have been equipped with computers, cameras, modems and generators to facilitate report cases of human rights violations in their various counties. The HURINETs use modern technology to report and address cases of human rights violations. Cameras have gone a long way in documenting cases of human rights violations in all parts of the country. This project has been supported by CIPESA: Promoting Effective and Inclusive ICT Policy in Africa under the ICT4Democracy in East Africa Network project.

To everybody who has been part of KHRC'S and the HURINET's achievements, whether you work in or out of the commission, we are grateful for your interest in HURINET's work. I invite you to read more of their work on our website; www.khrc.or.ke while finding ways of how to plug in.

Enjoy your read

Catherine Kamatu
Communications Officer
Kenya Human Rights Commission



This publication was supported by Information and Communication Technology for Democracy (ICT4D)

DIMINISHING CIVIC SPACE

LESSONS LEARNT ON INTERNATIONAL HUMAN RIGHTS DAY



By Moses Chavene

As once said by the outgoing UN Secretary General Ban Kin Moon, “we live in times of unprecedented wealth and possibilities, but also of deep inequalities, transnational threats, conflict, turmoil and intolerance”. Historically Civil society has played a critical role in complementing the government’s development efforts as well as being a critical counterbalance to government excesses.

The Kenyan government is becoming increasingly creative in its effort to control and restrict civil society work. There have been vicious attacks on citizens’ engagement and civil society by government supporters and just recently the pronouncement by the President to restrict provision of civic education by Civil Society Organizations (CSOs) marked another move to outwit the gains thus far achieved. This attempt and threats to cap foreign funding for Non-Governmental Organizations (NGOs), arbitrary arrests of human rights defenders, intimidation and jailing of bloggers critical of government officials further demonstrates the oblique future for civic spaces in Kenya.

Even though Kenya’s Constitution contains a progressive bill of rights which guarantees the freedoms of expression, information, assembly, and association and beside Kenya being a signatory to all the major international human rights and governance treaties and conventions, the recent moves by the Jubilee government have undermined Kenya’s international image as a constitutional democracy.

County governments have also learnt from the National Government. This was evident during the International Human Rights and International Anti-Corruption Day celebrations organized by Midrift Hurinet and Kenya Human Rights Commission (KHRC) in Nakuru that was celebrated on 2nd December 2016 at County Social hall to create the momentum for a national event on 10th December.

Despite the venue having been booked and paid for five days earlier, the County government bulldozed and organized a parallel event to curtail precipitative enjoyment of the right to assembly for citizens to mark the important day of human rights work. An event that was scheduled to start at 9.00hours ended up commencing at mid-day after frantic efforts to persuade the county government of the previous booking of the venue.

The human rights day theme for 2016 was “Stand Up for Someone’s Rights Today, while the Anti-Corruption Day is premised on a global campaign - ‘United against corruption for development, peace and security.’ And for this reason, Midrift and KHRC in standing up for someone’s rights, brought together key stakeholders and Nakuru County Residents to discuss how prevalence of corruption under dealings has crippled human rights and human rights work as well as look into issues of safety and security of citizen vis-a-vis human rights. The discussions were habituated about police reforms and policing with community and how the same can be mainstreamed into policing.



Nakuru Residents discussing issues of insecurity during International Human Rights Day in Nakuru County

Among the panelists were the KHRC Director Mr. George Kegoro, Mr. Peter Palang'a -the Chair of the County Public Account Committee and member of the county Assembly for Olkaria Ward, a representative of the OCS; Nakuru Central Police Station, Madam Carolyne and a representative of the County Commander-Nakuru County. Mr. Kegoro challenged leaders' efforts and commitment in fighting corruption becoming an impediment to human rights work. "The public should work with the civil society groups to report cases of abuse despite the narrowing civic space to challenge the status quo to fully achieve realization of the fundamental rights." Added Mr Kegoro

Citizens expressed their disappointment in police terming corruption and extrajudicial killings as having been prominent in the current regime. In defense of police work, Madam Carol, called upon everyone to embrace police as their own brothers and sisters in curbing the vices the cripple service delivery so that theme for the year's corruption day with focus on how corruption affects education, health, justice, democracy, prosperity and development could be realized. Her sentiments reverberate the deepened debate over police institution as being the most corrupt and high rates of extrajudicial cases being reported.

Mr. Palang'a regrettably expressed his dissatisfaction in the way issues were being handled at the county government level saying that their hands as MCAs are tied and can only handle issues brought forth to them at the County Assembly. He was however, skeptical of the shrinking spaces for civil society engagement that ought to inform the community wherefore allowing civil society to be silenced through restrictive legislative frameworks, arbitrary funding limits, threats, harassment and intimidation by the state would fundamentally undermine efforts to build Kenya as a strong, stable and united country that guarantees peace and sustainable development for all its citizens.

We were glad that the event went on well and community members got to interact with the panelists, the CSOs, the Police and the County Assembly. It is for this reason that relenting in addressing the human rights abuses and violations by CSOs would fundamentally erode the achievements attained since independence lest no one will advocate for the rights of the minority and vulnerable if left upon the government.

COMMEMORATION OF INTERNATIONAL HUMAN RIGHTS DAY IN ISIOLO COUNTY



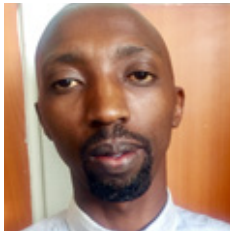
By Ibrahim Wako

The commemoration of International human rights day 2016 in Isiolo County was officially flagged off by His Excellency the Governor of Isiolo, Godana Duyo at the County headquarters. The celebrations brought together county government officials, community based organizations and national organizations. The event was fully supported and organized by the Kenya National Commission on Human Rights and Kenya Human Rights Commission and other human rights partners in Isiolo County. The celebrations were the first of its kind as it was the first time Police grounds were being used to commemorate the human rights day. The day's theme; stand up for someone's rights today was aimed at advocating for human rights provided for under chapter four of the Kenyan constitution. The day provided a platform for grassroots human rights networks in Isiolo to reflect on the status of human rights within the county. All partners at the county level; Peace link, Community based organizations, Internally Displaced Persons and at the national level; Kenya National Commission of Human Rights, Kenya Human Rights Commission, National Gender and Equality Commission and The office of the United Nations High Commission deliberated and discussed on issues that sought to address the state of human rights and delved into challenges faced in trying to realize the rights.

Some of the issues discussed by partners included; inequality, unemployment, police brutality, terrorism and radicalization, internal displacement, sexual and gender based violence and access to justice. Consensus was reached that there is an urgent need to ensure the county is a champion of human rights like the right freely assemble, access to education, access to justice and all other rights provided for in the constitution of Kenya and other international instruments.

One of the key concerns raised at the forum was the issue of internally displaced persons who complained of being neglected by both the national and county governments, as many of them lived in abject poverty. By ending the celebrations, the governor promised to ensure that human rights are protected and promoted by his government.

CITIZEN PARTICIPATION AND ITS CHALLENGES



By Chege Thande

It's not a contested fact that the hallmark of the 2010 Kenyan constitution is centered on public participation at all level of governance. The constitution has 16 articles that directly touch on public participation at different level of governance. Chapter one article 1(2) sums up by stating, "The people may exercise their sovereign power either directly or through their democratically elected representatives". Another article of utmost interest is article 10(2) a, b, and c: The national values and principles of governance include; democracy and participation of the people, inclusiveness, good governance, integrity, transparency and accountability. This article put the people's participation on governance matters as an important ingredient to good governance. To solidify this point article 174(c) delineate the objects of devolution are; to give powers of self-governance to the people and enhance their participation in the exercise of such powers in decision- making.

There are other enabling legislations that have enhanced the need for public participation. The Public Finance Management Act for example has five sections that directly touch on public participation, but two sections summarize all the other sections. Section 10(2); in carrying out its function, the parliamentary budget office shall observe the principle of public participation in budgetary matters. The other one is Section 35 (2) the cabinet secretary for finance shall ensure public participation in the budget process. These indeed discourage paternalism and allow the people to set priority on what is most important to them as a people. Another enabling piece of legislation is, "The County government Act" which has 11 sections that directly touch on public participation. The section that sum up everything in the said Act is section 113; makes public participation in county planning processes compulsory.

As a community organizer for a community based organization by the name of Pro-Active Youth Initiative in Kangemi I have encountered resistance from duty bearers who didn't want the public to participate on development matters even though the law demanded so.

There is however another dilemma to public participation, that is, citizens refuses or fails to participate by choice; citizenry incompetence. Many at times a call for meeting has been sent out but citizens have refused to attend and participate. Pro-Active Youth Initiative conducted a small research between 10th January 2015 to December 15th 2016 in Westlands constituency targeting 3 wards out of the 5 wards, on public participation on county government of Nairobi programme. Our findings depicted a worrying trend; Mountain View ward with a population of 36,126 as per 2009 National census a meeting that was held at a former chief's camp only eight people attended; Kangemi central with a population of 44,564 a meeting was held at Kangemi social hall and only 13 people attended; Kitisuru ward with a population of 31,202 a meeting was held at the Kitisuru social hall and only 20 people attended.

From the results of the survey; Pro-Active Youth Initiative embarked on an aggressive campaign titled "Jihusishe ufaidike" translated to "Get Involved and Benefit" to galvanize the community to shape their destiny through public participation as envisaged in the constitution and other pieces of legislation. There is need for other stakeholders to help communities fathom why it is important for them to participate on governance matter at both local and national level.

PICTORIAL





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1. Nakuru residents following the proceedings during International Human rights day in Nakuru which was organised by Midrift Human Rights Network in partnership with KHRC
2. Ibrahim wako making a presentation during a Hurinet's engagement in Nyeri County
3. Nairobi Cluster Human Rights Networks group photo
4. Sheikh Mukhtar of Wajir Human Rights network giving comments during a strategic engagement meeting in Nairobi
5. Kimosop Kipruto, Coordinator, Baringo Human Rights Network reading a press statement after delivering a petition to parliament to address issues of insecurity in Baringo
6. Central region cluster a HURINET's engagement session
7. Nairobi Cluster HURINETs celebrate after completion of a HURINET's engagement session

DEVOLUTION MILESTONES IN MAKUENI COUNTY



By Peter Mangala

Devolution commenced on a slow start in Makueni County, the challenges were many, to an extent of an attempt to dissolve the county through public petitioning but thankfully the Governor established a county public participation framework which consist of 11 members drawn from county committee, sub county committee, ward committee members, cluster committee members and village ward committee members. These structure enabled the public to participate in discussions and planning of county activities..

With formation of the committee structures, remarkable achievements have since been witnessed in Makueni County. County projects have been implemented with public participation being at the center of all activities and projects have a thorough

monitoring and evaluation process, the monitoring has reduced incidences of substandard works and corruption. Since 2013, Makueni has since witnessed a number of outcomes that had not been witnessed in the county before devolution set stage; Public participation has been one outcome that the residents appreciate as they have been part of every decision making in regards to budgeting for the county. The process cuts across from the village level to the county level led by the County Finance Department

“Tusome Computer” translated to “Let us read computer” is an outcome of devolution that that county is enjoying; information and technology structures have been established within the entire county and with this development, residents including those in the



Makueni residents following budget proceedings

rural areas can access the internet. The health sector has also had tremendous changes; health facilities have been constructed at the ward level and this reduced the distances to the facilities. Residents now only travel a maximum of five kilometers to access the facilities.

With devolution, the residents only walk less than two kilometers to access water, this is as a result of drilling boreholes, establishing dams and piping water to different locations. Cultural self-help groups have been supplied with 100 seater tents and chairs as income generating projects thus reducing dependence rate by almost 30% in the local society also improving tourism attraction in the rural set ups.

Devolution has had its impact on Early Childhood Development Education (ECDE); learning for the young children has been made easier through construction and improvement of structures which have facilitated conducive learning environments.



Athi Salama Primary School appreciating a newly constructed ECDE classroom block.

EXPLOITATION OF SUGAR CANE FARMERS IN KAKAMEGA COUNTY



By Tom Mwanje

Sugarcane farming in Kakamega County has been and remains the main source of livelihood. Most of the County population constitutes of sugarcane farmers. However, the sector has had its own challenges whose negative effects have always hit the poor farmer.

The total combined crushing capacity of the three major active sugarcane factories namely; Mumias, West Kenya and Butali is approximately 12,000 tons per day. Before the recent increment, the factories used to pay farmers Ksh. 3,250/= per ton of cane delivered to the factory.

Despite the fact that cane farmers are levied Value Added Tax (VAT) of 16% on every delivery to the factories which goes to the national treasury. Unwarranted one percent is levied from farmers on every ton of cane that is delivered to the millers and remitted to the County Government in the name of improvement and opening up of feeder roads factoring the fact that the maintenance of feeder roads is a key function of county government.

To be in the same league of competitive sugar Industry with other COMESA member countries, there are processes both governments have a pivotal role to play for the benefit of the farmer before the COMESA safeguards are lifted in the near future. It is the duty of the Kakamega County to plan and develop programs that will cushion the farmer in case of policy change and suggestions of how this can be done include; sensitization and outreach forums to alert

the farmers on the changes in the sector, introduction of early maturing cane seed varieties on a subsidized price,, participatory engagements on decision making process, introduction of subsidized sugarcane fertilizers and farm inputs in accordance with the soil types of specific zones will reduce the production cost, strengthening the miller's existing Out-growers organization with financial support and the creation of an independent oversight committee to check and resolve the Out-growers organizations malpractice to the famers.

Despite all these problems, none of the leaders in the county agitates for famer's rights comprehensively and consistently. For some who have tried they have been silenced by the millers and the corrupt individuals involved in exploitation of the farmers. With this kind of set-up sugarcane farmers remain vulnerable in terms of representation and this has resulted to uprooting sugarcane plants and changing to other farming activities.

TUSSLES OF KISUMU- NANDI BORDER



By Washington Obura

Squatters from Kericho County for the last twenty years have linked the fighting on the Kisumu - Nandi border to land wrangles dating back to 1992 when over 3000 people were displaced. Communities living in this volatile area have also traced the clashes that escalate during the electioneering period to scramble over conflicted parcels these include the Kibigori Plantation Settlement Scheme and Thesalia - Buru Holding Scheme on the borders of Kisumu, Nandi and Kericho counties. Thesalia squatters who were evicted from a 1000 acre Buru Holding Scheme on the border of Kisumu and Kericho counties and were to be resettled on the Kibigori Plantation Settlement Scheme.

The squatters believe influential individuals and political leaders had invaded the government resettlement scheme with sugar cane farming and were using the conflict to protect their own interests. The squatters also accuse the government and leaders of failing to address the real issue that is tussles over land ownership and instead concentrating on the superficial cattle theft. Cattle raids have for a long time focused on search and recovery of lost animals but the squatters and residents have continuously been targeted.

According to a report gathered by Nyando Human Rights Network, residents of Muhoroni, Nyakach and Nandi do not consider restlessness, tension and violence during election periods as strange because they are used to them. The residents believe

that the skirmishes were being fueled by cattle theft but did not understand the motive behind it. The National Land Commission has reaffirmed that the scheme are government owned and are planned for resettling squatters. The residents further admitted that the scheme has been invaded.

Efforts by the National Cohesion and Integration Commission to resolve the disputes, killings and property destruction have largely been ineffective with border talks at different forums failing to address land wrangles.

Nyando Human Rights Network is still working towards peace returning to the area and majority the displaced persons regaining their titles and living a life of dignity.

February 28, 2017

AN OPEN LETTER TO H.E. PRESIDENT UHURU KENYATTA ON THE STATE OF INSECURITY AND VIOLATION OF HUMAN RIGHTS IN KENYA, PAST AND PRESENT

We, members of the National Victims and Survivors Network wish to address Your Excellency, as we commemorate the 10th anniversary of the signing of the 2008 National Dialogue and Reconciliation Accord; and in view of the approaching 4th Presidential State of the Nation Address due in March 2017, on the following issues:

- It is now two years since your Excellency declared the Kshs 10 billion Restorative Justice Fund. The Fund is not yet operational yet victims and survivors of past gross human rights violations continue suffering and wallowing in the adverse after-effects of trauma, poverty and neglect.
- We also recall that during the March 2015 State of the Nation Address Your Excellency urged Parliament to debate and adopt the Truth Justice and Reconciliation Commission (TJRC) report, which has not happened to date. We believe that failure to implement the TJRC recommendations (that contain measures towards creation of a more stable and cohesive nation) has contributed to the current breakdown of law and order, and rising wave of violence across a country already ravished by widespread famine. The following areas are affected:
 1. The North Rift (Baringo, Marakwet, Turkana, Samburu, Laikipia, Mt. Elgon and Trans Nzoia)
 2. South Rift (Kilgoris, Molo and Kuresoi)
 3. Nyanza (Migori and Kisumu Town)
 4. Machakos (Athi River)
 5. Coast (Tana River)
 6. North Eastern (Mandera,Wajir and Isiolo)

We note with grave concern that this has already resulted in loss of innocent Kenyan lives and unnecessary destruction of property, massive population displacement and disruption of socio-economic livelihoods. This trend does not augur well for national stability as we approach the General Election in August 2017.

We remind you of your own words in 2013;

“Drawing on our history and recognizing the dangers of disunity, our Constitution in Article 10 spells out the value of national unity, inclusiveness and cohesion as fundamental to our national character”.

We also note that the current strike by Public Sector Doctors is causing untold suffering to millions of Kenyan children, men and women who cannot afford health care in private facilities.

Today, as we commemorate the 10th Anniversary of the National Dialogue and Reconciliation Accord which was signed on 28th February 2008, we observe that the nation is perilously polarized along ethnic and political lines just as was the case around the 2007 General Election.

We urge Your Excellency and your Government to therefore take action as follows;

- Issue orders for the fast tracking of the operationalization of the Restorative Justice Fund as per your March 26, 2015 pledge in your State of the Nation Address.
- In the March 2015 State of the Nation Address, you urged Parliament and we quote: ***“In an effort to confront this past, the Truth, Justice and Reconciliation Commission undertook an inquiry into past injustices. Their report is before this House, and I urge Honorable members to process it without undue delay”***
- Given the strength your government enjoys in Parliament and given that you have effectively used it to pass government agenda, why have you failed to invoke the same leverage in pursuing the adoption and full implementation of the TJRC report that contains a roadmap to a more cohesive and stable nation that respects the rights of all?
- As Commander in Chief of the Defense Forces and Constitutional symbol of national unity, invoke your powers to effectively contain the runaway insecurity to protect citizens’ lives and property, even as you deal with a famine that you have already declared a national disaster. We urge you to act now before the insecurity gets completely out of control.
- We also urge you to personally intervene in an effort to resolve the public health crisis, by removing and replacing the current Ministry of Health Secretary and the Principal Secretary as a first step towards effective resolution of the crisis in the Public Health sector.

Signed

A handwritten signature in black ink, appearing to read 'Wachira Waheire', with a stylized flourish at the end.

Wachira Waheire
National Coordinator



Stop Human Rights Violations

“All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.”

Article 1

Universal Declaration of Human Rights-UDHR



What is your story as a human rights defender in Kenya?

Write to us: admin@khrc.or.ke