

KITUO Inks MOU with the HIV/AIDS Tribunal



KITUO Board of Directors Chair Mr. Justus Muniyithya and the HIV/AIDS Tribunal Chair Ms. Helene Namisi after the Memorandum of Understanding was signed at the Kituo Cha Sheria Head Office in Nairobi.

Kituo Cha Sheria and the HIV/AIDS Tribunal signed a Memorandum of Understanding (MoU) on 24th June 2020 to promote access to justice for the many indigent litigants frequenting the Tribunal. The HIV/AIDS Tribunal is a quasi-judicial organization established under section 25 of the HIV and AIDS Prevention and Control Act (HAPCA) No. 14 of 2006. Its mandate is to hear and determine complaints arising out of any breach of the provisions of the HAPCA. The Tribunal's specific objectives are to ensure justice and restore rights and dignity for persons living with HIV and to eliminate all forms of discrimination, stigmatization and rights violations that result either directly or indirectly to one's HIV status or perceived status.

On the other hand, KITUO is a human rights non-governmental organization whose objective is to empower the poor and marginalized people to effectively access justice and realize human and people's rights. KITUO employs among others single welfare and public interest litigation cases for indigent and marginalized clients such as people living with HIV with the aim of safeguarding and enforcing the Constitution of Kenya 2010. The Memorandum of Understanding was signed at the Kituo Cha Sheria Head Office in Nairobi by the KITUO Board of Directors Chair Mr. Justus Muniyithya and the HIV/AIDS Tribunal Chair Ms. Helene Namisi. Through this collaboration, KITUO in-house counsel and volunteer advocates will provide legal aid services such as court representation, drafting of pleadings, coaching for self-representation and legal advice and awareness to indigent litigants in the HIV/AIDS Tribunal. In return, the Tribunal will refer needy litigants and enhance the capacity of

Kituo staff and volunteer advocates on matters relating to its mandate, practice in the Tribunal and emerging issues around discrimination on grounds of HIV/AIDS status. The MoU signing was witnessed by a KITUO General Assembly and founding member Mr. Steve Adere, the Tribunal's CEO Ms. Annerita Murungi and volunteer advocate Mr. John Chigiti. Also present at the short ceremony were community paralegals Mr. Ezekiel Njenga, Jamia Abdulrahim and Mr. Michael Odhiambo together with the team representing Kituo led by programme manager Mr. John Mwariri and Dianah Ndashiki. Speakers at the signing ceremony emphasized the necessity of this move noting that litigants at the Tribunal have for far too long suffered due to lack of legal representation and a myriad of challenges to access justice. The COVID-19 pandemic situation has also made an already bad situation worse with poor and marginalized persons facing multiplicity of problems including forced evictions, SGBV, job losses, among others. KITUO welcomes this partnership and re-commits to continue to pursue social transformation of indigent Kenyans through legal aid and empowerment, advocacy and lobbying for pro-poor policies and commitment to respect for human rights.



Participants pose for a group photo holding the MoU after the Memorandum of Understanding was signed at the Kituo Cha Sheria Head Office in Nairobi.

KITUO Hosts Partners at the Regional Office



Kituo cha Sheria staff and the delegation of the European Union (EU), Kingdom of the Netherlands Embassy and Amkeni waKenya - UNDP at our regional office in Mombasa.

Kituo cha Sheria on 11th March 2020 hosted a delegation of the European Union (EU), Kingdom of the Netherlands Embassy and Amkeni waKenya - UNDP at our regional office in Mombasa. The delegation included Ms. Carol Abong' of the Kingdom of the Netherlands Embassy and Wambua Kituku of Amkeni waKenya -UNDP amongst others, we later made a courtesy visit to the Shimo La Tewa Men's prison Justice Centre. Kituo's Executive Director Annette Mbogoh welcomed the visiting delegation and thanked them for partnership with Kituo. The visit was an opportunity for Kituo to showcase its programmatic work in promoting access to justice. Kituo is committed to helping the disadvantaged, poor and marginalized people in Kenya access justice. One of the ways Kituo fulfils this mandate is through the prison justice centers run by Kituo-trained prison paralegals; inmates and prison warders.

KITUO Operations scaled-down Due to COVID-19

Kituo cha Sheria on 16th March 2020 scaled down its operations in all its three offices. This was in response to the safety measures outlined by H.E. The President of The Republic of Kenya and our commitment and obligation to support the government's effort in safeguarding the nation against the COVID-19 Coronavirus pandemic. However our staff will work from home and will respond to any emergencies as they arise. You may also access legal advice and information simply by sending an SMS to 0700777333. We want to express solidarity with those most impacted or potentially impacted by the pandemic, including members from poor and marginalized communities leading struggles for human rights and fellow civil society members in close alliance with and to those communities in Kenya. Let's all remain calm but vigilant and pray that the crisis comes to an end.

KITUO's Executive Director on KTN News



FrontRow show- prevention, response and protection to Gender Based Violence during this Coronavirus pandemic.

Kituo Cha Sheria's Executive Director Dr. Annette Mbogoh was hosted on Kenya's KTN News TV station on 28th May 2020 for a television show from 7.30PM to 9.00PM.

The Executive Director joined a panel on the show which included Prof. Margaret Kobia, Cabinet Secretary, Ministry of Public Service, Gender and Youth (Kenya); Jean Kamitare, Programme Director-Urgent Action Fund Africa (Uganda) and Ms. Wanjiru Kamanda, Deputy Executive Director- FIDA-Kenya who were hosted on the FrontRow show on KTN Kenya by Ms. Sharon Momanyi.

KTN News is a leading 24-hour TV channel in Eastern Africa with its headquarters located along Mombasa Road, Nairobi at Standard Group Centre. It is the most authoritative news channel in Kenya and beyond. The TV show panel discussed the impact of COVID-19

on Gender Based Violence- the discussion specifically focused on prevention, response and protection to Gender Based Violence during this Coronavirus pandemic.

The panel noted that measures deemed necessary to control the spread of the COVID-19 disease are not only increasing GBV-related risks and violence against women and girls, but also limiting survivors' ability to distance themselves from their abusers as well as reducing their ability to access external support. The TV show was undertaken through the Inter-Agency Dialogue on Human Rights Violations activity under the EU Imarisha Haki Project.



Ms. Sharon Momanyi, the host of the FrontRow show on KTN News.

Key Upcoming Activities Jul - Sept 2020

1. Kituo Cha Sheria 47th Anniversary Celebration and FREE legal aid clinic- Jul 2020
2. Kituo cha Sheria Special General Meeting (SGM) 2020-Jul- Sep
3. International Prisoners Rights day celebrations- Aug 2020
4. Forced Migration Program (FMP) staff team-building activity in Nairobi – Jul- Sep
5. Client legal advice and representation and Legal advice to clients through the M-Haki platform- Jul- Sep
6. Legal Aid clinics with the Refugee Community in urban settlements in Nairobi and Mombasa- Jul- Sep
7. Client legal advice and representation Jul- Sep
8. Mental Health and Psychosocial Support (MHPSS) group sessions- Jul- Sep

KITUO Receives favourable Judgement on Curfew Order

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
CONSTITUTIONAL AND HUMAN RIGHTS
DIVISION
PETITION NO. 120 OF 2020 (COVID 025)

LAW SOCIETY OF KENYA.....
PETITIONER

-VERSUS-

HILLARY MUTYAMBAI, INSPECTOR GENERAL NATIONAL POLICE SERVICE....
.....1ST RESPONDENT
FRED MATIANGI, CABINET SECRETARY FOR INTERIOR AND COORDINATION OF NATIONAL GOVERNMENT.....2ND RESPONDENT
ATTORNEY GENERAL.....3^R
^D RESPONDENT
THE HON. CHIEF JUSTICE.....4TH
RESPONDENT
MUTAH KAGWE, CABINET SECRETARY FOR HEALTH.....5TH RESPONDENT

-AND-

KENYA NATIONAL COMMISSION ON HUMAN RIGHTS.....
.....1ST INTERESTED PARTY
FIDA-KENYA.....2ND
INTERESTED PARTY
INDEPENDENT POLICE OVERSIGHT AUTHORITY (IPOA).....3RD
INTERESTED PARTY
LEGAL ADVICE CENTRE T/A KITUO CHA SHERIA.....4TH INTERESTED PARTY

Nairobi Const. Pet 120 of 2020 Law Society Of Kenya V Attorney General & 8 Others was a case filed by the LSK challenging the constitutionality of the Public Order (Curfew Order) 2020 for among other being unconstitutional. Kituo Cha Sheria was enjoined as the 4th Interested Party.

KITUO took great exception to the police use of unreasonable force by the police. KITUO in its affidavit before court stated that the police officers enforced the curfew order in the most unproportionate and brutal manner. We supported the brutality by reference to media reports. We further argued police brutality was

a clear demonstration of criminalising the COVID 19 pandemic rather than treating it is a public health concern.

On Friday, the 17th April 2020, Justice Korir delivered a favourable judgment making the following orders: a declaration that the 1st Respondent, National Police Service unreasonable use of force in enforcing the Public Order (Curfew Order) 2020 is unconstitutional; an order of mandamus compelling the 2nd Respondent, Ministry of Health to include advocates and the 3rd Interested Party, IPOA in the list of those exempted from the Public Order.

KITUO Moves to Court over Police brutality



Members of the public caught up during the Curfew hours at the Likoni ferry crossing in Mombasa County

Kituo Cha Sheria was moved into action by the police brutality meted on innocent Kenyans following the enforcement of the curfew. There have been reports of more than two people including a 13-year old boy losing their lives due to excessive force meted by the police. Law enforcement agents remain accountable even during the COVID-19 pandemic as constitutional guarantees are not suspended by the disease or a curfew. Consequently, on 1st April 2020, KITUO applied to be enjoined to the constitutional petition filed by the Law Society of Kenya in collaboration with FIDA Kenya, Independent Policing and Oversight Authority and the Kenya National Commission for Human Rights (Nrb HCCC Petition No. 120 of 2020 (COVID 025)). The petition seeks to hold the National Police Service, Cabinet Secretary of Health and Attorney-General

accountable. Through its volunteer advocates Dr. John Khaminwa, Mr. Eric Mutua and Mr. John Mwariri, KITUO was allowed to be enjoined as the 4th Interested Party. The Court directed that the police are prohibited from using excessive force in enforcing the curfew. Further, the following conservatory orders were granted and extended by the Court: An order is issued compelling the 1st Respondent, Hillary Mutyambai, Inspector-General of the National Police Service to within 48 hours publicize in newspapers of national circulation, and concurrently file in court for scrutiny guidelines on the conduct of police officers enforcing the Public Order (State Curfew) Order 2020; the 1st Respondent is prohibited from interfering with media coverage of the curfew; the petition will be heard next week 9th April 2020 for final determination.

KITUO CONDUCTS A SERIES OF RADIO TALKSHOWS



KITUO community paralegals Michael Odhiambo and Ezekiel Njenga during the talkshow recording at Dala FM.

Kituo Cha Sheria conducted a series of informative radio talkshow on human rights and COVID 19 throughout the month of June 2020. The talkshows were held on various dates on Pwani FM, Minto FM, Ghetto FM and Dala FM Tune with discussions on various human rights violations during the Coronavirus pandemic period touching on SGBV, land, housing and labour rights. The activities were held in

collaboration with community paralegals. Poor and marginalized persons have suffered numerous injustices during this period. The series of radio talk shows broadly on access to justice and other human rights issues aimed at sensitizing the general public on how to access legal services. The talk shows were very interactive with members of the public sending in text messages into the stations and making phone calls.

KITUO Presents Garissa University Terror Attack Victims Petition



The Garissa University terror attack memorial

“The parents want the court to compel the Independent Policing and Oversight Authority (IPOA) and the Commission on Administrative Justice to furnish them with details touching on the massacre of 148 people. The issues raised in the petition are social and touch on terrorism, human rights and national security, which have not been considered in any other forum in the country,” said Kituo Advocate John Mwariri. The parents say their petition raises questions on whether there is an obligation on the part of the State to provide security in times of a terrorist attack. The parents, who are seeking compensation for the loss of their children’s lives, also want to know what time an elite squad of the General Service Unit arrived at the university. They want to know if the Recce squad faced delays before arriving in Garissa, and the effects of such a delay in preventing and mitigating effects of the attack. “My clients are seeking information on the response and coordination of security officers,” said

Mr Mwariri. The petitioners also want to know whether any State officers were found culpable following the attack and whether they were interdicted. “There is great public interest in disclosure of the information to ensure they obtain a remedy from the court and promote accountability among public bodies and servants,” said Mwariri. IPOA Director Jeremiah Arodi had said operational information cannot be disclosed because it may imperil ongoing security operations against terrorists and undermine national security. But Mwariri said the country’s security will not be prejudiced, adding that the courts can apply various measures to protect any sensitive disclosures. Justice James Makau directed the parties to exchange their submissions and set hearing for 24th February 2020.



MHAKI “Haki Mkononi”

KITUO clients and members of the public can access legal advice and information simply by sending an SMS to 0700777333. Send your legal question and include your name and location.

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LEGAL ADVICE CENTRE
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STANDARD SMS CHARGES APPLY

KITUO Hosts the HIV/AIDS Tribunal



KITUO members of staff and the HIV and AIDS Tribunal representatives pose for a group photo after the successful meeting at the Kituo Head Office.

On 12th February 2020, the HIV and AIDS Tribunal visited the KITUO offices to hold a meeting to express their interest in collaboration between the two institutions for legal representation for some of the persons who come to the Tribunal with disputes. Indigent clients most times have no funds to appoint a lawyer to pursue their legal rights.

The members present at the meeting were Helene Namisi, the chairperson of the HIV and AIDS Tribunal; Annerita Murungi, CEO of the HIV and AIDS Tribunal; Dr. Annette Mbogoh, the ED, KITUO Cha Sheria; John Mwariri, the Legal Aid Department Co-ordinator; Ambrose Njagi, a Legal Officer at Kituo Cha Sheria and Tracy Wachira, a Volunteer Advocate at KITUO.

The HIV & AIDS Tribunal was established in 2006 under Section 25 of the HIV and AIDS Prevention and Control Act. The Tribunal's mandate is to hear and determine complaints arising out of any breach of the provisions of the HAPC Act. Most of the matters the tribunal receives are on Disclosure of HIV status without consent, testing without informed knowledge, testing without counseling and stigma.

The Tribunal shared with KITUO the challenges they face as a result of non-representation of people who lodge their complaints with the Tribunal. Indigent clients are from slums and rural areas and they are

not capable of representing themselves or getting access to legal representatives.

Dr. Annette Mbogoh welcomed the idea to collaborate and stated that KITUO has a volunteer advocates' scheme that consists of trained advocates who help KITUO in their mandate to make justice easily accessible for the socially and economically disadvantaged persons in society. Dr. Mbogoh also highlighted previous and continued collaboration with the Rent Restriction Tribunal who refer cases to KITUO for persons who are unable to afford to pay for legal services.

KITUO expressed its interest in taking on public interest cases that are in the jurisdiction of the Tribunal as well as discrimination cases which the Tribunal has no jurisdiction to decide on. The Tribunal's representatives acknowledged that collaboration would be impactful as most of the cases they receive are from persons who reside outside Nairobi. It was agreed that a MoU between KITUO the Tribunal would be prepared to cement the relationship.



KITUO members of staff and the HIV and AIDS Tribunal representatives during the meeting

KITUO Staff Trained on M-HAKI by USHAHIDI



Ushahidi's Ms. Monica Nthiga, Director of Implementation and Ms. Stacy Gitau, Engagement and Support Officer from Ushahidi at the Kituo Head office, Nairobi.

Kituo cha Sheria on Tuesday - 3rd March, 2020 hosted the team of Ms. Monica Nthiga, Director of Implementation and Ms. Stacy Gitau, Engagement and Support Officer from Ushahidi at the Head office, Nairobi. Ushahidi, which translates to "testimony" in Swahili, is a technology-social enterprise founded in 2008.

The technology leader in Africa, headquartered in Nairobi, with a global team has partnered with Kituo since 2016 working on the M-Haki-'Haki Mkononi' deployment. Ushahidi provides software and services to Kituo for the M-Haki SMS legal advice platform. The team met with Kituo officers- Valarie Ang'awa, Martha Ogutu, Anthony Kirima, Janet Kosgei and Tracey Wachira- working on the M-Haki project.

The meeting presented an opportunity for the visiting team to present the enhanced M-Haki platform to Kituo staff; review the M-Haki enhancements and to receive contributions and views from Kituo programmes staff on the M-Haki enhancements. M-Haki is primarily an innovative technology platform intended to

bridge the gap between the justice champions in law firms and the poor people in order to reduce the costs and logistical barriers towards accessing justice. Since inception, the M-Haki innovation has received international recognition; from 29th March to 2nd May 2019, KITUO participated in the World Justice Challenge during the World Justice Forum in The Hague, Netherlands.

The M-Haki innovation was shortlisted by the World Justice Project from over 250 applications and showcased as one of 30 successful solutions that deliver justice and strengthen the rule of law during the World Justice Forum in The Hague. Members of the public can receive legal advice and information by simply sending an SMS to 0700777333 and view the website at www.m-haki.co.ke



KITUO staff during the training by Ushahidi.

KITUO in Partnership with Action 4 Justice



KITUO staff and Action 4 Justice representatives pose for a group photo after the meeting

On Tuesday 14th January 2020, Dr. Victoria Miyandazi and Mr. James Gardner from Action 4 Justice met with Dr. Annette Mbogoh, Mr. John Mwariri and Ms. Diana Ndashiki from Kituo Cha Sheria to discuss partnership on a web platform that Action 4 Justice is creating that would be used to disseminate legal information.

Action 4 Justice is a global civil society platform that was formed by a coalition of NGOs including Greenpeace, Oxfam, Transparency International, IHRDA and the Forest People's Programme. The Society seeks to improve access to social justice for disadvantaged communities by providing practical and accessible advice on rights-related public interest litigation to duty bearers, practitioners and CSOs working with these communities in rural and urban areas. The content of the web platform will be Kenyan specific- The language, laws and case studies will be within the Kenyan context. The website will be free of charge and open to all. It will cover a wide range of legal issues including land rights, women rights, right to health and migration. So far two detailed step-by-step draft guides on Land Rights and Right to Health have been developed. These cover the process of litigation and the types of pleadings to be filed at each stage of the process. It will also include videos and animations in different languages so as to reach as many people as possible including the illiterate and those who only speak native languages. Kituo will assist in drafting legal topic modules

e.g forced migration, citizenship and gender-based violence. Once material is produced it will go through a validation period where other stakeholders including judges will have time to go through, track changes, make additions and finalize. This will ensure that the material on the website is accurate, clear and concise.

Kituo having been party to many PIL cases can provide briefs on the same which will be used as case studies under different topics. Kituo will also assist in dissemination/distribution of Action 4 Justice's work- Kituo Cha Sheria having access to their target group, which is the disadvantaged communities can help in spreading word about the website using various means including videos, brochures, booklets, handbooks and templates on court pleadings. The Action 4 Justice project will make legal research easier, promote pro bono services and assist self-represented Kenyans who cannot afford or access legal aid. Kituo Cha Sheria would love to partner and be part of this project to enhance access to justice for minorities. The Kituo Cha Sheria team recommended that the website should feature not only prevalent issues like Land rights but also emerging or current issues like terrorism. Organizations that provide material or content should be acknowledged on the website. There needs to be a Memorandum of Understanding between Kituo Cha Sheria and Action for Justice for the partnership to begin.

KITUO in Collaboration with HAART Kenya



Mr. John Mwariri, Ms. Janet Kosgei, Ms. Diana Ndashiki and Mr. Ambrose Njagi representing Kituo Cha Sheria (KITUO) during the meeting with Mr. Jakob Christensen and Elizabeth Kabari from Awareness Against Human Trafficking (HAART) Kenya.

On 22nd January 2020, Mr. John Mwariri, Ms. Janet Kosgei, Ms. Diana Ndashiki and Mr. Ambrose Njagi representing Kituo Cha Sheria (KITUO) met with Mr. Jakob Christensen and Elizabeth Kabari from Awareness Against Human Trafficking (HAART) Kenya to discuss collaboration on a case that HAART had filed in court in November 2019. HAART was founded in the year 2010 to curb human trafficking in Eastern Africa. Last year, the Directorate of Criminal Investigations (DCI) referred 5 victims of human trafficking to HAART. They were from Nepal and India. When they were presented before court, the victims refused to testify. The court refused to grant them protective orders. There was also interference from the traffickers using the authorities. The victims were moved to 3 different temporary shelters for protection. HAART filed a petition in November 2019 seeking the release of the victims. On 18th December 2019 the court gave repatriation orders. The next mention was on 3rd March 2020. Since the victims are now safe at home, HAART will continue pursuing the matter in court and will be addressing the following public interest matters: – The National Assistance Trust Fund for Victims of Trafficking in Persons- This fund is established under

Section 22 of the Counter Trafficking in Persons Act 2010 to be administered by Board of Trustees. The fund is meant to assist victims in various ways provided under Section 15 of the Act which includes: return to and from Kenya, resettlement and re-integration. The Government has funds set aside to repatriate victims to their homes, but sometimes refuses to pay for their flights. There is no transparency in administration of the trust fund. Does it go to the right people? How much does it have? KITUO would love to join in this public interest matter and hopes for further collaboration with HAART in other matters. The HAART team recommended that, All parties joining to do so at the same time to avoid stalling the court process and that a meeting of all organizations joining be conducted before the mention in March. The KITUO team recommended that, They be provided with the petition and orders in time- both hard and soft copy. They promised to file by March if this is done. HAART could use KITUO's volunteer advocates to follow up on their cases in other areas of the country. HAART could also refer cases that are both trafficking and refugee matters to the KITUO Forced Migration Programme (FMP) in Pangani. KITUO would share contacts for the FMP and Mombasa offices.

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Branch Office - Nairobi, Forced Migration Program (FMP), Pangani - KCDF House, 4th Floor on Chai/ Pamba Road, Off Juja Road, Nairobi, Tel: 202451631, 0736867241, 0720806531 E-mail: fmp@kituochasheria.or.ke

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