

**REPORT OF THE PUBLIC ACCOUNTABILITY FORUMS HELD IN WAJIR
AND MANDERA DISTRICTS, NORTH EASTERN PROVINCE, ON
SEPTEMBER 17-22, 2006 AND IN NAIROBI ON 19TH AUGUST 2006**

1. INTRODUCTION

To mark its three years of existence, the Kenya National Commission on Human Rights (KNCHR) held accountability forums in Nairobi, at St. John's Catholic Church in ¹Korogocho on 19th August 2006 and conducted an outreach programme in Wajir and Mandera² districts on September 17-22, 2006. This culminated with a public accountability forum at Al hajji Baraza Park in Mandera on Wednesday, September 20, 2006.

2. OBJECTIVES

The objectives of the public accountability forums in Wajir and Mandera were to:

- a) Get feedback from the local people on the Commission's performance in the three years it has existed.
- b) Pay courtesy calls on key public servants in Wajir and Mandera.
- c) Inspect places of detention (police cells and prisons) in Wajir and Mandera to gauge the conditions under which inmates were detained and also hear their grievances.
- d) Inform the local people of the Commission's successes and challenges.
- e) Hear the human rights concerns of the ordinary people of Wajir and Mandera.

3. THE MANDERA TEAM

The KNCHR team that took part in the North Eastern public accountability forums included:

- a) Chairman, Maina Kiai
- b) Commissioners Tirop Kitur, Lawrence Mute and Godana Doyo
- c) Wajir Regional Office Coordinator, Abdulkadir Noormohammed
- d) Senior Human Rights Officer, Linda Ochiel
- e) Human Rights Officers, Michael Okello and James Mwenda
- f) Interns, Moses Otsieno, Kennedy Mbara and Abdi Billow
- g) Office Assistants, Robert Syengo, Joseph Otieno and Purity Gathaiga

¹ Korogocho, Dandora and Kariobangi are low income residential areas which together form a network of close to 1 million poor people living adjacent to the Dandora Dumpsite.

² Mandera is one of the four districts in the North Eastern Province. The others are Garissa, Wajir and Ijara. Mandera is about 900 kilometres from Nairobi, 670 kilometres from Garissa and 370 from Wajir. It borders Wajir to the south and west, Ethiopia to the North and Somalia to the East. It is one of the most remote, marginalised and underdeveloped parts of Kenya. It has also experienced serious human rights violations in the past

4. NAIROBI TEAM

1. Chairman, Maina Kiai
2. Mburu Gitu, Secretary to the Commission
3. Commissioner, Tirop Kitur and Godana Doyo
5. Linda Ochiel, Senior Human Rights Officer, Media and Communications
6. Antony Kuria, Senior Human Rights Officer
7. Joseph Kaberia, Senior Human Rights Officer, Complaints and Redress
8. Mike Okelo, Assistant Legal Counsel, Complaints and Redress
9. Charles Kariuki, Human Rights Officer, Ecosoc
10. Janice Misoi, Human Rights Officer, Complaints and Redress
10. Wambugu Maina, Communications Intern
11. Support Staff and interns

4. WAJIR AND MANDERA OUTREACH ACTIVITIES

Police and Prison visits

During the week-long public accountability activities, the KNCHR visited prisons and police stations in Wajir and Mandera in line with its statutory³ mandate that empowers it to inspect places of detention to determine if they are human rights friendly. Police officers, prison warders and inmates informed KNCHR of their welfare issues. For example, inmates at the Mandera GK prison complained of delay in the hearing of their court cases, corruption at the police stations, limited access to entertainment and poor clothing.

Human Rights Symposium

On September 18, 2006, the KNCHR team hosted a secondary schools human rights symposium at Wajir High school. It brought together students from Wajir Girls Secondary school, Furaha Mixed Day Secondary School and Wajir High School. The students presented essays on the human rights issues in Wajir. Excellent students were awarded prizes, which included books and KNCHR t-shirts.

Courtesy calls

The KNCHR team also held consultative meetings with key public servants in Wajir and Mandera. These included magistrates, provincial administrators, the registrar of persons, children's officer and education officers.

³ Section 16(1)(b) of the KNCHR Act, 2002

Human rights clinic

The KNCHR Wajir Regional Office team conducted a human rights clinic at Mandera County Council Hall on September 21, 2006. During the event, a total of 28 complainants were attended to. The natures of their complaints were as follows: Labour cases-10; Land cases-7; Civil/Contractual-5; Complaints against Security Agents-3; Corruption-2; others-1.

Public Accountability Forum in Mandera

The issues that were raised at the public accountability forum included:

- a) Discrimination of Kenyan Somalis in the issuance of National identity Cards: Some of the vetting committees are corrupt. It is reportedly easier for rich foreigners to obtain an ID than poor Kenyans. Minority clans were said to be discriminated in the issuance of IDs. They were not represented in the vetting committees.
- b) Labour matters: Concerns were raised over delay by the government in paying retired civil servants their dues..
- c) Distribution of relief food: In addition to claims of theft of relief by public servants, the Commission also had that the distribution of relief food sometimes favours the rich.
- d) Is KNCHR any different from other money-guzzling, under-performing Commission of the past?
- e) Is KNCHR a political office or a professional office?



(Left to right) Commissioner Tirop Kitur, Chairman Maina Kiai, Acting Mandera District Commissioner, Commissioner Godana Doyo at the Public Accountability Forum

- f) Police harassment: many complained of harassment by the police at various road blocks on the Mandera-Wajir-Garissa-Mwingi road over ID cards. The officers reportedly do not recognized ID waiting cards.
- g) Provincial administration: many complained that some local chiefs are biased. That they always support the government. Some said chiefs grabbed poor people's land.
- h) The forestry department was accused of being corrupt.
- i) How can local human rights activists collaborate with KNCHR in reporting human rights concerns in Mandera?



Linda Ochiel, Senior Human Rights Officer, thanks participants at the Public Accountability Forum

5. Conclusion and Recommendations

- a) Commissioner Mute reminded the Mandera residents that they were Kenyans, despite the harsh climatic conditions they live in, the poor infrastructure and the difficulties encountered before they acquire National ID cards.
- b) Chairman Kiai informed the Mandera residents that human rights was about questioning those in authority to ensure that they deliver basic rights, such as roads, to citizens.
- c) He further noted that KNCHR was not a political organization. And that despite having been established by the government, the Commission was independent in its operations.
- d) He said that the Commission will lobby the government to make the issuance of IDs easier for Kenyan Somalis. For example, he said that the ID waiting cards should bear passport photograph of the applicant for ease of identification. In this regard, he said the Commission That KNCHR will conduct a survey on all border towns to find out if it is only the Kenyan Somalis who undergo stringent screening when applying for ID cards.
- e) Kiai advised Mandera residents with complaints against chiefs to report them to the chiefs' bosses i.e. District Officers and District Commissioners.
- f) He added that corruption is a serious human rights issue which every body should be concerned about because it involves diversion of public resources into the

pockets of individuals. The billions stolen through the Anglo Leasing Scandal, for example, would have been used to improve the infrastructure in North Eastern Province.

NAIROBI FORUM

Issues raised by the Public at the Korogocho Forum

1. About KNCHR:

- Several speakers sought clarification whether KNCHR is part of Government or not.
- Questions asked on what the Commissions' powers are.
- Clarity sought on how a State body can protect human rights enjoyment-yet the Government itself is the greatest violator of human rights
- Questions asked on where the Commission had been before or "*had it just woken up?*"
- Whether service delivery by KNCHR is anything like the lethargy citizens face from public officers in other Government offices.
- Location of KNCHR offices. Why can't KNCHR have an office in Korogocho?
- Location in the more affluent side of the city cuts out many poor Kenyans
- Lack of the Commission's presence in the grassroots. Urgent need for national presence of the Commission.
- Commission commended for taking action on national issues though it should do more on violations at the grassroots where there are few lawyers in rural areas to take up human rights violations.
- Need to address the redress of human rights violations at the local level. Can KNCHR set up satellite offices to deal with violations at the local level?
- Living large at the Commission: Issue of the luxurious cars available for the Commission's use.
- Commission Budget: Future KNCHR work could be difficult owing to Government displeasure with the good work the Commission has done. Underscored the need to collaborate with NGOs to address the myriad of problems that Kenyans face, since expectations of increased budgetary allocations to KNCHR may not be forthcoming
- Lauding the Commission for holding an accountability forum: Speakers were particularly happy that they had got to see the Commission in real life and not just on TV.
- Need for KNCHR to hold an open day with area MPs and NGOs to take up individual complaints

2. Problems of the downtrodden

- Hawkers' problems and their violent dispersal by the State when they resort to peaceful means of protest.

- Cost sharing: Pointed out that there was free medical health care at independence. With cost sharing, most of the poor cannot afford to share costs with those who are more endowed. What is KNCHR doing?
- Retrenchment: Need to ensure it is more humane
- Orphans: Plight of grandmothers taking care of children left parentless by HIV/AIDS.
- What is KNCHR doing to ensure these orphans get a decent life?
- KNCHR was asked what it is doing for those infected or affected by HIV/AIDS.
- Street Children: Whether they have a right to live as other children and if so what KNCHR is doing for them?
- Problem of obtaining birth/death certificates etc

3. The Police

- Contact with the Police: Many residents view the police as an instrument of terror and oppression rather than a security provision apparatus.
- What is the maximum period that one can be held in police custody?
- An individual complaint was raised by Mr. Peter Waweru whose wife was shot dead by the Police as they slept. In spite of pursuing the matter at Buruburu Police Station, no explanation has been forthcoming from the police and he sought KNCHR's intervention.
- Arbitrary arrests by police/ extended arrests by police. Question asked whether KNCHR could place staff in all police stations in Kenya.
- Extra judicial killings are rampant especially in Korogocho.
- What does KNCHR plan to do about a special police squad called the "Kasarani 7" that was responsible in the last regime for the extra-judicial killings of many poor urban youth?

4. Due Process of Law and Access to Justice.

- Proliferation of Commissions of Inquiry, Task Forces and probes has compromised due process in the country
- Property rights for the poor, demolitions and equality before the law: The law and the criminal justice system are skewed against the poor especially when they go to the authorities complaining of destruction of their property
- Court processes: Numerous adjournments for long periods of time make access to justice for the poor extremely difficult since cases take too long to complete
- Limitations of Actions Act: Discriminates against those who are poor and ignorant. Many in urban slums have suffered when they have tried to institute proceedings to protect their dwellings only to learn that their suits are time barred.
- Complaints against Advocates: Several individual complaints were raised against advocates especially regarding compensation for personal injury claims

5. Land & Housing Issues

- What is KNCHR doing to push the Ministry of Lands (and the Commissioner of Lands) to ensure that the urban poor get security to their holdings?
- The right of women to inherit property.
- Adverse possession: Changing the law to make the doctrine applicable to Government owned land which would be one way of addressing the plight of the landless who have for decades lived on public land

6. Free primary education:

- Issue of quality raised especially in poor urban areas where classes are inordinately large.
- Nevertheless, several speakers pointed out that free primary education must be safeguarded so as to assist the poorest segment of society access education.
- What of secondary school and tertiary education? Since only primary education is free, the poor cannot afford education after primary school. What is KNCHR doing?
- Need to assist the poor to access education. Currently, there is little help from the Government

7. Prison reform:

- Importance of improving prison conditions underscored.
- Arbitrary arrests and other deficiencies in the criminal justice system mean that it is the poor-unable to pay fines or raise bail-who fill our jails.
- Congestion in prisons cited as an example of official oppression of the poor

8. Right to a safe environment.

- Relocating the Dandora Dumpsite: Why has the Government and the City Council continued to deny the inhabitants their right to a safe environment? Majority were categorical that the dumpsite should be moved.
- It is the rich who make money from the dumpsite while the poor continue to suffer
- Health: Many residents highlighted the health problems the dumpsite and its associated poisonous gases have caused to them yet they are also Kenyans with a right to proper health.
- Lack of a Government hospital in the area means that residents have to travel long distances in search of medical attention.
- How long will it take to have the dumpsite moved?
- Since KNCHR wants the dumpsite closed, what will it do for those whose livelihoods depend on the dumpsite?
- Waste Management: A resident pointed out that the greatest problem was waste selection and wondered why the Central Government and the City Council could not deal with such a simple issue

9. Housing conditions in poor urban areas / informal settlements.

- The urban poor need durable and affordable housing structures especially for slum dwellers
- Landlord / Tenant relations in informal settlements. Many tenants in Korogocho are suffering at the hands of structure owners. How can KNCHR assist the downtrodden?
- Infrastructure: Residents need proper roads and a sewage system. What is KNCHR doing?

10. Leadership & Governance Issues

- Fidelity to political parties: Citizens elected a NARC Government but most of these representatives are no longer in NARC.
- Several speakers felt that the issue of leaders moving from the parties which sponsored them to Parliament without consulting the electors should be addressed
- Employment: Government keeps on employing retired people to public positions while many well educated young people are unable to get jobs
- Politically instigated clashes. Need to know the truth and establish accountability for those responsible. This speaker underscored the need for everyone to obey the law.
- Sexual violence: How can KNCHR assist women MPs in Parliament to better push for the protection of victims of sexual violence?
- Equality for all
- Terrorism Bill: What is KNCHR's position on this bill?
- CDF: Good example given by KNCHR in holding a public accountability forum which MPs were encouraged to emulate
- Constitutional / Minimum Reforms: What is the position of KNCHR?
- NGOs in Korogocho. Residents have been exploited and misused by many organizations in the name of raising funds for the area. There has been little accountability of these funds and residents asked KNCHR to deal with this issue as they feel cheated

11. Corruption:

- What is KNCHR doing to roll back corruption?
- Anglo Leasing, Goldenberg and related scandals must be resolved and those responsible held to account.
- Urgent need of Government to be lean and relevant to the needs of the people as one way of stopping the waste of public resources
- Public Debt: Kenyans need to know how much debt the previous and current Government has contracted in their name

12. Employment and working conditions:

- Poor working conditions in industries, factories, plantations and EPZs.
- What is KNCHR doing to ensure that the Labour Minister and the Trade Union movement are doing what they are expected to do for workers?

- Poor remuneration and the exploitation especially of women in many factories.
- Factory conditions especially in EPZs likened to another prison. Employees hardly rest and salaries are paid very late.
- Right of workers to rest and to leisure
- Adequate remuneration
- Issue of new South African investors and how they callously lay off workers upon buying Kenyan companies.
- Government doing nothing to protect the welfare of this workers

13. ECOSOC issues:

- Coffee, Tea and Pyrethrum Sectors: Need for a legal framework to address these sectors.
- Economic Partnership Agreements (EPAs): Is KNCHR involved in this process now that the Lome agreement on preferential treatment of exports to the EU is set to expire next year?
- WTO processes: What is KNCHR doing to ensure that external investments do not compromise the rights of Kenyans?
- Divestiture of State Owned Public Enterprises: Causing serious unemployment e.g. concession of Kenya Railways to a private investor.
- Subsidies on basic goods to alleviate the hardships on the poorest sector of society.
- Yala Rice Irrigation project and the issue of resettlement. Kshs 40,000/- per acre criticized as too low.
- Employment: Many employers refuse to pay their employee dues after their employment is terminated. The Kenya Bus Service retrenchments were raised and the fact that even their cooperative savings were not paid by the management. Attempts at peaceful demonstration were violently dispersed by the police while the Ministry of Labour remains silent.
- HIV and employment discrimination: Many employers discriminating against those living with HIV/ AIDS
- Devolved Funds: Accountability for CDF, LATF, LASDAP funds especially so for Korogocho where there has been no accountability of these funds.
- Youth Funds: How will this cater for the poor urban youth?
- Catering for people with disabilities. The disabled ought to be assisted to access employment and other services

14. Problems faced by the youth

- Youth from the North living in poor urban areas find it difficult to obtain national ID cards and passports. Despite being born in Nairobi, they are asked to bring with them IDs of their parents and grand parents-a requirement not asked of other Kenyans.
- Crime and Drug Abuse: Need to address the factors that push the youth in poor urban areas into crime.

- Crime is as a result of necessity due to the very tough conditions in the “ghetto”. What is KNCHR doing?
- Urban youth facing a serious unemployment crisis and lack of a means of livelihood.
- Obtaining a certificate of Good Conduct: Poses great problems for many of the youth who are arrested on flimsy grounds and jailed. Once out of jail, they cannot get this certificate when in search of employment since they already are categorized as criminals.

Conclusion:

The National Commission is not accessible to members of the public. Members of the public do not understand the Commission’s mandate hence have an overwhelming expectations of the Commission. The public expects the Commission to provide solutions to their developmental problems aside from providing redress for human rights violations.

Recommendations:

- The National Commission needs to conduct its Accountability Process throughout the year rather than as part of its anniversary celebrations annually.
- There is need for continuous outreach programmes, human rights educational the grass root level.
- The Commission should partnerships with civil society organizations and community based organizations to facilitate the protection and promotion of human rights through education and advocacy activities. The CSOs and CBOs would also be a useful conduit to distribute the Commission’s IEC material and conduct civil education on human rights issues in the country.
- The Commission should set up satellite offices in the region through which human rights violations could be channeled to the Commission.

**Kenya National Commission on Human Rights (KNCHR)
October 17th, 2006**