16th August 2013

Joint Press release on the Killing of Hassan Guyo, a Human Rights Defender, by Security Agents in Moyale, Kenya

1. We, the undersigned human rights organizations, wish to condemn the summary execution of Hassan Guyo, a prominent human rights defender based in Moyale, Marsabit County. Our preliminary investigations indicate that Mr Guyo was shot from the back by a military officer on 7th August 2013 at around 1700 hours.

2. Mr Guyo, 40, was founder member and the Programmes Director at Strategies for Northern Development (SND), an organization that promotes human rights for women, children and refugees and also works on human trafficking issues in the region. He was an active member of the UNDP Amkeni waKenya Civil Society Governance Programme Stakeholders Reference Group and partnered with various human rights organizations including the Independent Medico Legal Unit (IMLU), the National Coalition of Human Rights Defenders – Kenya (NCHRD-K), Kenya National Commission on Human Rights (KNCHR) and the Kenya Human Rights Commission (KHRC).

3. The undersigned deployed a fact finding mission to Moyale between 8-12 August 2013 to investigate the incident. The findings indicate that the deceased was fatally shot as he documented excessive use of force and other human rights violations against demonstrators during a joint operation of the Kenya Defense Forces and the Kenya Police Service in Moyale. The military then fired at anyone who attempted to assist him, blocking assistance for nearly two hours, an action that could have been aimed at ensuring that the victim died for lack of quick medical attention.

4. Prior to his execution, a demonstration was held by area residents to protest the suspension and arrest of Mr Jillo Boru, the chief of Bori location by the Moyale Deputy County Commissioner. The Chief had allegedly been arrested in relation to the insecurity in the area. The team of investigators has reliably learnt that the area County Commissioner Mr. Isaiah Nakoru called in the police and the army from Odda town to help disperse the crowds. The circumstances under which the army was deployed to handle such an ordinary policing issue remains unclear, especially in view of conflicting reports as to whether the demonstrations were ongoing by the time the military arrived.

5. Police and Army officers used excessive force against civilians. They unjustifiably used live bullets, in the process leaving two people with serious gun injuries. The two were admitted at the Moyale General Hospital, one with a bullet lodged in his back and the other with a serious head injury. Mr. Hassan Guyo was not in Moyale at the time of the demonstration that took place in the morning and early afternoon. He arrived in Moyale from Wajir in the evening after receiving reports of the disturbances.
6. Upon his arrival in Moyale town at around 1700 hours he hired a motorcycle to take him to the hospital to meet with the victims and to the scene of the skirmishes. This was part and parcel of his regular human rights work to monitor and document human rights violations. It was while he was on his way that he found a road block that was erected by a contingent of army officers at Sessi, which is approximately three hundred meters from the police station and two hundred meters to his office. The army had barricaded the road and was beating people indiscriminately. Guyo and his rider found several people that had been forced to lie down near the barricade where they were also being beaten.

7. Ahead of Guyo near the barricade was a taxi whose driver was attempting to back up at high speed after being ordered to do so by the army officers. Guyo's motorcyclist gave way to the taxi as he also attempted to turn on orders from the same army officers. Guyo alighted from his motorcycle to allow the rider to turn. At that time army officers were shouting at them, at which point he raised his arms to indicate that he was not armed and a sign of surrender since there were gunshots. As he turned to board the motorcycle, he was shot and fell down.

8. His rider attempted to get him on the motorcycle in order to take him to a hospital. He was however unable to do so because more shots were fired in his direction. He sped off and went to the police station to seek the assistance of the police to get Guyo to hospital. He was not assisted. He rode to the town centre where he informed other people that Guyo had been shot. A group of bodaboda (motorcycle taxi operators) rode to the scene to offer assistance. They were however repulsed by the army officers who shot at them forcing them to scamper for safety. No one was allowed near Guyo including a uniformed Kenya Red cross official and no medical assistance was given to him for about an hour until around 1815 hours when the army men drove off and the locals went near Guyo and found that he was dead.

9. His body was picked up from the scene at around 1830 hours by the police. It was taken to Moyale General Hospital where a post mortem (PM) was conducted. The PM report indicated "the cause of death of the late Hassan Guyo is chest and abdominal injuries due to a perforating single gunshot. There was also a major laceration of the left lobe of the liver tearing through the inferior and superior surfaces".

10. We are gravely concerned by the arbitrary killing of Mr. Hassan Guyo and the excessive use of force by the security agents in the region. Guyo's execution is not an isolated incident. The killing comes at a time when threats to human rights defenders in both urban slums and the rural areas have escalated in recent months. Various individuals and human rights organizations who have received such threats are concerned that the government is either condoning this or is unwilling to hold those responsible accountable.

11. We are further concerned by the disturbing increase in killings by security agents in the name of curbing crime. In the past four months, human rights groups have recorded over one hundred (100) such extra judicial killings. The magnitude and pattern of the killings suggest existence of a "shoot to kill policy" by our security agents. This
worrisome trend is inimical to the Principles of National Security in the Constitution particularly Article 238(2)(b) which provides that "National Security shall be pursued in compliance with the law and with the utmost respect for the rule of law, democracy, human rights and fundamental freedoms"

12. We remind security agencies of their obligations to respect and uphold human rights both as institutions and persons as enshrined in Article 21 of the Constitution of Kenya. They are not exempt on any grounds whatsoever from observing the rule of law and the human rights of the people of Kenya, particularly right to life, freedom of assembly and expression which are the core pillars of any democratic civilization. The people of Kenya have an indisputable legitimate expectation that security agents will defend and not curtail their rights. The execution of Mr. Guyo is not only a very bad thing to happen, but also a totally unacceptable and abhorrent act.

13. The Killing of Guyo is a blatant violation of constitutionally guaranteed rights. Article 26 provides that a person shall not be deprived of his life intentionally except to the extent authorized by the constitution and other written law. (3). Further, the right to life is guaranteed under Article 3 of the Universal Declaration of Human Right (UDHR) which states that "Everyone has the right to life, liberty and security of person"; Article 6 of the International Covenant on Civil and Political Rights (ICCPR) (Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life) and Article 4 of the African Charter on Human and Peoples' Rights (ACHPR) "Everyone has the right to life, liberty and security of person".

14. Moreover, Mr. Guyo was a human rights defender and a pillar in the realization of human rights at the vast marginalized Northern Kenya region. The killing of Guyo is clearly a well calculated move to cover-up ongoing human rights violation and impunity of security forces sent in the region to conduct security operations.

15. It must be emphasized that an attack on human rights defenders is not only a violation of the rights of the individual human rights defender but also a serious threat to the promotion and protection of human rights in the society. This is clearly codified in the UN Declaration on Human Rights Defenders that was adopted by the UN General Assembly in 1998. The Declaration recognizes the legitimacy of human rights activity and the need for those who carry out human rights work to be protected. States have a responsibility to implement and respect all the provisions of the Declaration. In particular, states have a duty to protect HRDs against any violence, retaliation or intimidation as a consequence of human rights work. Further in 2004, the African Union through the Africa Commission on Human and Peoples Rights created the mandate of the Special Rapporteur on Human Rights Defenders in Africa to deal with the protection of human rights defenders. Kenya as a member of UN and AU is therefore obligated to guarantee the safety and security of HRDs across the country.
We are therefore calling for:

- The Inspector General of Police (IG), the Director of Public Prosecutions (DPP), the National Police Service Commission and the Independent Police Oversight Authority to exercise their mandate to ensure justice for the victims and accountability for the responsible security officers.
- The DPP to institute an inquest into the circumstances surrounding the killing of the human rights defender, Mr Hassan Guyo, in Moyale, pursuant to Section 386 of the Criminal Procedure Code.
- An independent investigation into the conduct of the County Commissioner, police and the military officers on the material day and the use of live ammunition against unarmed civilians.
- The suspension from duty of the commander of both the military and police units that was responsible for the joint operation in Moyale pending investigations.
- The Cabinet Secretary for Defense to clarify the circumstances under which the Army was deployed in Moyale and whether parliamentary approval was sought and given pursuant to Article 241 (3) (c) of the Constitution.
- The Cabinet Secretaries for the Ministry of Interior and Coordination of National Government, and Ministry of Defense to ensure that security forces on the ground strictly respect the rule of law and Chapter 4 on Bill of Rights and in particular to immediately cease arbitrary use of lethal force and extra-legal actions against civilians.
- The Independent Police Oversight Authority (IPOA) to institute investigations and appropriate actions pursuant to Article 25(10) IPOA Act and Schedule 6 (b) (5) to the National Police Service Act with regard to death and serious injury occasioned by use of fire arms.
- The Government to domesticate the UN Declaration on Human Rights Defenders by enacting and operationalizing a policy/legislative framework for safety and protection of human rights defenders.

16. We take this opportunity to condemn recent and past incidents of human rights violations directed at security agencies by civilians resulting in loss of life, injury and humiliation. We particularly condemn the most recent incident in which a Member of Parliament reportedly engaged in physical and verbal assault on a female police officer in Nakuru County. We call for immediate legal action on this incident. There cannot be rule of law when those in leadership are themselves not subject to the law. We further urge the people of Kenya jealously safeguard our constitution, respect our institutions and desist from taking the law into their hands.

17. Finally, we call upon human rights defenders at every corner of the country not to succumb to these acts of threats, intimidation, vilification and violence but to remain steadfast in their internationally and constitutionally recognized right to defend and champion human rights. This is the best way to honor comrade Hassan Guyo. We remain in solidarity with Guyo’s family, colleagues and his community and assure them of our resolve to seek justice for Hassan and to continue the good work for which he sacrificed his life.
Signed:

Kenya National Commission on Human Rights (KNCHR)
Kenya Human Rights Commission (KHRC)
Release Political Prisoners (RPP)
Independent Medico Legal Unit (IMLU),
National Coalition of Human Rights Defenders – Kenya (NCHRD-K)
Katiba Institute
Human Rights Watch