



## **RAPID RESPONSE STRATEGY TO EMERGING HUMAN RIGHTS VIOLATIONS AND ABUSES<sup>1</sup>**

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### **1. INTRODUCTION**

The Kenya Human Rights Commission (KHRC) is a premier and flagship Non-Governmental Organization (NGO) in Africa mandated to enhancing human rights centred-governance at all levels. Since its formation in 1992, KHRC has acquired a niche and leadership in Kenya's civil society sector in *monitoring, documenting and responding to human rights violations and abuses* and holding the violators to account.

While *Monitoring* is a broad term describing the active collection, verification and immediate use of information to address human rights and governance problems, *documenting* which is a component of monitoring involves: assessing individual allegations; analysing the overall evolution of the human rights situation; identifying trends; processing information in a report; recording and storing information. Finally, *Rapid response* in so far as this strategy is concerned, refers to the undertaking of a quick and immediate action to the emerging human rights violations and abuses.

*Human rights violations* therefore entail governmental transgressions of the rights guaranteed by national, regional and international human rights law and acts and omissions directly attributable to the State involving the failure to implement legal obligations derived from human rights standards. Violations occur when a law, policy or practice deliberately contravenes or ignores obligations held by the State concerned or when the State fails to achieve a required standard of conduct or result.

Additional violations occur when a State withdraws or removes existing human rights protections. On the other hand, *Human rights abuses* is broader term than "violations", and includes violate conduct committed by non-State actors, mostly individuals and institutions, including corporations.

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<sup>1</sup> Drafted by Davis Malombe, Diana Gichengo and Sylvia Mbataru based on the KHRC's history, approaches and practices in addressing the emerging human rights situations in the society. Davis, Diana and Sylvia are KHRC's Deputy Executive Director; Programme Manager, Political Pluralism and Diversity; and Human Rights Monitoring and Response Officer, respectively. The paper forms the basis for further institutional conversations and actions.

## **2. GUIDING PRINCIPLES FOR RAPID RESPONSE TO HUMAN RIGHTS ISSUES**

KHRC's interpretation and intervention on the emerging human rights issues is guided by the following key 4 considerations:

- a) That the alleged violation falls within the scope of work of the KHRC.
- b) That the allegation constitutes a human rights violation because it's in contravention of domestic laws and violates international norms and legal principles of human rights.
- c) That there are evidentiary gaps in demonstrating that human rights violations and abuses took place
- d) That the violations and malpractices constitute patterns and trends as determined by the following variables:
  - ✓ *Patterns in the identity of the victims* where the victims themselves may present a number of common characteristics, such as: type of political activities, professional activities or occupations, ethnicity, age-group, gender, sexual orientation, residents of clearly defined areas.
  - ✓ *Patterns in the location of the violations* where the violations may take place overwhelmingly in specific places, such as: region, cities or localities, neighbourhood, specific detention centres
  - ✓ *Patterns in the methods used to commit the violations* where the methods used by the perpetrators are consistent, i.e. the same or similar methods may be used to commit killings, torture, arbitrary arrests, etc. For instance, all killings may result from gunshot wounds, or may have been preceded by similar forms of torture.
  - ✓ *Patterns in the circumstances of the violations:* where the circumstances immediately preceding or following the violations may also be quite similar and as such present a pattern. For instance, specific human rights violations may take place particularly before, during or after new legislation, declaration of a state of emergency, elections, announcement of meetings or request for authorisation, demonstrations, riots, curfew, military or reprisal operations
  - ✓ *Patterns in the identity of alleged perpetrators:* where the identity of the alleged perpetrators, including: specific security forces, specific individuals, ranks of alleged perpetrators, commanders in charge. For instance, all cases of excessive use of force may be committed by one specific police force, or by specific individuals.

## **3. SOURCES OF INFORMATION FOR RAPID INTERVENTIONS**

KHRC shall rely on diverse sources of information for incidences and patterns of human rights violations and abuses so as to make informed responses. Such sources include mainstream and social media platforms; KHRC local grassroots networks (HURINETS) and other partners (state and non-state), research, KHRC's legal aid scheme<sup>2</sup>, KHRC's SMS hotline platform, observation of key events and processes as well as Fact finding missions<sup>3</sup>. KHRC shall undertake a process of verification before commencing rapid response

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<sup>2</sup> Further details on the legal Aid scheme are available in the KHRC Legal Aid strategy document

<sup>3</sup> Further details on undertaking of fact finding missions by KHRC are available in KHRC's Fact finding missions strategy document.

#### **4. STRATEGIES FOR RAPID RESPONSE TO EMERGING VIOLATIONS AND ABUSES**

In undertaking rapid response to emerging human rights issues, KHRC shall engage County and National governments as well as sub regional, regional and international human rights mechanisms. In responding, KHRC shall employ the following strategies as the situation requires and where necessary apply the strategies concurrently:

- a) Immediate rescue and protection of victims and human rights defenders affected and subsequent linkage with established organizations for the requisite support and remedies.
- b) Legal action including litigation to secure interim orders, orders for judicial review, public interest litigation, constitutional petitions for enhanced jurisprudence, general litigation for justice, legal aid support<sup>4</sup>.
- c) Policy action e.g. lobbying legislators and policy makers, lodging petitions and memorandums to commence legal and policy reforms in response to the matters at hand.
- d) Political actions and empowerment: fostering civic awareness and actions in response to the issues at hand. Picketing and demonstrations forms part of this strategy.
- e) Media actions<sup>5</sup>, publicizing and advancing the issues through the different communications strategies and platforms e.g. Press statements.

These strategies shall be implemented in partnership with the concerned beneficiaries and likeminded organizations. Subject to the security situation and availability of resources indicated below, KHRC shall strive to provide immediate action in a span of 48 hours from the time the critical issue is reported. Long term interventions may be implemented as explained below.

#### **5. RESOURCING RAPID RESPONSES TO EMERGING HUMAN RIGHTS ISSUES.**

There shall be a rapid response committee comprising of the Executive Management<sup>6</sup>, the Human Rights Monitoring Advisor<sup>7</sup>, the Legal Advisor, the Communications Advisor, Finance Manager and the Program Manager and Officer responsible for the thematic area under which the human rights issue in question falls.

Where after the undertaking of an urgent action intervention, long term advocacy is required on a human rights issue; this shall be taken up by the officer in charge of the thematic area concerned. KHRC shall with the support of and negotiations with its development partners establish a kitty to fund rapid response.

The kitty shall be dynamic and flexible enough to adequately address the needs and issues at hand, while ensuring effective accountability to the organization and partners involved. Expenditure of the fund shall be authorised by either the Deputy Executive Director or the Executive Director.

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<sup>4</sup> See the KHRC's Litigation Strategy

<sup>5</sup> Further details on media actions are available in KHRC's Communications Strategy Document

<sup>6</sup> Executive director , Deputy executive Director and the Director of Finance and Administration

<sup>7</sup> To be Co-Convener of the Urgent Action Committee.