



Return of the Gulag

Report of KNCHR investigations on Operation Usalama Watch

July 2014

INTRODUCTION

This is a monitoring report of Kenya National Commission on Human Rights (KNCHR) of the ongoing *Operation Usalama Watch* that was launched in the beginning of April 2014 as part of the ongoing efforts by the government to address the spiraling insecurity in the country including terror attacks. This exercise was occasioned by reports of massive violations of human rights by police against residents of the areas of the operation.

In conducting this exercise the KNCHR was guided by Article 238(2)b of the Constitution 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.”*

Specifically, the Commission is mandated by Article 59 (1)(d)(e) of the Constitution of Kenya:

(d) to monitor, investigate and report on the observance of human rights in all spheres of life in the Republic, including observance by the national security organs;

(e) to receive and investigate complaints about alleged abuses of human rights and take steps to secure appropriate redress where human rights have been violated;

Further, Section 8 (e) of the Kenya National Commission on Human Rights Act, 2011 mandates the KNCHR to;

“on its own initiative or on the basis of complaints investigate or research matter in respect of human rights, and make recommendations to improve the functioning of State organs;”

The key object of the exercise was to assess the obtaining situation, ascertain the veracity of the allegations, gather factual information and generate appropriate interventions.

METHODOLOGY

The KNCHR deployed monitoring teams to various places where the operation was taking place including police stations, Kasarani Stadium which acts as the screening center for detainees and to residential areas in Nairobi and Mombasa. The teams conducted direct multiple interviews with petitioners who had fallen victim to the operation and also with relatives of missing persons who had been reportedly arrested in the swoop. The teams also held key informant interviews with residents, opinion leaders, business community and civil society representatives working with the affected communities. This was complemented by secondary data gathered from media stories, reports from organizations such as the Kenya Red Cross and internet materials among other sources. The police stations visited include Kasarani, Embakasi, Pangani, Buruburu, Gigiri, JKIA, Majengo (Thika), Kamukunji, Lang’ata, Huruma and Kiamumbi.

FINDINGS

That the operation began on 3th April 2014 ostensibly as a government's response to the recent escalation in terrorist activity in the country. The terrorist attacks spiraled after the Kenya government deployed the Kenya Defense Forces to Somalia in October 2011 to suppress the Al-shabab terror network. In the last three years, there have been over one hundred (100) episodes of terror attacks across the country that has resulted in massive loss of life and property. The attack on Westgate Shopping Mall Nairobi on 21/9/2013 is particularly noteworthy as it targeted a high-end commercial establishment reportedly owned by Israelis and frequented by local and international elites in the corporate, diplomatic and political spheres. The attack left 67 people dead and over 170 injured. Just before the start of Operation Usalama Watch there were two major terrorist attacks in Mombasa (23rd March) and Nairobi (31st March) which killed 11 people and left scores of others injured. The attack in Mombasa targeted worshipers in a church in Likoni while the one in Nairobi targeted customers in several food cafes in Eastleigh Estate.

On 26th March 2014, the government through the Cabinet Secretary for the Ministry of Interior and Coordination of National Government, Joseph Ole Lenku issued a directive through a press release ordering all refugees residing outside the designated refugee camps of Kakuma and Dadaab to immediately return to their respective camps failure to which they would face the law. He further ordered the immediate closure of all refugee registration centers in urban areas including Nairobi, Isiolo, Nakuru, Mombasa and Malindi. In the same press release he announced that the government would deploy an additional 500 police officers in Nairobi and Mombasa to enhance security and surveillance.

Its KNCHR's considered view that this directive was the precursor to the looming security operation *Usalama Watch*. On April 5, The Interior Cabinet Secretary announced that 6,000 additional security officers had been deployed to Nairobi's Eastleigh neighborhood to arrest foreign nationals who were in the country unlawfully and anyone suspected of terrorism. The operation began in Eastleigh Estate in Nairobi where it remained largely concentrated but later spread to other parts of Nairobi and later in Mombasa, Nakuru, Thika, Eldoret, Lamu, Malindi, Garissa, Mandera, and Kitale. At the time of compiling this report, at least 4000 people had been arrested across the country majority of who were ethnic Somalis. It is however difficult to ascertain the exact number of those arrested in the swoop given the capricious manner in which the arrests were conducted and given that a significant number of those arrested were released upon bribing the police and hence were not recorded in the police register.

The evidence gathered by the KNCHR establishes that serious human rights violations and breaches of the law have been committed by security agencies against innocent civilians. The violations include the human rights to security of the person, human dignity, food, education, security of the home, and freedom from torture, cruel, inhuman and degrading treatment all of which are guaranteed and protected under Chapter Four of the Kenya Constitution and international human rights instruments which Kenya has ratified.

As evidenced by the testimonies annexed to this report, the KNCHR received multiple complaints from victims and relatives that included arbitrary arrests, extortion, theft and looting of homesteads, sexual harassment, arbitrary detentions, illegal renditions, torture, inhuman and degrading treatment.

Arbitrary arrests and violations of the rights of arrested persons:

Virtually all persons who spoke to the KNCHR majority of whom are of Somali origin complained of having been indiscriminately arrested by police officers who had been deployed in large contingents in the operation areas. In Eastleigh Estate, the police officers randomly stopped people on the streets and demanded that they produce their National Identity Cards failure to which they were instantly arrested and bundled on waiting police vehicles. In numerous instances the police arrested persons who had valid identification documents and demanded bribes in exchange for their release. Majority of those taken to police stations were not booked in the formal police register (OB) which not only hindered accountability for the detainees but also provided opportunity extortion and other malfeasance by the security agencies. The police raided people's homes and confiscated money and valuables before arresting the residents. Some victims told the KNCHR that they were arrested without being asked to produce their identification documents and taken to police custody where they spent several days before they were successfully screened and released. Others complained that the police confiscated their valid documents which rendered them vulnerable to repeat arrests in subsequent swoops.

The KNCHR has had to intervene in a number of cases to recover the Identification Documents of former detainees after they were confiscated by the police. The following case is a typical example of the pernicious arbitrariness in which the police have conducted the operation:

*"I am a Kenyan resident of Eastleigh Estate and a small scale businessman by profession. On 3rd April 2014 at around 8pm on my way to the mosque, in the company of my Cousin, for my evening prayers, I met a contingent of APs, regular police and GSU offices along 8th street in Eastleigh. An AP Inspector in the group of police officers, unidentified, stopped me and my cousin and requested for our IDs. Upon handing out our IDs to the Inspector, he alleged that the IDs were fake and called the regular police officers in the contingent who arrested and lead us to the waiting police lorry, a canter. The AP Inspector did not hand back our IDs but instead kept them. In the police lorry I found approximately 100 arrested persons stuffed in the truck. The truck drove around Eastleigh Estate where more and more people were arrested and others were suspiciously set free perhaps after paying a bribe to the police since most were making frantic calls to relatives and friends informing them of their arrest and the need for their intervention. During the rounds in the police truck I also observed other civilian passersby get arrested and loaded into truck without being asked any question as to what their offenses could be or informed of reason for their arrest. At around 12 am or thereabout we finally arrived at Pangani Police station. However, only 24 persons, I and my cousin included, made it to Pangani police station as the majority of those arrested had been set free suspiciously and without an explanation from the police. At Pangani Police Station I was booked in the Occurrence Book (OB) NO*****. At the station we were detained in a crowded cell. In my approximation the number of detainees*

in the cell was 300 people. In the cell I had my ID card which had been returned while in the police truck before arriving at the police station. The following day, Friday 4th April 2014, at around 11.am police officers who identified themselves as CID officers came to take a roll-call of the detainees in the police cells. During the roll call I was beaten by one of the officers when I pointed that my name was ***** and not ***** as called out by the officers during the roll-call. During the roll call we, I included and the other detainees, gave out our IDs to the officers. The same Friday night, at around 9 pm, some detainees received back their IDs and were released; reason because their IDs were genuine. However I did not receive my ID allegedly because it was fake as it was issued at Pumwani. While detained at Pangani, the officers on duty kept taunting me that I was a terrorist. Still in the station's cell my wife informed me that an officer known as ***** had requested for a bribe of 20,000 shillings to secure my release. I warned my wife against giving any form of bribe to the said officer. Those who visited me at the station informed me that they were told I was a terrorist all the while in the OB I was booked with the offence of idling, drunk and disorderly. Conditions at the cells were to say the least degrading, inhuman and inhumanly incomprehensible that a human being can survive under such conditions; we were literally standing on human feces our feet covered to the ankle. The crowding, lack of food and water were unbearable and some people fainted due to the condition, to date I don't know their fate since I did not see them thereafter. On Monday, 7th April 2014, the wording ATPU (Anti Terrorism Police Unit) was inserted into my charges in the OB supposedly to denote that my case was that of ATPU. To date, I have not seen anyone from the ATPU investigating or purporting to investigate me. The following day, 8th April 2014 at around 11pm, I was taken to Kasarani Police Station and told by the officers transferring us that I will get a chance to defend myself during screening. I left Pangani Police station for Kasarani Police station without having my ID card given back by the CID officers who had confiscated it. At Kasarani Police Station, due to the large number of detainees at the station we were locked up in a roofless cage where we were rained on throughout the night.

On Wednesday 9th April 2014, at 11am, I was transferred to Kasarani Stadium for screening. I had my voter's card but I had memorized by National Identity (ID) Card number. I was taken through a process of screening, gave my ID card number and my finger prints were taken. My ID card was confirmed as a genuinely bit I was not released on allegations that I could not explain why I spotted a long beard as I had explained that it was a God given beauty. I was returned to Kasarani Police station where I spent the night and on Thursday morning (10th April) I was returned to Kasarani Stadium again where the same process I underwent the previous day was repeated on me again. I was again vindicated by confirmation that I was a genuinely registered Kenyan. Upon complaining to the screening officials why I was continuously detained despite my proven nationality, I was assured that I would be released the same day. I was truly released on Thursday 10th April 2014 at 11.30 pm upon being given a signed confirmation note, supposedly to show that I was a genuine Kenyan, but without a stamp or indicating the releasing authority. I was however not given back my National ID Card. At Kasarani I was informed to pick my ID from the District Criminal Investigations Officer (DCIO) at Pangani Police Station. Since my release from incarceration at Kasarani on 10.04.2014, I have made numerous trips to the Pangani Police Station but I have not succeeded to get my ID back. As a result I have been harassed severally by police officers looking for illegal immigrants in Eastleigh where I have had difficulties to prove my nationality. My savior has been the release note given at Kasarani and

my audacious clarification to the police that I do not fear being incarcerated to prove my nationality as I have previously done it” (Akim)*

The above conduct by the police is a grave violation of the Kenyan law and regional and international human rights principles and standards that protect people from arbitrary arrests and detention. Art. 29 of the Kenya Constitution provides that every person has the right to freedom and security of the person, which includes the right not to be *(a) deprived of freedom arbitrarily or without just cause*. Art 9(1) of International Covenant on Civil and Political Rights (ICCPR), which Kenya has ratified provides that; *Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.*

The police were also in severe breach of the rights of the arrested persons as enshrined in Art.49 (1) and Art.51 of the constitution. Many detainees such as the one above were incarcerated beyond the 24 hour limit provided for in the Constitution without being presented to a competent judicial authority. Further they were been held incommunicado without access to means of communicating with their next of kin or legal counsel. The KNCHR also found that there was very little information availed to the families of the affected. Many relatives complained that they have been desperately searching for their kin in numerous police stations for days with no success and with no assistance from the police.

Majority of detainees and past detainees recounted to the KNCHR how they were compelled to give bribes to the police in order to be released. The bribes ranged from Kshs. 1000 to Kshs 50,000 depending on whether one had valid documents or not. Detainees who fell ill in the detention centers would have to offer a bribe to be accorded medical attention, Halima, a mother of two held at Kasarani Police Station narrated, “Due to how cold it would get in there my daughter fell ill. I expected the police to help but they did not pay attention. Only after I paid a bribe did they go and get me some medicine. Most people that came in had been held in other police stations where they had been mistreated, and some ladies shared that they had been touched inappropriately by some male police.” Several other people complained that they were asked to give money in order to be allowed to respond to calls of nature while on long transit in police vehicles after their arrest. Given the intimidation and the real danger of reprisals, the KNCHR was unable to obtain concrete evidence of the bribery claims as the victims feared naming the culprits.

The Conduct of the police violates Article 244 of the Constitution which requires that the National Police Service shall:

- a) Strive for the highest standards of professionalism and discipline among its members.*
- b) Prevent corruption, promote and practice transparency and accountability.*
- c) Comply with constitutional standards of human rights and fundamental freedoms.*
- d) Train staff to the highest possible standards of competence and integrity and to respect human rights and fundamental freedoms and dignity; and*
- e) Foster and promote relationships with the broader society.*

Torture Cruel, Inhuman and Degrading Punishment

The Commission received plausible allegations of brutality, sexual harassment and intimidation by security agencies during arrests, while on transit and in detention at police stations. The brutality was indiscriminate and extended to children, the elderly, expectant mothers and, persons with disability and the sickly. Residents narrated how contingents of police officers raided their businesses homes including at night and unleashed terror on entire families under the guise of searching for weapons and illegal aliens. Many recounted being beaten by the police with fists, kicks, batons and gun butts as they were ordered to produce identification documents, money, valuables such as jewellery and Mobile phones in order to be spared from arrest. One female victim who is deaf and dumb was reportedly pushed off by the police from the 3rd floor balcony of her parent's house in Eastleigh on 27.4.14. According to relatives, she could neither speak nor hear and the police saw her failure to respond to their questions as arrogance and stubbornness. She sustained serious injuries including a fractured leg and a damaged spine and was still in hospital at the time of compiling this report on 17.7.2014.

The KNCHR ascertained that the detainees were confined in severely overcrowded police facilities with little or no access to basic amenities including food, water & sanitation. During a visit to Kasarani police station on 8.4.14, KNCHR officers experienced firsthand the deplorable conditions in the holding cells. There were over 400 detainees against a holding capacity of 100 persons. The cells were full and as such a large number of detainees were being held in an open space adjacent to the cells where they had to endure rain and severe cold in the night. The toilets were overflowing with human feces and urine generating a choking stench that engulfed the entire police station. The lack of water in the cells was of particular concern given that most of the detainees were of the Islamic religion in which water plays a vital social and spiritual function. The overcrowding in the cells posed another challenge for the Muslim detainees during the numerous daily prayers which are essential to the Islamic faith. Men, women and children were held together in the same cells which subjected them to great humiliation and indignity.

Illegal Deportations

The Commission also learnt that scores of people have been have either been deported to Somalia and other countries in unclear circumstances. At the time of writing this report, at least 359 were confirmed by authorities to have been returned deported. Out of this six were Ugandans, 28 Ethiopians while the rest were Somalis. Several of the deported Somalis had valid documents in form of Alien Cards or UNCHR mandates. Majority of those expelled were not granted access to legal representation and were not presented before competent judicial authorities. The expulsions were done without consultations with the United Nations High Commission for Refugees. Requests for access to the deportees by the local human rights agencies including the KNCHR were denied. Further reports indicate that a number of Somalis opted to return to Somalia on hearing the terrifying tales of those who had been netted in the swoop. This category of returnees had been unable to register for asylum given that the government had closed down all registration centers prior to the commencement of Operation Usalama Watch.

Given the state of lawlessness neighbouring countries such as Somalia, the KNCHR is concerned that the Kenya government is in grave breach of the principle of non-refoulement, which protects asylum seekers and refugees from being returned to places where their lives or freedoms could be threatened including conflict zones. Earlier in this year, UN Refugee Agency (UNHCR) had urged governments not to return refugees before an assessment to ensure that face danger or persecution. It further warned that Somalia remained an extremely dangerous country and that no Somali national should be “forcibly returned to Somalia unless the returning state is convinced that the persons involved would not be at risk of persecution.” There are already media reports that a number of returnees have been beaten and harassed by members of Al-Shabab in Mogadishu and Southern Somalia.

Kenya is a signatory to the 1951 Refugee Convention and the 1969 Convention Governing The Specific Aspects Of Refugee Problem in Africa. Further, Section 8 of the Kenya Refugee Act (2006) provides that,

“No person shall be refused entry into Kenya, expelled, extradited from Kenya or returned to any other country or to subjected any similar measure if, as a result of such refusal, expulsion, return or other measure, such person is compelled to return to or remain in a country where –
(a) the person may be subject to persecution on account of race, religion, nationality, membership of a particular social group or political opinion; or
(b) the person’s life, physical integrity or liberty would be threatened on account of external aggression, occupation, foreign domination or events seriously disturbing public order in part or the whole of that country”.

The principle of no-refoulement is the core of the international refugee protection regime, and has since become a customary norm as well as a fundamental principle of international human rights law. Further the Kenya government has reneged on its national and international legal obligation to register asylum seekers and consider their claims prior to deportation.

Forced Repatriation to Refugee Camps:

As aforementioned, the Cabinet Secretary for Interior issued a directive on 26.3.2014 ordering all urban refugees to return to their respective camps. Arising from this directive KNCHR has documented multiple instances in which refugees in Nairobi and other urban areas were arrested and forcibly taken to either Kakuma or Dadaab Refugee Camps situated in Northern Kenya. Due to the unruly manner of arrests during the security swoops, most refugees were separated from their spouses, relatives and children. Most of the refugees had been working in the urban areas while others had established licensed businesses which enabled them to earn a living and integrate in their different localities. Further some of the refugees were sickly and elderly and required special medical attention that is only available in urban areas. The UNHCR only provides basic education in the refugee camps and therefore, those students pursuing tertiary education in urban areas suffered sudden disruption of their education upon encampment.

It is instructive to note that the order by the cabinet secretary was issued despite a High Court judgment stopping the transfer of urban refugees to the camps. In the said judgment the court had, in keeping with international human rights principles, ruled that,

“...the Government Directive,threatens the rights and fundamental freedoms of the petitioners and other refugees residing in urban areas and is a violation of the freedom of movement under Article 39, right to dignity under Article 28 and the right to fair and administrative action under Article 47(1) and violates the State’s responsibility towards persons in vulnerable situations contrary to Article 21(3).”

The Cabinet Secretary thus stands in contempt of court which is not only an act of official impunity but an affront to the rule of law and the values and principles of the constitution.

The KNCHR attended to a petition by a group of Congolese refugees who were arrested on Sunday, 4.5.2014, during a church service at the Release Missions Antioch Church in Kasarani estate, Nairobi. Police officers attached to Kasarani Police Station stormed the church and brutally rounded up the group of approximately 156 worshippers and took them to the police station leaving their children in behind attending a children’s service. Pleas by the pastor to allow them complete the service were declined by the police. They were held for three days during which they would be taken to Kasarani Sports Stadium during the day for screening and returned to the police station in evening. On 7.5.14 the refugees peacefully protested their looming transfer to Dadaab refugee camp but they were brutally subdued by the police in teargas and batons resulting in several casualties. They were eventually bundled in government vehicles and forcibly transferred to Dadaab Refugee Camp leaving their children and spouses behind. The refugees had valid documentation from the Government and UNCHR. The refugees described to the KNCHR the deplorable conditions under which they were kept in Kasarani Police Station. Due to overcrowding, most spent the hot days and chilly nights in an open area within the police station. They were provided with minimal food and water and the toilets were clogged and overflowing.

Upon arrival in Dadaab the refugees were further separated and distributed across camps in Hagadera, IFO 1 and Dagahaley camps. The refugees who are Christians have subsequently complained to the KNCHR of harassment and intimidation from Muslim Refugees from Somalia on religious grounds. They say they are unable to freely conduct their religious ceremonies for fear of attacks by religious extremists within the Somali population. These fears have also limited their freedom of movement within the camps. They further complained that there are inadequate provision of supplies such as food and tents and that there are no nearby hospitals or clinics. At the time of compiling this report, there were plans by the government to relocate the Congolese refugees to Kakuma Camp in Turkana County. They were yet to be reunited with their children, spouses and relatives. The Congolese refugees who escaped arrest on the fateful Sunday told the KNCHR that they largely stay in their houses for fear of arrest and deportation to the camps, this has had great affected their social-economic well being as they can neither go to work nor visit social places including going to church. A number of them complained of repeated extortion by the police to avoid arrests.

One of the repatriated refugees narrated as follows:

"I am a Congolese Refugee, aged 43 years. I came from Minembwe region in South Kivu, in the DRC. I fled from the longstanding ethnic conflicts that rocked the country. The Maimai fighters, which came from three larger tribes as compared to my tribe, joined hands and fought to exterminate my tribe which is Munyamulenge, the Maimai fighters massacred my tribe one evening because they do not accept us as the 'Congomanians'." The massacre led many to flee from their homes to seek refuge in other countries. I could not flee to Katumba Refugee Camp in Burundi because of the massacre where 164 people from my tribe were killed. I decided to come to Kenya. I with his wife and children on 1.2.2009 by road through Uganda via the Busia boarder. I was hosted by a Congolese and after a week I presented myself to the UNHCR as a refugee. I was issued with a UNHCR Mandate Certificate on the 27.10.2009. I have seven children, who were all born in Congo and all of them have valid UNHCR Mandate Certificates, including my wife.

On the 4.5.2014, I was arrested together with many other people from the Antioch Mission Church and taken to Kasarani together with my 16-year old son. On the 7.5.2014, we were taken to the Dadaab Refugee Camp with my son who is a high school student at Makongeni Secondary School. We were taken to the Hagadera IFO 1 Refugee Camp on the 8.7.2014. However, the living conditions in this Camp are unfavorable as the camp has no proper or balanced diet, furthermore, it does not have adequate number of tents to shelter other refugees. We cannot worship while in the camps because the authorities cannot guarantee our security after receiving threats due to our religious affiliation. I left behind 6 children who are all in Nairobi together with my wife. The children have since dropped out of school.

The Kenya Constitution guarantees the freedom of movement for all except for circumstances limited by the constitution and which must be reasonable, justifiable, and the least restrictive measure to achieve the purpose. Section 16. (1) of the Refugee Act provides that

Subject to this Act, every recognized refugee and every member of his family in Kenya-
(a) shall be entitled to the rights and be subject to the obligations contained in the international conventions to which Kenya is party;
(b) shall be subject to all laws in force in Kenya.

Restrictions on movement of the refugees in the ongoing operation are thus not only a violation of the Kenyan law but also a breach international law and human rights principles and standards.

Discrimination

The KNCHR finds that the Usalama Watch operation has disproportionately targeted certain groups of people particularly ethnic Somalis and members of the Muslim faith. As a matter of principle, the profiling of people along ethnic or religious lines, which the *Operation Usalama Watch* largely represents, constitutes discrimination and is therefore unconstitutional and against international norms. The KNCHR heard of many instances in which security agencies separated ethnic Somalis from other Kenyans even when they were arrested in similar circumstances. The other Kenyans were let free without providing any identification while

the Somalis (including those with valid documents) were detained for further screening. Similarly, the policy of forced encampment of refugees constitutes discrimination against persons of other nationalities.

The constitution provided in Art. 27. That

- (1) Every person is equal before the law and has the right to equal protection and equal benefit of the law.*
- (2) Equality includes the full and equal enjoyment of all rights and fundamental freedoms.*
- (4) The State shall not discriminate directly or indirectly against any person on any ground, including race, sex, pregnancy, marital status, health status, ethnic or social origin, colour, age, disability, religion, conscience, belief, culture, dress, language or birth.*

Article 2 (1) of ICCPR provides that;

'Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status'

Treatment of Vulnerable persons:

The KNCHR heard and witnessed numerous incidents of violations by security agencies of the law and human rights standards and principles relating to the treatment of vulnerable persons. Persons such as children, especially unaccompanied minors, expectant mothers, mothers with young children, female heads of household, persons with disabilities and elderly persons are entitled to protection and assistance required by their condition and to treatment that takes into account their special needs. Actions such as the ongoing security operation should not be carried out in a manner that violates the rights to life, dignity, liberty and security of those affected. As stated elsewhere in this report, the impact of the security operation on women, children, persons with disabilities and the elderly has been devastating. In the foregoing, we have described an incident in which a woman with disability (deaf-dumb) was pushed off the 3rd floor of her parent's house occasioning serious injuries in the spine, foot and shoulder. She was still admitted in hospital at the time of compiling this report. This was a serious breach of Article 54. (1)(a) of the constitution which provides that; *A person with any disability is entitled to be treated with dignity and respect and to be addressed and referred to in a manner that is not demeaning*; it also violates Articles 14 & 15 of the UN Convention of Rights of Persons with Disabilities (CRPD) on liberty and security of person and freedom from torture, cruel, inhuman and degrading treatment or punishment respectively. In almost all police stations visited, KNCHR found men, women, and expectant mothers, mothers with little children, elderly, sick and children held together in deplorable and overcrowded cells. At Kiamumbi Police Station on 15.4.2014, the KNCHR team found three women of Somali ethnicity who had been taken ill since their arrest five days earlier. One expectant woman had developed labour pains while in the cells and was taken to hospital on the intervention of KNCHR. The second woman was had been separated from her 1.5 year-old baby and had developed complications with her breasts due to accumulation of milk. The third woman had

developed severe high blood-pressure after she was separated from her children during the swoop.

Separation of children from their parents violates various provisions national and international law including the Constitution, the Children's Act and the UN Convention on the Rights of the Child. Article 53 of the Constitution provides that.

(1) Every child has the right—

(c) to basic nutrition, shelter and health care;

(e) to parental care and protection, which includes equal responsibility of the mother and father to provide for the child, whether they are married to each other or not; and

(f) not to be detained, except as a measure of last resort, and when detained, to be held –

(i) for the shortest appropriate period of time; and

(ii) separate from adults and in conditions that take account of the child's sex and age.

(2) A child's best interests are of paramount importance in every matter concerning the child.

In the same police station, the KNCHR met an elderly woman in the cells who was depressed after receiving reports that her mentally ill 19 year-old son had been arrested in Eastleigh over the weekend and was due for deportation to Mogadishu. At Gigiri Police Station on 10.4.2014, the KNCHR met another elderly Somali woman (70 years old) who had been detained for 10 days. The woman who is diabetic had run out of medication and her family had been denied access to her when they came to bring her the medicine. The KNCHR intervened and the family was allowed to bring her medicine.

CHALLENGES

During the monitoring exercise, KNCHR was hindered from effective exercise of its constitutional mandate through persistent denial of access to the detainees by the police. For instance the KNCHR team visited Kasarani Stadium and Kasarani police station on 8.4.2014 to assess the conditions of detainees who had complained to the commission. Upon arrival at Kasarani Stadium, the KNCHR officials duly introduced themselves and the objective of their visit to the OCPD who arrogantly and contemptuously ordered them to leave saying that 'that was a security operation that had nothing to do with human rights'. The OCPD also ordered the police officers manning the gate not to allow the KNCHR officials into the stadium. The KNCHR officials then proceeded to Kasarani Police Station where hundreds of other detainees were being held and sought access to the cells. The OCS was equally discourteous to the KNCHR officers and said he was under orders not to allow anyone access as this was security operation. The OCPD and the OCS further declined to avail any information regarding the detainees and/or the conditions of detention. Even in the few instances where KNCHR gained access, the police prevented unfettered and free interaction with the detainees. Another challenge was intimidation of victims who refused to disclose certain information for fear of reprisals. Some detainees refused to be interviewed by KNCHR officers out of fear. In the circumstances, it has been difficult to independently make an informed assessment of the actions of the government in relation to the operation. In its nature the operation is classified as ordinary law enforcement by the police. Under ordinary

procedures, persons held by the police have access to relatives and legal representation. In the case of the *Operation Usalama Watch*, these have been denied, leading to much opacity around the operation.

RECOMMENDATIONS

In view of the foregoing findings, KNCHR makes the following recommendations to government and its agencies which we hope shall be implemented in order to redress the violations that were occasioned and continued to be perpetrated in the ongoing operation:

- The President should issue an unconditional apology be issued to members of the Somali ethnic community who were indiscriminately profiled during the operation and who as a consequence suffered unwarranted human rights violations.
- The Independent Policing Oversight Authority (IPOA) should commence investigations and take action against the OCPD Kasarani, the OCS Kasarani Police Station, the OCS Embakasi Police Station, the OCS JKIA Police Station, the OCS Gigiri Police Station, the OCS Kasarani Stadium Police Station under whose watch human rights violations of incarcerated individuals were occasioned. Action should be taken against the DCIO Pangani over the unlawful confiscation of Aden Abdinoor's identity card as well as his unlawful and prolonged detention. Action be taken against the OCS Kasarani Stadium Police Station, the OCS JKIA Police Station, who denied KNCHR officers access to the cells contrary to Article 59 (2) (d) and Section 52 (a) of the KNCHR Act
- The Inspector General of Police should immediately instruct all police stations to accord the KNCHR the requisite assistance and cooperation to enable it execute its constitutional and statutory mandate.
- To The National Police Service Commission (NPSC) should investigates allegations of bribery of police officers serving along the Northern Kenya transport corridor whose actions have allowed the practice of illegal entry into the country to thrive thus exacerbating the security challenge facing the country. Officers found to have participated in this corruption network to be held accountable during the ongoing police vetting process.
- The Director of Public Prosecutions should institute contempt of court proceedings against the Cabinet Secretary for Interior and Coordination of National Government Mr. Joseph Ole Lenku for defying a high court order prohibiting the forced transfer of urban refugee to the refugee camps.
- The Director of Public Prosecutions should put in place measures that will independently investigate complaints of human rights violations and police misconduct resulting from the *Operation Usalama Watch*.
- The Cabinet Secretary for Interior should take steps to bring a responsible and quick end to the operation Usalama Watch;

- The government should allow UNHCR, legal representatives and independent monitors unfettered access to all detained refugees, asylum seekers and undocumented foreign nationals;
- The Department of Refugee Affairs should immediately resume registration of asylum seekers in Nairobi and other cities as well as in the Dadaab refugee camps and recognize as refugees all persons with a well-founded fear of persecution or who are fleeing situations amounting to widespread disruption of public order or generalized violence; and
- The United Nations should mobilize member states to support Kenya by increasing third country resettlement for Somali refugees.
- The AU Special Rapporteur on the Rights of Refugees, Asylum Seekers, Internally Displaced Persons and Migrants should consider a visit to Kenya to assess the extent to which the Government of Kenya is complying with its regional and international human rights obligations regarding the rights of refugees and asylum seekers.

ANNEX ONE: TESTIMONIES

John Akiya

“I am an adult Kenyan man and I have spent all my life in Kenya. I don’t know what it is to be a refugee but I know how it feels to be affected by their suffering and to spend every day of my life in constant agony.

I am married to a refugee lady by the name Fatima*. She fled from Somalia in 2003 due to the civil war and inter-tribal clashes, and I met her in 2008. We became good friends and in 2013, we got married. In the beginning of this year we were blessed with a daughter. Life was good. I was working as a teacher in a private school in Eastleigh and my wife was a ‘stay at home mother’.

Things took a dark turn on the 13th of April 2014. I had seen on the radio and on the TV that refugees were being asked to go to the camp. There was also a great presence of many policemen in Eastleigh. Always, night or day. I was at home with my family and we were sleeping. There was a knock on the door. I woke up to respond. It was at around 3 A.M. I opened the door and found three policemen. They came in without even being invited. My wife and child also woke up. The policemen asked for our documents and we produced them. They said my wife, being a refugee, was supposed to be in a refugee camp. But they said if I would give them 10,000 Kenya shillings, they would not take her. I told them that I did not have such an amount of money at that hour of the night. They said “Huyu ni bure kabisa. Eka huyo mama kwa gari.” (This one is useless. Take the woman to the vehicle).

I begged them not to take my wife away but they did not listen. They took her plus our 3 months old child. My wife and child were both crying, and very afraid. I watched them being ferried away in the police vehicle with fear in their eyes begging me to help them, but there was nothing I could do.

They were taken to Pangani where they were kept for two days, then later to Kasarani Stadium and then to Industrial area police station for four days. While at Industrial area I went to visit them and found my child very sick. After a lot of begging and pleading, I was allowed to take her to hospital. She was diagnosed with malaria, typhoid and pneumonia that she had contracted during the time she was in police stations with his mother.

I could not believe the inhuman treatment my wife, child and many more refugees were facing due to the Government’s encampment directive. I almost lost my young daughter, barely old enough to know what was happening around her. This torture broke my heart. Knowing that there is nothing I could do to help them and watching them behind bars dirty, hungry and cold was more than physical torture for me. No human being deserves such treatment for a crime they have not committed. It is not my wife’s fault she had to flee for her life, and become a refugee. It is not my daughter’s fault for being born to this world by a refugee parent.

My daughter was admitted in hospital for three weeks. During this time, my wife was relocated to the Dadaab refugee camp. After my daughter was discharged, I travelled to Dadaab refugee camp to reunite her with her mother. I can only imagine the pain that my wife had been going through caused by this separation from her breastfeeding child.

Although I am still in Nairobi, I have lost my job due to all the trips I had to make to visit my wife and daughter at the police stations and taking care of my child. Words cannot explain what is in my heart. I never imagined ever going through such trauma. Not mentioning my daughter, who has had to suffer for being who she doesn't even know she is. A refugee's child."

Kahlid Ahmed

I fled from Liboi in Somalia to Kenya in 2006 to look for peace and security because I could not get them in my country of origin. I knew Kenya was a peaceful country and that my dream could be realized. I wished that Somalia would be peaceful because no place is better than home. But for circumstances beyond my control, I had to flee.

After entering Kenya I settled in Dadaab for a few months and within this period I met a beautiful Kenyan lady who would later become my wife. In August 2006, we held our wedding ceremony in Dadaab and got our marriage certificate. Within the short time I had been in Kenya, my life looked promising and I had achieved things that I hadn't during my entire life in Somalia. I have never felt happier and more content with life than this. I was glad that I had fled the insecurity in my country in Somalia and found protection and love in Kenya.

In December 2006, I came to Nairobi with my wife and was registered as a refugee by the Department of Refugee Affairs. I have never expected aid or any form of assistance from refugee organizations. In 2007, I started a small business at Eastleigh, selling clothes. I finally had the peaceful life I had always dreamed of, and even a family. I am blessed with three children and my wife is currently expecting another child.

Sometime in early May, while sleeping in our house at Eastleigh I heard a knock on the door. It was late at night, around 2 A.M and the Usalama Watch operation had been on going. I suspected it was the police. I knew I was in Kenya legally and so I had nothing to worry about. I woke up and went to open the door. There were three policemen. They asked for our documents, which we showed them. They scanned them and said that my wife was ok, being a Kenyan, but I was not. They searched my house, took some money and my wife's jewelry and left.

Soon after, I heard another knock. I went to open and there was another group of policemen. They also asked for our documents which we again produced. They ransacked the house and found some money that I had stashed away to pay for the monthly house rent. They took the

money and asked me to follow them. I did not know that was the last time I would see my family.

They put me in their vehicle together with other people and drove us to the Pangani police station. I stayed in detention for about two weeks. Over the period I was detained, I was moved from place to place. I was held at the Kasarani Stadium, then moved to Buru Buru police station, then to Kasarani police station and back to Kasarani stadium. This was going on until I was relocated to the Daddab refugee camp, on 18th of May

I have not seen my family since that fateful night and I don't even know when I will see them again. I have done nothing wrong in this country. I have lived peacefully with other Kenyans. I have legal documents showing that I am a refugee and I had integrated well in Kenyan society. I came to Kenya looking for security, and I hope I can find it again, for my sake and that of my family. I was the sole breadwinner and my family is probably suffering a lot. My wife is expecting our fourth child and she cannot fend for our three young children in her condition. I just pray Allah that things change for the better because we are really suffering."

Fatma Dahir Adan (15 yrs) was arrested on 5.5.2014 on her way home from school and taken to Gigiri police station. When the commission visited the police station on 10.4.2014, she had not been being taken for screening at Kasarani Stadium although she had valid identification documents. She was arrested together with her colleague Fatma Ahmed (13 years).

Mistar Jamal Mahamed

Jamal is an Ethiopian who speaks minimal English and no Kiswahili. He arrived in Kenya three months ago and holds UNCHR documentation, DRA – 150 -140040945 allowing him to be in the country from 1st April 2014. He was caught by army security in Eastleigh Section 4 at about 4pm while in his house on Monday 7th April 2014. He was released on Friday 12th April at 4.00 p.m from Kasarani stadium.

Khadr Abdi Aidid

Aidid was arrested on Tuesday 8/04/2014 at a meeting organized by the Danish Refugee Council at Mama Fatuma. There were three Kenyans and two Ethiopians at the meeting. At the time of the arrest they had the alien card and refugee card but the police informed them that they were looking for their I.D cards. The two Ethiopian were arrested but their Kenyan counterparts at the meeting were not since they had I.D cards. They were taken to a police station and later on transferred to Kasarani stadium where the screening process was being undertaken. During the three days that they were at Kasarani their documents were verified whether fake or original. They would spend the night in different police stations but during the day they were brought back to Kasarani stadium. They informed us that on 10/04/2014,

Nairobi Senator Mike Sonko was with them and gave them food and mattresses that evening at Kasarani. Their relatives were also allowed to bring food to them. They noted that one of the detainees they met in Kasarani was released earlier but was again re-arrested by the police and taken to Kasarani. This was as a result of not being given a clearance document by the police at Kasarani to indicate that one had already passed through the screening process. The two men had not been given a clearance document.

Sadia Mohamed

Sadia is a lady of Somali Origin and has been living in Dagahale, Dadaab and arrived in Nairobi in January 2014 to be with her husband Ibrahim Abdi Osman, the complainant. Ibrahim informed the KNCHR officers that Sadia is 9 months pregnant and had experienced false labour on Wednesday/Thursday and was taken by security agents to mama Lucy Kibaki Hospital in Kayole for check up. She was discharged as she was not due and taken back to Buruburu Police station where she has been shuffling between the station and Kasarani stadium for vetting. According to Ibrahim, the only valid document she has is a food ration card from Dadaab but had applied for a permit from UNCHR. At the time of this interview, she had informed her husband that she was told she shall be deported back to Dadaab. She also informed her husband that her fellow inmate had miscarried in Buruburu police cells on Thursday. Follow up on this case was done by another team and it follows that she had delivered safely under the care of Prestige Medical Clinic in Kiamumbi. She had taken to that Clinic by the OCS Kiamumbi Police station where she was held in custody. An NGO going by the name UMMA had taken her from the hospital after UNCHR officers had secured her release.

Daulo Mohamed Duale

Daulo is a Somali female of between 30-35 years who was arrested on 9th April 2014 in Eastleigh at around 10.00 a.m with her three children, the youngest being 11 months old and was still breastfeeding. They were taken to Buruburu police station where she and the youngest one have been shuffling between the station and Kasarani Stadium. The other two children were released into the custody of relatives. At the time of receiving this report, she had held an alien card from 1996 but at the time of operation it had expired and Mohamed could not ascertain when the expiry was.

Ajra Hassan

He is a 60 year-old diabetic man was arrested despite having a copy of his British passport, the original of which was away for renewal. He was taken to the Kasarani Police Station at 6pm and his phone and documents confiscated while his family had no idea of his whereabouts. The following morning his family traced his location and the Police demanded

KES 30,000 to release him, stating that otherwise, they would keep him in for another five days. Knowing his age and health condition would garner success, they received KES 26,000.

Samsam Mohamed Rashid

Samsam Mohamed Rashid is a 24 year old Somali national who was arrested on 5th April 2014 in Eastleigh 12th street in her home which she shares with her parents. Adburahman is a relative who has been camping at Kasarani Police station to check whether she is there as he has not found her in Kasarani police, Buruburu police, Shauri Moyo where he has been informed most detainees are passing through. He is aware that her parents were also arrested and their whereabouts are known. His concern is for Samsam as there are no verification lists in police stations or the stadium he can check for her name.

Sahra Hashi Abdi

I live on 12th Street near where the third bomb blast occurred. I live with a Somali family that assisted me with accommodation on humanitarian grounds.

On 8th April 2014 which was a Tuesday, police came to our house at around midnight. They were wearing brownish trousers, green fatigues and red caps. When the door was opened, they asked the people in the house to identify ourselves. Various documents such as passports, students Identification Cards among others were produced. I produced my mandate letter from UNHCR which expires in 2016.

Out of the entire household, I am the only one who was arrested. We were taken round as the police proceeded to arrest others. We were walking. Those arrested were anybody who did not have identity cards.

Those who had some money bribed and they were released. I did not have any money. The police left me at Shauri Moyo Police Station. When I was released I was afraid. Some Kenyans accommodated me for a night.

The second time I was arrested was on Sunday 13/4/14. It was in the evening. I did not go far with the police. My neighbours intervened and paid the police Kshs. 500 therefore securing my release. The police that arrested me were wearing fatigues and greenish pants

The police patrolling do not arrest. Those doing the searches are the ones who arrest.

The searches are going on daily.

Dahir Sahara

I have been affected by the operation which began on..... I live on 7th Street in Eastleigh. I live with my younger sister. On 11th April 2014 at around 12.30 a.m. t male police officers knocked on my door. I opened and showed them my identity card. My

sister did the same as well, a second group/ team came and asked my sister and I to identify ourselves again, there were no female officers in the groups of police officers checking identification. It is difficult to sleep peacefully because the searches are repeated – up to even three times a night.

The police that came to my house were mixed – they wore navy blue uniform, some wore red berets and army uniforms with green pants.

My house was searched again on Saturday 12/4/2014. When the police knocked the door I opened. They asked me how many people lived in my house. I indicated we were two. They asked if I was hiding any men in the house and I told them no. They proceeded to search the bedrooms, bathroom, toilet, kitchen, sittingroom and behind the curtains. They left once I identified myself. There were no female officers among those that accessed my home on that day.

On Sunday the search was repeated – my house was visited around 8 times. This time there were female officers within the group.

In terms of rating, Sunday was the worst day because the caretaker had to protect 3 families. When this was done the rest of the houses were affected as the police searched thoroughly.

Since the searches were becoming too much, at some point residents of the flats decided to contribute to avoid.....

Farhiya Ali

On 13th April 2014, my sister and I were walking back to Section 3 from Highrise Estate. We made a stop at a charcoal vender. While we were waiting to buy the charcoal, three GSU officers stopped us and asked us to identify ourselves. I knew they were GSU officers because they were wearing red caps, green tops and jungle green trousers.

As my sister and I were removing our identify cards, one of the officers asked us if we lived in one of the nearby houses which he pointed out to us. The officer asked that we go to the house. At that point I told them that we did not live there, that we lived in section 3. The officer told me I had spoken to him with “madharau”. At that point I turned away and ignored him.

I was immediately slapped by that officer on the left side of my face. I was shocked. The officer said that I deserved the slap, that in fact he could have beaten me with the rungu he was holding, and that I had “kichwa ngumu”. Tears began streaming down my face. I began seeing stars and felt immense pain. I asked him why he beat me yet I had produced my ID. He told me I had “madharau” and he could arrest and imprison me even though I had my ID. He then began communicating with his boss telling him that I wanted “kumharibia kazi”.

I sought the intervention of the boss but was not satisfied. He invited me to write a statement but I was confident that it would not amount to much since he did not receive my complaint well. I have not reported the complaint. I do not think the police can investigate one of their own.

The officer who slapped me was not wearing his service number. I cannot thus identify him unless I saw him. The officers who were with the perpetrator did not intervene as well or at all.

My sister and I proceeded to our home and on the way I stopped at a chemist and bought eardrops which I am using to date. I cannot lie on the left side of my head. It still pains.

The police commonly assault people. They do not respect anyone. I felt disrespected since as a Kenyan I expected better treatment than that.

Hodo Abdi Warsame

On 3rd April 2014, I was in a matatu number 28 on my way to Eastleigh from Huruma. The matatu was stopped and I was asked to get off. I was with my child Warsame Adan Siyad – born on 13th July 2007. We were bundled into a police vehicle and transported to Huruma Chief's camp. At the camp I was confined in a certain room/ cell where I found other people. They were many. I was confined with my child. In the room we were mixed – males and females and children as well.

Upon my arrest I was asked to identify myself. I could not do that since I did not have my mandate letter. I then called my neighbour to bring my documents. However he was unable to do that since he also has mandate. Eventually I got a Kenyan with an ID to bring my documents – a letter from UNHCR that confirms my status as a refugee. The letter is dated 26/9/13 and is valid until 23/9/2015. When he showed the police my letter they said it was not valid and I would have to go to court – unless I removed money. The gentleman was in the circumstances and due to fear compelled to pay the Kshs. 2,000.

I am a widow and mother of 7 children. It was because of my children that the gentleman paid the bribe. He also paid to avoid me spending a night in the cell. I was arrested at 3.00 p.m. and released at 10.00 p.m.

Where I live in Eastleigh section 3 there are many Kenyans and few refugees. The police therefore do not frequent our building. However my observation is that where there are many Somali refugees, the police conduct swoops or searches repeatedly with the purpose of extorting or getting paid by the victims.

During my arrest, I felt mistreated because the vehicle was small and those arrested were many. To make room for other people arrested the police would push us inside the car with

their feet. I was not able to identify the numbers of the police. However I was able to tell that they were police attached to the Chief, I believe they were Administration Police.

I am living in fear. I have made many copies and scans of my mandate letter which I leave in my house. I walk around with my mandate letter.

Amal Ma'allim Omar

On 5th April 2014 I was in my house asleep with my children. I have 5 children. At around 2.00 a.m. I heard police knocking on my door asking me to open. When I opened the door, I saw many police – around 20. They were wearing blackish trousers, navy blue cap with a metal on it and a jungle jacket. When I opened I removed my mandate letter to show them. The letter and I were pushed aside. The about 20 police entered and proceeded to ransack my house in the name of searching it. They told me they were looking for guns.

In the process of ransacking or searching my house they found around Kshs. 10,000 which they took. I saw this with my own eyes. I am a businesswoman. Just for purposes of clarity, I share the house with my sister who has 8 children.

My sister did not have mandate and she was arrested and on the same day taken to Kasarani Stadium. She was later deported by government to Somalia. Later my sister's husband sent money to me to put the 8 children on a bus to Hagadera refugee camp. They were taken by their father who called me confirming this. I am not sure now whether they arrived in Mogadishu.

The police came to my house a second time. They were wearing creamish jackets. They could be khaki colour. They had khaki caps and had covered their faces. They arrested me, went round with me from 6.00 p.m. and released me at 10.00 p.m. the third time they came to my house but left without asking for anything.

I live in Mlango kubwa. I sell soaps, gels, e.t.c. I am living with a disability.

Halima Abdi Hussein

I was arrested on 5th April 2014 in Mlango Kubwa in Eastleigh. It was around 7.30 a.m. I was arrested by GSU officers who were dressed in green uniforms and red berets/ hats.

The police found me at my residence in Mlango Kubwa escorting my children to Madrassa. I have three children aged 14, 11 and 9. I was taking my two younger children. The police asked everyone they found downstairs to sit down – women, men and children. They proceeded to enter the flat and began banging on doors asking people to get out. I observed that police were banging on my door – which was closed and I informed them as such. The response was an insult “takataka, enda ufungue mlango yako”. I swathe officer who insulted

me but did not see his service identification number, I opened my house, two officers entered and began to search it. They did not tell me what they were looking for.

I went back downstairs and all the adults were told to board a police lorry and they took us to the police station. The officer who insulted me continued his verbal assault even as I boarded the lorry because I told him the lorry was raised and I could not board. He in return told me if I continued refusing he could personally help me board and would in the process touch me all over. I felt very bad. Fortunately other people we were arrested with helped me board.

The police took us to Pangani Police Station. Our names were written in some book and we were put in the cell. We were mixed – male, female. All this while I had my ID but nobody asked me for it. The conditions in the cells were bad. There was no water, no food, the toilets were pathetic. I could not pray since I could not tawadha. The officers were not very good to me. I have pressure. I was sick during my stay in Pangani, but I got no medicine. I almost died.

Good Samaritans helped my children who I left behind when I was arrested. I slept in Pangani on Saturday and Sunday – 5th and 6th April. On Monday 7th April 2014 at around 1.00 p.m. – I am not very sure of the time – I was taken to Kasarani Stadium for vetting. When I arrived there I stayed a while until around 9.00 p.m. when I began asking why no one was asking to see my ID. The boss looked at my ID – I knew the person was the boss due to his behaviour – was walking around, talking to people politely, saluted by others. after he looked at it and heard me speak he shook his head and told me I would be released the following day.

Unfortunately I was taken to Gigiri Police Station that night. I cannot remember the exact time, I slept there. The condition there was better. We were in an open field, there was water, I could pray. It was better. However because it was a field we were affected by rain, cold, sun and so on. That was where we were sleeping.

I stayed in Gigiri till April 9th – Wednesday when at around 4.00 p.m. I was taken back to Kasarani Stadium. I was released at around 7.00 p.m.

In total I was in the cell for 4 nights, 1 day despite holding a valid Kenyan ID which I tool in 1992 – old generation. In 1996 I took the second generation ID. I was born in Garissa. My mother was born in Kenya, I have never travelled out of Kenya. How else does the government want to know my citizenship? Is there a particular look that determines how Kenyan one is?

Ayan Rashid Ahmed

I live in Eastleigh Mlango Kubwa. I live with my cousin. I had come to Nairobi for treatment. Otherwise I live in Habaswein in Wajir.

On 5th April 2014 I was asleep at my said cousin's place when police knocked on our door demanding to get in. My nieces and nephews opened for them. I was sleeping and what I remember is the police knocking my feet with their shoes demanding that I wake up. I was told to go downstairs. I was asked to board a lorry that transported us to Pangani Police Station. Nobody asked me for my ID. I slept in Kasarani on that Saturday 5th. On Sunday 6/4/14 I was taken to Kasarani Police Station for vetting. The police there asked all who had assembled there who among them was Kenyan and I produced my ID.

The officers took my ID and went with it somewhere, after some time they returned it and I was told to leave. This was around 8.30 p.m. I did not bribe anyone. A police vehicle drove me out of Kasarani and dropped me somewhere in Kariobangi.

The government gave/ issued me with an ID. Still they do not want to ask people for their IDs. What are we supposed to do so that we do not suffer again?

Richard Maina

I am a mason by profession. I was arrested on 5th April 2014 in Mlango Kubwa. I did not have my identity card. Before being arrested, on that day I had encountered police 3 times. The first time I encountered a squad of police and was released even though I did not have my ID. The second squad also released me when I told them I did not have an ID. The third group which comprised police wearing grey trench coats, red hats informed us they were terrorist squads. They told me and the people I was with that we were suspected of being terrorists because we did not have identity cards.

I was taken to Pangani Police Station whose conditions were pathetic. The food was inadequate and of poor quality, the toilets which were smelly had no doors therefore no guarantee for privacy, there was no water. At the police station the police would assault us on a whim. On the first day of arrest and incarceration at Pangani we were more than 20; many among us were Somalis.

I stayed in Pangani from 5th to 8th April 2014. On 9th April 2014 I was taken to Kasarani stadium for vetting. I slept there and on 10th I was vetted because that is when my ID was brought to me by my neighbour – who was not allowed to enter the stadium. There was no harassment at the stadium.

During vetting, my picture was taken, fingerprints taken as well. I was however not informed of what was happening. Additionally the officers vetting me did not identify themselves. I support the vetting. Please do not use my name in your report.

Adan Abdi Noor

I am a 40 years old Kenyan adult of sound mind citizen No.12541549. I am a resident of Eastleigh Estate and a small scale businessman by profession. Besides business I am also a Community Health Worker and a member of the Eastleigh Division Security Committee.

I wish to state as follows:

On 3rd April 2014 at around 8pm on my way to the mosque, in the company of my Cousin, for my evening prayers, I met a contingent of APs, regular police and GSU offices along 8th street in Eastleigh. An AP Inspector in the group of police officers, unidentified, stopped me and my cousin and requested for our IDs. Upon handing out our IDs to the Inspector, he alleged that the IDs were fake and called the regular police officers in the contingent who arrested and lead us to the waiting police lorry, a canter. The AP Inspector did not hand back our IDs but instead kept them.

In the police lorry I found approximately 100 arrested persons stuffed in the truck. The truck drove around Eastleigh Estate where more and more people were arrested and others were suspiciously set free perhaps after paying a bribe to the police since most were making frantic calls to relatives and friends informing them of their arrest and the need for their intervention. During the rounds in the police truck I also observed a civilian passerby get arrested and loaded into truck without being asked any question as to what their offenses could be or informed of reason for their arrest.

At around 12 a.m. or thereabout we finally arrived at Pangani police station. However, only 24 persons, I and my cousin included, made it to Pangani police station as the majority of those arrested had been set free suspiciously and without an explanation from the police. At Pangani Police Station I was booked OB 99/03/04/2014. At the station we were detained in a crowded cell. In my approximation the number of detainees in the cell was 300 people. In the cell I had my ID card which had been returned while in the police truck before arriving at the police station.

The following day, Friday 4th, April, 2014, at around 11.am police officers who identified themselves as CID officers came to take roll call of the detainees in the police cells. During the roll call I was beaten by one of the officers when I pointed that my name was Noor and not Noo as called out by the officers during the roll call. During the roll call we, I included and the other detainees, gave out our IDs to the officers.

The same Friday night, at around 9pm, some detainees received back their IDs and were released; reason because their IDs were genuine. However I did not receive my ID allegedly because it was fake as it was issued at Pumwani. While detained at Pumwani, the officers on duty kept taunting me that I was a terrorist.

Still in the station's cell my wife informed me that an officer a Mr. Aboubakar had requested for a bribe of 20,000 shillings to secure my release. I warned my wife against giving any form

of bribe to the said officer. My cousin, an ex-army army officer also visited the station and paid 4000 shillings to the Mr. Aboubakar, without my knowledge as he later told me, to secure my release but I was not released.

Those who visited me at the station informed me that they were told I was a terrorist all the while in the OB I was booked with the offence of idling, drunk and disorderly. Conditions at the cells were to say the least degrading, inhuman and inhumanly incomprehensible that a human being can survive under such conditions; we were literally standing on human feces our feet covered to the ankle. The crowding, lack of food and water were unbearable and some people fainted due to the condition, to date I don know their fate since I did not see them thereafter.

On Monday, 7th, April, 2014, the wording ATPU was inserted into his charges in the OB supposedly to denote that his case was that of ATPU. To date, I have not seen anyone from the ATPU investigating or purporting to investigate me. The following day, 8th, April, 2014, at around 11pm I was taken to Kasarani Police Station and told by the officers transferring us that I will get a chance to defend myself during vetting. I left Pangani Police station for Kasarani Police station without having my ID card given back by the CID officers who had confiscated them. At Kasarani Police Station, due to the large number of detainees at the station we were locked up in a roofless cage where we were rained on the night we were transferred to the station till the morning of 9.04.2014.

Wednesday 9th, April, 2014, at 11 am I was transferred to Kasarani Stadium for screening. All I had was my voter's card and my crammed ID number. I was taken through a process of verifying my identifying my ID where I gave my ID number and finger prints taken. My identity was confirmed as a genuinely registered Kenyan. I was however not released the same day on allegations that I could not explain why I spotted a long beard as I had explained that it was a God given beauty. I was returned to Kasarani Police station where I spent the night and on Thursday morning (10.04.2014) was returned to Kasarani Stadium again where the same process I underwent the previous day was repeated on me again. I was again vindicated by confirmation that I was a genuinely registered Kenyan. Upon complaining to the screening officials why I was continuously detained despite my proven nationality, I was assured that I would be released the same day. I was truly released on Thursday 10th, April, 2014 at 11.30 pm upon being given a signed confirmation note, supposedly to show that I was a genuine Kenyan, but without a stamp or indicating the releasing authority. I was however released without my ID and without bus fare back to Eastleigh. At Kasarani I was informed to pick my ID from the DCIO Pangani Police Station.

Since my release from incarceration at Kasarani on 10.04.2014, I have made numerous trips to the DCIO Pangani Police Station but I have not succeeded to get my ID back. I have even accompanied officers from the Kenya National Commission on Human Rights to secure the release of my ID without success despite confirmation that I was indeed detained at Pangani

Poilige Station. As a result I have been harassed severally by police officers looking for illegal immigrants in Eastleigh where I have had difficulties to prove my nationality. My savior has been the release note given at Kasarani and my audacious clarification to the police that I do not fear being incarcerated to prove my nationality as I have previously done it. The foregoing is all I wish to say.

Abdikadir Hassan Abdi

I am a Somali refugee residing in Eastleigh Estate, Nairobi, Kenya.

I was arrested on 6.04.2014 and taken to Pangani police station at 9 pm where I was detained in appalling conditions for two days until 8.04.2014 when I was transferred to Kasarani Police Station. On Wednesday, 9th April, 2014, I was vetted at Kasarani Stadium and released the same day without being charged in a court of law. My Alien card was confiscated at Kasarani Police Station and has not been returned to date. I have resorted to keeping indoors since my identification document confirming my refugee status in Nairobi has been taken away.

Ahmed Bashir Mohamed

I was arrested and detained in Kasarani Police Station. I however, do not remember the exact date of my arrest. Upon arrest I was asked to part with 25,000 Shillings to secure my freedom. I was set free after a night in Kasarani police station cells after my brother paid the 25,000 shillings bribe. Since my release the police have come to my house 4 times and I have had to part with bribe for them not to arrest me. On 28/03/2014 I gave out 2000 shillings, on 1.04.2014 I gave 1000, on 22.04.2014 I gave 5000 and on 16.04.2014 I gave 1000 to the administration police officers on patrol through Mpesa. The Mpesa details are as follows EX91VA201 Confirmed. Kshs. 1000 sent to Kiprono Joel Maritim 0723953 018 on 16.04.2014 at 4.51pm. The foregoing is all I wish to state

Mohamed Ahmed Kurmie

I am Kenyan citizen born in Mandera and a resident of Kisumu where I am a businessman. I was arrested on Friday 4.4.2014 at Marie Stopes Eastleigh by Pangani Police Station officers at around 8pm. I was in Nairobi visiting my parents. I was asked for my ID card, however my ID card was lost and I had a police abstract which I produced as I had not been issued with a new ID neither did I have my passport with me. The police nonetheless bundled me into their truck despite my pleas and evidence that I was a Kenyan.

After my arrest the police kept on their patrol and netted a total of 14 persons 13 of whom were released before arriving at Pangani police station at 12 am. I was detained at Pangani Police Station until the 7.04.2014 when I was transferred to crowded cells in Kasarani Police Station. Kasarani Police station was in deplorable living conditions. Every day I would be

taken to Kasarani stadium for screening on whether I am a Kenyan or not but I was not screened until Friday 11.4.2014 when I gave my ID number to the screening officer and I was confirmed as a registered Kenyan and released the same day at 9pm.

In Kasarani I and other male detainees were detained in a common cage with female detainees in crowded cells where we remained standing most of the time and you could only lay or lean on fellow detainees whenever overwhelmed by exhaustion and sleep. In the cells I could not pray in line with my Muslim faith. The foregoing is all I wish to state

Abdikadir Mohamed Ahmed

I was arrested on 2.04.2014 at around 8.30 pm on my way from work when I was asked for my ID. I produced my ID card however to my shock I was told that by the arresting police officers that they do not eat ID cards and instructed to board a police truck. Inside the truck I found other persons who had been detained and other kept being loaded into the truck as the truck went round in Eastleigh Estate. Inside truck I witnessed the detainees who had money giving out the cash to secure their freedom from the truck. Unfortunately I did not have any money with me to give out.

That night of 2.04.2014 I was taken to Kasarani Police Station. The following day 23.04.2014 I was taken to Makadara Law Courts but I was not charged since my charge file allegedly went missing and subsequently remanded at Jogoo road Police station. On 4.4.2014 and 7.04.2014 I was again arraigned at Makadara Law Courts but once more I was not charged since my file was allegedly still missing, as usual I was remanded at Jogoo road police station. On 8.04.2014 I was transferred from Jogoo Road Police station to Kasarani Police station where I stayed until 11.04.2014, under deplorable and inhuman conditions, when I was taken to Kasarani Stadium for nationality screening. My ID was analyzed and confirmed as genuine after my fingerprints were taken and analyzed. I was released the same day at around 7pm after 8 days of incarceration without trial and persecution in my motherland.

Abdirizak Adow

I am a student at Nairobi Aviation College. I was arrested on 5.04.2014 at around 11 am on my way from school after I was asked to produce my National ID card. I however, had a national ID waiting card slip, birth certificate and Nairobi Aviation College Students ID but according to the police those documents could not prove that he was a Kenyan hence arrested and taken to California Police Post. While in the police truck I witnessed arrested people in truck giving out money to the police to secure their release.

At around 2pm the same day I was arrested I was transferred from California Police Post to Kasarani Police station and further transferred to Gigiri Police Station at around 1 pm the following day 6.04.2014. I stayed in Gigiri Police Station until Friday 11.04.2014 when I was transferred back to Kasarani Police Station. the following day 11.04.2014 I was vetted at

Kasarani Stadium and returned the back to detention at Kasarani Police Station where I stayed until Monday 14.04.2014 when I was taken to Makadara Law Courts and charged with failure to register as Kenyans. I was released on a cash bond of 20,000 shillings after pleading with the Magistrate that I have not failed to register as a Kenya citizen since I had a waiting card and that the waiting card is my third attempt to register for National ID and that previous attempts have been unsuccessful since the registration was always rejected at the waiting by the immigration department without explanation. On 28.04.2014 I was set free after paying a fine of 2000 shillings.

Yakub Shaffi Mohammed

I was arrested on 5.04.2014 at home in Eastleigh Estate by police officers on patrol and taken to Kasarani Police Station. The police asked for my national IDs but I produced my birth certificate since I have been denied registration whenever I visit registration centers in Nairobi.

From Kasarani I was transferred to Gigiri Police Station at around 1 pm on 6.04.2014. I stayed in Gigiri Police Station until Friday 11.04.2014 when I was transferred back to Kasarani Police Station. The following day 11.04.2014 I was vetted at Kasarani Stadium and returned the back to detention at Kasarani Police Station where I stayed until Monday 14.04.2014 when I was taken to Makadara Law Courts and charged with failure to register as Kenyans. I was released on a cash bond of 20,000 shillings after pleading with the Magistrate that I have not failed to register as a Kenya citizen since I had a waiting card and that the waiting card is my third attempt to register for National ID and that previous attempts have been unsuccessful since the registration was always rejected at the waiting by the immigration department without explanation. On 28.04.2014 I was set free after paying a fine of 2000 shillings.

After I was set free I tried again to seek registration at Pumwani registration center. I was however denied registration and told to seek registration in Mandera County, my parents birth place, which however is not my birth place as I was born here in Eastleigh in Nairobi. Today I continue to be harassed for lack of a national ID.

ISAAK SHAFFI MOHAMMED

I was arrested on 5.04.2014 at home in Eastleigh Estate by police officers on patrol and taken to Kasarani Police Station. The police asked for my national IDs but I produced my birth certificate since I have been denied registration whenever I visit registration centers in Nairobi.

From Kasarani I was transferred to Gigiri Police Station at around 1 pm on 6.04.2014. I stayed in Gigiri Police Station until Friday 11.04.2014 when I was transferred back to Kasarani Police Station. The following day 11.04.2014 I was vetted at Kasarani Stadium and

returned the back to detention at Kasarani Police Station where I stayed until Monday 14.04.2014 when I was taken to Makadara Law Courts and charged with failure to register as Kenyans. I was released on a cash bond of 20,000 shillings after pleading with the Magistrate that I have not failed to register as a Kenya citizen since I had a waiting card and that the waiting card is my third attempt to register for National ID and that previous attempts have been unsuccessful since the registration was always rejected at the waiting by the immigration department without explanation. On 28.04.2014 I was set free after paying a fine of 2000 shillings.

After I was set free I tried again to seek registration at Pumwani registration center. I was however denied registration and told to seek registration in Mandera County, my parents birth place, which however is not my birth place as I was born here in Eastleigh in Nairobi. Today I continue to be harassed for lack of a national ID.

Hussein Abdi Ali

I am Kenyan male aged 38 years and a resident of Eastleigh.

I was arrested on 31.03.2014 at around 9pm by GSU officers on patrol on my way to a neighborhood kiosk in Eastleigh. I was asked for my National ID card which I produce but was torn in pieces by the officers on allegations that the officers needed the third generation ID cards and not what I had, the second generation ID card. I was taken to Shauri Moyo Police station.

On 1. 04. 2014, I was transferred to Jogoo Road Police Station where I was locked in until 3.04.2014 when I was taken to Makadara Law Courts and charged with disorderly conduct and being drunk. I was released on a cash bail on a cash bail of 1000 shillings after denying the accusations on the same day.

On 7.04.2014 I was rearrested again in Eastleigh after being once again asked for my ID card, never mind my pleas of having been previously arrested and that my ID had been torn by the police. This time I was taken to Kasarani Police Station where I was detained until 11.04.2014 when I was screened at Kasarani Stadium and released after the authentication of my identity that I was a registered Kenyan. I also produced my passport at Kasarani which had been brought forth by relatives as I feared carrying it to avoid destruction of it by the police as they did to my ID card during my first arrest.

In Kasarani police station I and other male detainees were locked in a common open cage together with female detainees where we were exposed to biting rains and devastating night cold. We even relieved ourselves in one corner of the cage at Kasarani Police station. At the cage we were also whipped using an elastic whip (Bakora) to manage the swollen crowd in the cage.

Mana Maalin Osman

I am a Somali national aged 51 years or thereabout. I am diabetic. I am diabetic and I have been a victim of police extortion since the police operation to flush out illegal immigrants in Eastleigh began. The police began coming to my house on 4.04.2014 and demanded money from me otherwise they would arrest me and my 10 children. The extortion and blackmail has continued almost daily up to date

Halima Islam

Twenty three year-old Halima has been living in Nairobi for the last seven years. She is a registered refugee. She is also a social worker with a local NGO in Eastleigh. A few weeks ago, Halima was on about her business, conducting a meeting with a group of 20 refugees in Eastleigh's Section One, when 15 policemen showed up. They asked everyone gathered for their identification papers. After looking through their papers, the officers left the group after certifying their papers were in order. Halima and her colleagues decided to end the meeting then and head home. That turned out to be a bad decision, for after only a few minutes, the officers who had just inspected their papers stopped them in their tracks.

"They wanted to know why we had called off our meeting," Halima remembers. "It did not seem to make sense to them that we had just decided to call it a day and adjourn. They asked us to accompany them to the St Theresa's Church compound where they had set up a temporal screening centre. As soon as Halima and her team arrived at St Theresa's church, they were loaded into a police van and driven to Safaricom Kasarani Stadium on Thika Road. The officers they found at St Theresa's did not bother looking at their identification documents. It was just decided that all 20 of them should be taken to Kasarani for vetting.

"We arrived at around 6pm," Halima explains. "Men and women were taken to different cells. Our cell was completely full, with about 40 to 50 of us inside, all standing. There was no room for sitting. Children and their mothers were crying. There was a toilet right outside the cell whose smell was offensive. The women inside were Somalis, Ethiopians, Oromos and even some Kenyans." Under the scorching sun: Refugees awaiting screening at Safaricom Stadium in Kasarani. Many survivors complain about the horrid conditions they experienced there. When darkness fell, the women were driven next door to the Kasarani Police station. This is where they were to spend the night, again, in a tiny cell that could hardly fit them all. "There was this woman who had a really small baby, about six months old," Halima remembers. "The boy was half dressed and the mother did not have anything to cover him with. He cried the whole night" At the station, they were given tea. The next morning, they were driven back to the stadium. Then started the long wait, slogging through one round of interrogation to the next. According to the Refugee Consortium of Kenya (RCK), the interrogations, verification and screening were conducted by a multi-agency committee including the Immigration department, National Intelligence Service, Criminal Investigations

Department, Anti-Terrorism Police Unit, National Police Service, among other security agencies.

Halima was lucky. After a full day standing or queuing, she was released at around 8pm. “I was relieved but I felt sorry for so many others that I had to leave behind. There were many who could hardly speak any Kiswahili or English. I offered to translate but the officers refused saying that if they couldn’t speak the languages, then they had no business being in Kenya,” she says.

Halima says some of those at Kasarani who were not released, were either deported back to their countries or sent back to the refugee camps in Kakuma or Dadaab

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ANNEX TWO:

Directive by Cabinet Secretary for Interior and Coordination of National Government Mr. Joseph Ole Lenku on Refugees and National Security Issues-26.3.2014

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ANNEX THREE

Complaint letter by KNCHR to The Inspector General of Police on Denial of Access to Detainees

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