



The Vanguard

August 2016 - February 2017



Note from Deputy Executive Director

Davis Malombe

The Vanguard is an institutional newsletter that highlights the key issues and interventions taken up by the KHRC for political and technical leadership at different levels in the society. The name is derived from the profile built by the organization overtime as the “Vanguard for Human Rights” and the “Champion for Democracy” in Kenya.

The newsletter highlights the key successes and challenges realized on the interventions and strategies executed by the Commission during the period under review. The August 2016 to February 2017 edition of The Vanguard documents a number of areas where KHRC’s interventions shaped public policy in line with our mandate of enhancing human rights-centered governance at all levels.

The areas for action refers to the issues and priorities taken by the KHRC for political and technical leadership and conversations at different levels. Key to these are civic space, corruption, citizenship, community engagements, elections, transitional justice, business and human rights, security, ethnicity among others. This edition delves into 7 key issues and/ or events.

First, the “Towards a protected and expanded civic space in Kenya and beyond” details the tactics used by the Kenyan state to constrict the civic and democratic space as well as the initiatives by the KHRC and other civil society organizations to consolidate the space through the Civic Space Protection Strategy and Platform.

Second, the “Public protest against rampant corruption in Kenya” exposes the unabated plunder and waste of public resources and the 14 demands designed by the KHRC and other civil society organizations for the national executive to deal. These were presented during the major public demonstration executed on November 3, 2016.

Third, “The arduous journey of the Makonde Community to Kenyan citizenship” documents the historical and legal dimensions of the issue, the trek that happened in October 2016 leading to a policy commitment by President Uhuru Kenya for the government to address the citizenship rights and other historical injustices meted against the community.

Fourth, the “KHRC’s county engagement with Human Rights Networks” highlights a number of consultations held between August and September 2016 and the agreed areas and strategies for partnership for now and near future, both at county and national levels.

Fifth, “Kura Yangu-Sauti Yangu: Creating a political platform on electoral governance” focuses on the formation and operations of the KYSY, the most formidable Coalition that provides political and strategic leadership and conversations on electoral governance issued and processes. The key objectives and major engagements and achievements of the KYSY Coalition are well documented.

Sixth, “Celebrating Kenya’s heroes and heroines” elucidates the first anniversary of the Mau Mau Monument that was held at the Freedom Corner in September 2016. The event sought to celebrate Kenya’s liberation veterans and to also provide an initial space to start a discourse on the essence of inter-generational inclusivity in the realization of a culture of perpetual democracy in Kenya.

Seventh, “The role of the KHRC on business and human rights process in Kenya” expounds on the KHRC’s leadership and involvement in the National Action Plan(NAP), the National Baseline Assessment and the Kenya County Guide on Business and Human Rights .

Finally, the edition captures pictorials of the major events organized by the KHRC, including but not limited to the celebratory party hosted in August 2016 for the former Chief Justice Dr Willy Mutunga, the First Executive Directors Forum on Public Benefits Organizations on October 7, 2016 among others.

It’s our hope that the engagements and experiences captured in this newsletter will inspire you to continue following-up and supporting our work as we celebrate our 25th(Silver Anniversary) as the undisputed Vanguard and Champion for Human Rights in Kenya. Meanwhile, we remain committed in exposing, combating and confronting human rights violations in the society.



Kenya Human Rights Commission



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Edited By Catherine Kamatu

Towards a Protected and Expanded Civic Space in Kenya and Beyond:

A Strategy for Safeguarding and Consolidating Civic space in the Society, An Article by Davis Malombe and Sylvia Mbataru

From 2013 to date, there have been several attempts by the Kenyan State to constrain the civic and democratic space through punitive and prohibitive governance frameworks targeting the Public Benefits Organizations (PBOs), Faith Based Organizations (FBOs), media organizations, trade unions, Constitutional Commissions among other independent state and non-state actors. Some of repressive tactics being applied by the Government against these actors includes:

- Burdensome registration requirements/ threats of deregistration
- Broad discretion to seize assets on suspicion of terrorism financing
- Restrictions to financing from foreign sources/ threatening donors
- Harassment, arrests, intimidation, targeting, clampdowns and vilification of actors/ activists
- Undue surveillance by security forces/ Restrictions on online access and spaces
- Challenges in obtaining work permits and visas and in country registration of international agencies
- Disproportionate penalties for non-compliance with regulatory laws/ Severe reporting requirements
- Punitive court decisions against HRDs including exorbitant bails and costs for suits.
- Difficulty in getting approvals from governments especially for Governance programmes as compared to humanitarian programmes
- Limited government consultation with respect to policy development
- Banning, criminalization and violent disruption of protests and other forms of picketing,
- Introduction of draconian and non-constitutional laws in a hurried and undemocratic manner that restrict freedom of association, assembly and expression.
- For instance, harmful amendments within the Security Amendment Bill of December 2014; amendments to media laws; Public Benefits Organizations Act(PBO Act) among others.
- Delays in the commencement and implementation of the PBO Act enacted in January 2013.

Efforts to push back against restrictions have generally succeeded in countering immediate threats, but they have been reactive and adhoc, rather than proactive engagements that claim back and expand the space for civil society. Additionally, civil society actors have often responded to impending threats to civic space on their own.

Cognizant of this glaring gap in the struggle to expand shrinking civic space, on 17th May 2016, the Kenya Human Rights Commission (KHRC), the International Center for Not-for-Profit Law (ICNL), Kenyans for Peace with Truth and Justice (KPTJ), and Civil Society Reference Group (CS-RG), co-convoked a National Civil Society Leaders Meeting which drew participants from different sub-sectors to cross pollinate ideas, perspectives and strategies for reclaiming and expanding civic spaces. The meeting agreed to the formation of the Civic Space Protection Platform in Kenya whose mandate is to support the creation, reclamation and preservation of civic spaces in Kenya and Beyond. From this meeting, a draft strategy paper titled 'Towards a Protected and Expanded Civic Space in Kenya and beyond', which contain concrete discussions and proposals of strategies to safeguard and consolidate civic space in the society. The paper was presented to and reviewed by the Executive Directors during a meeting held on September 23, 2016. The final strategy document was adopted during the First National Summit of Public Benefits Organizations that was convened on October 7, 2016 to brief the national and county level executive directors on the emerging issues-mainly the commencement of the Public Benefits Act; engagements with the NGO Board; court actions and the final strategy paper. The strategy paper is based on a five tier priorities, outputs and action points, namely:

- Policy and judicial actions
- Research and Documentation
- Partnerships and Consultative forums
- Training and Capacity Building
- Sustainability and Communications

Finally, and in a follow-up meeting organized for the Executive Directors on November 28, 2016, stakeholders committed to either take up/ leader and/or to participate in the different interventions within the different action points. The KHRC, ICNL and CS-RG were mandated to continue playing the oversight and coordination role of the Civic Space Protection Platform.

Public protest against rampant corruption in Kenya



Members of the public during the 'Act on Corruption or Resign Demonstration' in Nairobi

On 3th October 2016, the Kenya Human Rights Commission led other Civil Society Organizations and the public to demonstrate against the increased number of publicly reported mega corruption scandals in the country. The demonstration was informed by the deepened public disgruntlement following reports that the country was losing billions of tax payers' money through reckless looting of state coffers over the years. On the maiden day KHRC also planned to submit a petition to the president with clear actionable demands to cure the corruption malady inflicting the country. The demands included;

1. Immediate sacking of state and public officers within the executive adversely mentioned in corruption scandals.
- 2.Immediately leading the process of making public, all the wealth declaration forms among the state and public officers.
3. Initiating legal process of freezing of bank accounts of all those implicated in grand corruption scandals pending investigations.
- 4.Immediately initiate a process of recovering all stolen public funds and property. This should go as far back as is judicially possible to cover all past corruption activities since independence.
5. Instantaneously stop and recover salaries paid illegally to officers who have been suspended or removed from public service on graft allegations.
- 6.Expediently implement recommendations of Auditor General's reports.

7. Ensure protection and adequate resourcing of the Auditor General's office and other independent offices to enable them to effectively discharge their mandate.

8. Ensure that public money is spent in a prudent and responsible way by cutting down on the aggravating extravagance and recklessness witnessed during the last four years.

9. Ensure protection of all whistle blowers for the corruption scandals that have already been reported. We also demand reward of whistle blowers to a tune of at least 20% of stolen funds recovered.

10. Fully operationalize the Campaign Financing Act. All political aspirants must publicly declare all sources of their campaign funds.

11. Ensure that the annual state of the nation report, include a report on corruption and how much of state resources lost through past corruption scandals have been recovered.

12. Ensure open advertising and recruitment of Board members and staff of government departments and parastatals as well as chairpersons of parastatal boards.

13. Ensure that tax returns for companies and individuals implicated in grand corruption scandals be released for public scrutiny by the Kenya Revenue Authority; and

14.Deepen openness and accountability, including genuine public participation in governance, especially in financial matters.

In our address to the nation at the freedom corner where patriotic Kenyans gathered to commence the public protest against shameless public theft, KHRC educed some of the grand corruption scandals through which hard working Kenyan have been defrauded to include; the leaked internal audit report, revealing the theft of over ksh. 5 billion at the ministry of health, the reported loss of Sh791 million at the National Youth Service (NYS), the inability to satisfactorily explain how the government spent the Sh250 billion raised from the Eurobond and revelations alleging that the Kenyan electoral officials at the Independent Elections and Boundary Commission (IEBC) were bribed by officials of a UK security.

Continue to the next page..

From previous page...



Davis Malombe, Deputy Executive Director, KHRC addressing the fourth estate during a press conference on the corruption state of Kenya

printing firm to win printing tender for the 2013 General Election materials (chicken Gate scandal) among others. In addition to these scandals, the Auditor General Reports (2015) has also exposed an environment of unprecedented permissiveness for corruption by indicating that only 1.2 per cent of Kenyan government expenditure could be properly accounted. Such revelations are a clear manifestation of deeply entrenched corruption in the Kenyan society and a failed system of governance. Former EACC chair Philip Kinisu while speaking to Reuters in March 2016 indicated that Kenya is losing a third of its state budget - the equivalent of about \$6 billion or Ksh. 600 billion to corruption every year. Such revelations are shared by the anti-corruption Cesar John Githogo who stated in an interview with Sunday nation in August 2015 that corruption under the jubilee regime was worse than ever witnessed in Kenyan history.

It's in recognition of the existence of such massive plunder of state resources that the president hosted an anti-corruption summit at state house in October 2016. Kenyans surmised that the televised event with all the relevant anti-corruption agencies in attendance would put forth compact strategies to commence the end of corruption in our public sector. This dint happen as the whole event turned histrionic with the president pointing fingers at everybody else except himself. He even expressed frustration in his purported attempt to battle graft and at one point asked what the public wanted him to do.



It's this question coupled with public discontent that the demonstration was anchored to provide answers to the president... However, no sooner had the speeches at freedom corner ended than a large contingent of heavily armed police mercilessly descended upon the demonstrators with teargas canisters, water cannons and rubber bullets.

A number of demonstrators were badly injured and others arbitrary arrested and later released without any charges preferred against them. We later learned that the security agents had infiltrated demonstrators with the sole purposes of attacking both the protesters and journalists covering the demonstration. KHRC has since issued a press statement to condemn the excessive use of force by the police in dispersing a public protest that was peaceful in nature. In the statement KHRC also called upon the Independent Policing Oversight Authority (IPOA) to investigate the police officers who brutally attacked peaceful demonstrators and journalist and ensure they are brought to book. In addition KHRC demanded a review of the police standing orders to reflect international standards on the use of force and reiterated our commitment to fight for a corrupt free Kenyan society.



Davis Malombe, Deputy Executive Director, KHRC addressing protesters during Anti-Corruption demonstration.



PICTORIAL



A convening of the first national Public Benefits Organizations summit



A press conference during the 'Stop Extra Judicial Killings Demonstration in Nairobi'



Andrew Songa, Program Manager Transitional Justice conducts a land forum in Baringo County



William Oluchina, former Program Advisor, KHRC conducts a training on Lesbian, Gay, Bisexual, Transgender & Intersex to police officers in Kisumu



Visitors at the KHRC stand during the Book Fair at Sarit Center



Members of the public during the 'Act on Corruption or Resign Demonstration' in Nairobi

PICTORIAL



Dr. Willy Mutunga is gifted by KHRC during his fare well party



Elizabeth Kariuki, Program Manager Economic and Social Justice-KHRC making a presentation at a Kenya Horticulture Project session



George Kegoro, Executive Director, KHRC addressing the Samosa Festival audiencing



Kura Yangu Sauti Yangu conveners during the coalition's launch



HURINET memebers after the county engagement forum in Nairobi



HURINET members after the county engagement forum in Nyeri

The arduous journey of the Makonde to Kenyan Citizenship



By Diana Gichengo
Programme Manager -
Political Pluralism and
Diversity

The Makonde community in Kenya arrived in the country in the 1940s mainly as laborers in sugar and sisal plantations at the coast from Mozambique, majority of them settled in Tanzania while

the rest were left in Mozambique. Owing to legislative and policy gaps, the Makonde were not recognized as citizens during independence. A fact attributable to ethnic and racial discrimination; This is because only 42 tribes considered indigenous to Kenya, Indian settlers and English settlers were recognized as citizens. The Makonde have thus for over 50 years lived as stateless persons. It's important to note that the Makonde did vote in the first general elections of independent Kenya. They have been promised nationality by each successive government in Kenya. So far there have been 3 attempts by government to register the Makonde or issue them with identity documents, but none of the attempts has resolved their statelessness situation for them.

The Constitution of Kenya (2010) sought to address the problem of statelessness. Subsequently, Parliament passed the Citizenship and Immigration Act of 2011 as the law to govern issues of statelessness.

The Act provides that within 5 years, all stateless persons must be registered as Kenyan citizens. In July 2014 the Kwale County assembly petitioned the President to recognize the Makonde as citizens and issue them with identity documents. In response to the petition the president in 2014 established an interdepartmental taskforce on statelessness to look not only to the plight of the Makonde but other stateless persons residing at the coast of Kenya. These include descendants from, Pemba, Seychelles, Rwanda and Burundi. To date the report of taskforce has not been released. the Makonde supported by Civil society organizations led by the Kenya Human Rights commission, made a questions through members of parliament in the senate and the National Assembly. The questions went unanswered. The five year period prescribed in the statute in Citizenship lapsed on 30th August without the Makonde or any stateless persons receiving the registration that the law promises.

Trekking against Statelessness

As a result of their agony and the dwindling hope of recognition as Kenyans, the Makonde community (with the 5 generations of the community) with the assistance of Kenya Human Rights Commission and other CSOs commenced a difficult journey dubbed "Trekking against Statelessness". They departed on 10th October 2016 from Kwale to State House, Nairobi to seek audience with the

Cont. Next page..

Trekking against Statelessness

From: Kwale to Statehouse, Nairobi

Date: 10th - 13th October, 2016



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president after several futile attempts to seek audience with the relevant authorities on the registration of those classified as stateless. The trek was to be a symbolic journey showing the daily struggle that the Makonde go through in not accessing what would be seen as ordinary. It was a journey to lay a mark in the eyes heart and mind of every Kenyan of the degrading nature of statelessness. During the journey they also sought to showcase their culture to the world and they thus travelled with their artifacts and musical instruments, iconic of their great contribution to the Kenyan culture and heritage. On the first day of the trek the registration period for stateless person was extended for a period of three years. clearly the pressure was working !

The trek faced major repressions by government official who tried to stop the community from journeying to meet the president and included detention of all the walkers at some point. But the chairperson of the community Thomas Nguli categorically said “We have decided to go State House, Nairobi because all relevant government officials say all our Nationality issues can only be resolved in Nairobi”.



The vibrant Makonde Community

They eventually arrived in Nairobi the capital city of Kenya, without any indication whether they would be received by the President. The first matched around the capital with major stops in the key offices of parliament , the State Law office where the attorney general office is situated and Nyayo houses that houses all the relevant departments for nationality and issuance of personal identification an registration documents. Here they got the first hope with the director of immigration indicating that they would meet the cabinet secretary for security and coordination of national government.

They opted to take a health break in readiness for the highest duty bearers. But shock on them as the road was soon thereafter blocked by trucks of water cannon. After a tough period and tough exchange with the police the cabinet secretary emerged and ushered them to the statehouse.

The heavily armed policemen turned to their protectors according them VIP treatment to statehouse.

The Makonde trekkers were welcomed by the President, Uhuru Kenyatta and his Deputy William Ruto.

“The deputy president before welcoming the president indicated that their status as stateless had come to an end.”



A pause by the Makonde before proceeding to State House, Nairobi

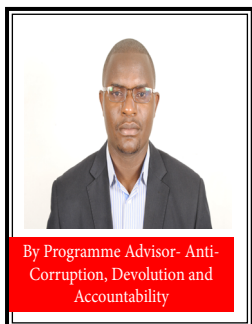
The deputy president before welcoming the president indicated that their status as stateless had come to an end. He actually empathized with the vice chair of the community, Amina Kassim who was born in 1966 like himself. The president's remarks were groundbreaking for a community that had misery and marginalization being synonymous to their existence. A new lease of life had just been handed to them

“I apologize on behalf of my government and that of previous governments for having lived in this condition for so long. You are not visitors in this country, and I order that by the time I come to Mombasa in December the people should be registered” said President Uhuru Kenyatta

With a profound apology and a firm directive the Makonde had been granted citizenship and the president also ordered they, Makonde be given title deeds for the land they live on as that could not have been done previously since they lacked identity cards. The directive addressed aspects of transitional justice including following through to ensure the Makonde are allocated land.

They Makonde were subsequently invited to take part in Kenya's national holiday to celebrate its heroes Mashujaa day on 20th October 2016. Their journey to recognition had surely begun. The registration process commences on the 25th of October 2016. We watch with immense hope that the Makonde will finally have a Kenyan nationality and give precedents for other stateless communities and persons in Kenya.

KHRC's county engagement with Human Rights Networks



It is always a pleasure for the Kenya Human Rights Commission to engage the Human Rights Networks (HURINETs) who have been in the struggle to defend human rights in

Mombasa HURINET show a participation of 30 members drawn from Kwale, Kinango, Taita Taveta and the Coast Women Rights Advisory Trust. Kisumu cluster show participation of 24 HURINET members from Kakamega, Siaya and South Nyanza HURINET from Migori County. Nairobi cluster attracted an attendance of 34 members from Nyayo Torture Victims, National Internally Displaced Persons Network, Citizens land governance, Nakuru, Wajir and Kasarani HURINETs. The Nyeri cluster show participation from 22 members

the struggle to defend human rights in the country for a very long time. The KHRC conducted county engagement with HURINETs across the country having them divided into four regions namely; Mombasa, Nairobi, Kisumu and Nyeri. The engagements which were held between 15th August and 2nd September 2016 were in form of reflections and dialogue between KHRC and the HURINETs, focusing on the 5 key priority areas of KHRC; Security excesses, flaws in electoral processes, exposing mega corruption, Ethnic polarization and expanding the shrinking civic space. The discussions around these issues culminated into a joint framework (work plans) for engagement between KHRC and the respective HURINETs.

The county engagements were conceptualized as part of KHRC's wider agenda to activate civilian oversight responsibilities and more specifically stimulate HURINETs' functionality. The meetings particularly sought to reinvigorate KHRC's engagement with the HURINETs aimed at strengthening their capacity to monitor human rights governance in both the national and devolved governance.



Carol Werunga, Program Advisor, Electoral Governance during the Mombasa cluster engagements



Participants of the Nyeri cluster in session during the HURINETs engagements

The HURINET county engagement meetings impelled HURINETs to re-ignite commitment to hold county governments accountable through activation of public participation strategies and strengthened initiatives to monitor human rights governance in the devolved governance. Critically the spirit of partnership between KHRC and the HURINETs was renewed premised on the commitment to jointly implement the joint framework/work plan. Some of the areas of synergy identified included but not limited to; Land rights problems, countering violent extremism, voter registration, strengthening capacities to monitor devolved governance & public participation, corruption, labour rights, the citizenship problem and minority rights.



The formation of Kura Yangu, Sauti Yangu (KYSY) coalition also known as My vote, My Voice early 2016 was premised on the need for national



dialogue as a key strategy in mitigating the electoral challenges that Kenya has faced during all the electoral cycle since independence save the 2002 general elections and the 2010 Constitutional referendum .

Specifically, the Coalition seeks to:

- i) Provide a platform for political dialogue, input and answers for the six key electoral issues that the coalition has identified;
- ii) highlight key electoral issues that need political interventions and to encourage public discussions around those issues;
- iii) Collect proposals from on the key electoral issues from stakeholders and encourage the implementation of such proposals; and
- iv) Generate the requisite political oversight on policy and other technical issues related to electoral governance in Kenya.



Launch of Kura Yangu Sauti Yangu Coalition

KYSY is a citizen led Coalition spearheaded by 13 like-minded civil society organizations, who have come together to proactively support Kenya's preparations for the 2017 elections and the electoral processes thereafter with a view to ensuring that the country minimizes the risks related to dysfunctional electoral competition which the country has experienced in the recent elections.

It has been 11 months since the Coalition was formed and the journey towards the achievements of its objectives so far can be reported as great but a lot still needs to be done if the Coalition was to achieve all of its objectives. The Coalition has managed to conduct over 25 bilateral consultations with the various state and non-state actors namely: the Independent Electoral and Boundaries Commission (IEBC); The Women's Movement; the Kenya Correspondents Association (KCA); the Law Society of Kenya (LSK); trade union; faith based organizations, Federation of Kenya Employers (FKE), Civil Society Organizations, the Kenya Private Sector Alliance (KEPSA), Council of Governors (COG), judiciary, political leaders both in opposition and government, the media and development partners. Importantly, KYSY has managed to rally support from the aforementioned stakeholders for the need for political dialogue on its six key electoral issues. In May, this year the Coalition developed a National Electoral Dialogue Framework to guide the national dialogue on electoral issues including the parliamentary Dialogue process on the IEBC impasse that was spearheaded by the Joint Select Parliamentary select committee. Importantly, KYSY was able to successfully advocate for the expansion of the dialogue agenda to include more electoral issues such as the credibility of the electoral processes such as voter registration and use of electoral technology. Cognizant of the important role the community voices play in the political dialogue process, KYSY in July this year conducted its first community dialogue forum which took place in Kibera and the second one took place in November this year in Eldoret. KYSY will

continue conducting such dialogue forums in targeted counties. KYSY will continue to provide a platform where various stakeholders including the government will dialogue on key electoral issues affecting the Country prior and after the 2017 general elections.

Faith Kirui Idewa is a Programme Assistant, Information Technology at the Kenya Human Rights Commission. She speaks to our Newsletter editor Catherine Kamatu.



Catherine: When did you join Kenya Human Rights Commission (KHRC) and what has been the journey like?

Faith: I Joined KHRC in July 2014 and since then it's been a learning curve. Coming from private sector where I used to deal with Information Technology (IT) only to the non-profit where I engage in not only IT but also programmatic work, this has enabled me to come out of my comfort zone and to always think outside of the box. And oh yes, it's at KHRC that I participated in my first street protest, what an experience.

Catherine: What is a typical day at work for you?

Faith: My typical day starts by checking out if all systems/applications are up and working as they should be. Once all is confirmed to be up and running, I check and respond to all emails . As the day progresses, I respond to IT issues raised by colleagues and also read to find out how I can improve KHRC IT infrastructure.

Catherine: What inspires you to defend human rights?

Faith: As Mandela said, to deny people their human rights is to challenge their very humanity and this is what inspires me.

Catherine: What are some of the challenges that you face in your work?

Faith: Technology has become more fluid and changes rapidly. The challenge is deciding which of these new technologies will work to the best interest of advancing the organization and which is better to avoid.

Quick Facts About Faith Kirui Idewa

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| 1. Hobbies: Traveling, cooking, | 7. Best Outfit: Africa Attire |
| 2. Favorite food: Chapati & Chicken | 8. Now reading: The Richest Man in Babylon |
| 3. Favorite perfume: Mont Blanc - Legend | 9. Life Statement: Our lives begin to end the day we become silent about things that matter - Martin Luther King Jr. |
| 4. Favorite TV show: Grey's Anatomy | 10. Vision for Kenya: A country where all persons live together in harmony and with equal opportunities and uphold Human Rights at all levels. |
| 5. Favorite destination: Carribean | |
| 6. Pets: I don not like pets | |

The Struggle Towards Justice

A Case of the Endorois Community in Kenya.

The African Commission on the 4th of February 2010 made a ruling condemning the Kenyan Governments decision to evict the Endorois Community from their traditional lands around Lake Bogoria in 1970. The Commission found that this eviction, with minimal compensation violated the Endorois's right to property, health, culture, religion and natural resources.

Paul Chepsoi, Project Manager of the Endorois Welfare Council spoke to Martin Mavenjina, Program Assistant, Kenya Human Rights Commissions about the case.

Martin: Who are the Endorois Community?

Paul: The Endorois are a pastoralist community of 60,000 indigenous people, who have resided around Lake Bogoria area for the past centuries and are currently spread through three counties of Baringo, Nakuru and Laikipia.

Martin: Can you briefly tell me about the case that was filed by the Endorois people in Kenya?

Paul: The case was filed in the High Court in 2000. Unfortunately, the application was dismissed with judgement entered in favor of the government. Although the High Court recognized that Lake Bogoria had been Trust Land for the Endorois, it stated that the Endorois had effectively lost any legal claim as a result of the designation of the land as a Game Reserve in 1973 and in 1974.

Martin: What were the issues raised by the Endorois Community when they filed this appeal in the High Court?

Paul: Some of the issues included; eviction from their ancestral land around Lake Bogoria, illegal gazettement of Muchongoi forest, gazettement of Lake Bogoria as a National reserve, lack of clear laid down parameters of the Muchongoi settlement scheme and the compensation scheme that was not at market value.

Martin: What are some of the challenges that the Community faced when they filed this Appeal?

Paul: The challenges ranged from court representation, financial constraints in instituting the case, political interference and unfair decisions from Kenyan Courts. Amidst all these challenges we however managed to file our case in the African Commission court between 2002-2003.

Martin: What were the recommendations of the African Commission Court?

Paul: The Court recommended that the Government of Kenya return the land back to the community, pay royalties to the community, provision of employment for the Endorois people, the Government of Kenya was to remit the Endorois to be registered as an organization under Kenyan, initiation of dialogue by the Government with the Endorois community, and lastly the Government was supposed to come up with a formula to implement the ruling.

Martin: At what point is the Endorois welfare council in trying to implement the decision of the African Court?

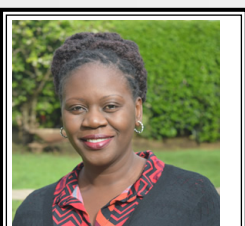
Paul: We have set up a task force with clear terms of reference to push for the realization of the recommendations by the African court and also the possibility of realizing royalties that would accrue from Lake Bogoria. However we face challenges in Lack of political will in recognizing and implementing these recommendations, lack of capacity by the Endorois welfare council to mobilize resources and also difficulties in mobilization of the Endorois as they are spread across three Counties

Martin: What would the Endorois community and the Endorois welfare council want to see happen moving forward?

Paul: Recognition of the community by the Government of Kenya, implementation of the decisions of the African Commission and involvement in National policies that directly affect the Community.



Celebrating Kenya's Heroes and Heroines



FAITH ALUBBE
Programme Advisor-
Transitional Justice

On 24th September 2016, The KHRC together with partners the Mau Mau War Veterans Association, the British High Commission and the National Museums,

came together to celebrate the first anniversary of the Memorial to Victims of Torture and ill treatment during the Colonial Era (1953 – 1963) at the Freedom Corner, Uhuru Park, Nairobi. The celebrations sort to celebrate Kenya's liberation Heroes and Heroines and to also provide an initial space to start a discourse on the essence of intergenerational inclusivity in the realization of a culture of perpetual democracy in Kenya. The celebration was themed; Intergenerational commitment to justice, a theme that was inspired by a verse from the national anthem "justice be our shield and defender" which is also inscribed on one of the walls on the memorial.



Mzee Gitu Wa Kahengeri and Nick Hailey, British High Commissioner to Kenya



of Kenya. The flag symbolized the fight for self-determination and the picture captured the reparation gesture that the memorial stands for. Their message to the 70s & 60s generation was that they should impart knowledge and give guidance to younger generations as they were witnesses to the historical events that took place during independence. The 70s & 60s shared the Constitution of Kenya, with the 50s&40s; the Katiba symbolizes the struggle for the second liberation and for the realization multipartism, which this generation was heavily involved in. Their message to the 50s&40s was that they should implore younger generations to adhere to the culture of constitutionalism to ensure entrenchment of justice as a norm in Kenya. The 50s&40s shared four reports i.e. Krigler, TJRC, CIPEV and Ndungu's report on Historical Land Injustices. These are some of the important documents that detail what bedevils Kenya as a country yet their recommendations are yet to be implemented. Their message to the 30s & 20s and those below twenty, was that they should read these reports and get to understand issues as per the recommendations contained in these reports and after comprehension they should continue pointing out the injustices that these reports offered solutions to, and undertake actions that will facilitate implementation of the same. The 30s & 20s shared a whistle and a picture of a flash disk with the below 20s generation. These mementos signified the new space of online advocacy platforms and the culture of whistle blowing. Their message was to this young generation was that they should not condone any form of injustice that takes place in their presence. The below 20s generation which were represented by students from secondary and primary schools, were also being encouraged to be agents of change in their day to day lives. However the lingering dilemma still remains; how to sustainably ensure an inclusive intergenerational commitment to justice while employing innovative ways of expanding democratic spaces in dynamic environments.



George Kegoro, Executive Director, KHRC gives opening remarks at the Mau Mau monument 1st anniversary

Also present at the event were other liberation movements like; Dini Ya Musambwa, Koitalel Arap Samoei and Mekatilili Wa Menza. Apart from the presence of the Maumau War Veterans Association, other liberation movements like Dini Ya Musambwa, Koitalel Arap Samoei and Mekatilili Wa Menza also attended the event. The event was orchestrated in a skit depicting different generations i.e 90s Also present at the event were other liberation movements like; Dini Ya Musambwa, Koitalel Arap Samoei and Mekatilili Wa Menza. Apart from the presence of the Maumau War Veterans Association, other liberation movements like Dini Ya Musambwa, Koitalel Arap Samoei and Mekatilili Wa Menza also attended the event. The event was orchestrated in a skit depicting different generations i.e 90s & 80s, 70s & 60s, 50s & 40s, 30s & 20s and those below twenty with words of encouragement and wisdom to being passed to a younger generation. The highlight of the event was each generation sharing mementos with a younger generation. The 90s & 80s generation shared a picture of the memorial and the flag

The role of the KHRC on business and human rights process in Kenya



The government of Kenya initiated the National Action Plan (NAP) process in Kenya in April 2016 when the Attorney General issued a press statement on the government's intention to engage in this process.

Since its inception, the Kenya Human Rights Commission (KHRC) has played a key role in policy making and implementation processes nationally, regionally and internationally. In the NAP process, KHRC is the civil society representative to the National Steering Committee that is vested with providing strategic direction to the NAP process. The National Steering Committee is a multi-stakeholder entity and is co-chaired by the the Department of Justice and the KNCHR. The KHRC has made the following key contributions to the NAP process:

Conducting the National Baseline Assessment (NBA) on Business and Human Rights This work which was funded by the Danish Institute of Human Rights (DIHR) was first mooted in a conversation between KHRC and DIHR held during the UN Forum on Business and Human Rights in 2014. The NBA is a methodology for analysing the legal, policy and regulatory framework of a state with the intention of identifying gaps in law, policy and initiatives by the state to prevent negative human rights impacts by companies. It is a fundamental pre-requisite to the development of NAP. KHRC is working closely with the NAP Steering Committee and DIHR to finalise this work and thereafter launch the NAP report.

Review of the Kenya Country Guide on Business and Human Rights The Country Guide is a document that provides country-specific guidance to help companies respect human rights and contribute to development.

It provides comprehensive information about the local human rights context in which companies operate to enable them manage their impacts. The Country Guide provides a systematic overview of the human rights issues that companies should be particularly aware of. DIHR took the lead in developing the Kenya Country Guide, a process that began in May 2016. KHRC reviewed the document and helped disseminate the report. The NBA and the Country Guide are key processes in and deliverables of the Kenya NAP roadmap endorsed by the NAP National Steering Committee. Capacity Building of Stakeholders on UNGPs and Stakeholder Consultations KHRC through funding from DIHR facilitated the DOJ and KNCHR to conduct a national stakeholder meeting and training in April 2016 in Nairobi. It was in this meeting that the DOJ and KNCHR first verbally announced the intention by the state to initiate the NAP process in a public convening. This meeting was also used to sensitize and build the capacity of key stakeholders on the UNGPs and the NAP process. This was later followed by a more in-depth training for steering committee members funded by UNOHCHR. KHRC intends to continue its deep engagement in the NAP process. Critical to KHRC at this time is facilitating and supporting regional stakeholder consultations. These consultations are expected to yield issues from stakeholders that need to be adequately canvassed in the NAP. The KHRC is hopeful that the NAP will make real the Ruggie Principles and thereby enhance respect for human rights by businesses.



Every person has the right to fair labour practices



Business enterprises should respect human rights, avoid infringing human rights of others and must address adverse human rights impacts with which they are involved.

PAMOJA TUKOMESHE

UKIUKAJI WA HAKI ZA KIBINADAMU!

Tuma Ripoti

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Ujumbe Kutozwa kwa kiwango cha kawaida.



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