

THE CONSTITUTIONALITY OF LIFE IMPRISONMENT



Prisoners engaging in a debate during the event

Kituo cha Sheria held a debate at Kamiti Maximum prison on "The constitutionality of life imprisonment" on 20th June 2014. The topic of the debate was, "How long is life sentence in prison? Should life sentence be defined to mean certain number of years?" Prisoners were the proposers and opposers who were required to disguise as certain figures in the august house. There was a speaker and a clerk which completed the entire setting of national assembly. The guests invited were Justice Patrick Kiage of High Court of Kenya, Kituo board of directors led by the Chair Ken Nyaundi and Anthony Mulekyo as well as kituo staff and prison administrators. The debaters from the proposing side were the first on the floor of

the house. They argued that life sentence should be calibrated to mean certain number of year's floor various reasons which among them included the fact that although all of them are in for life, they have committed different offences which should not carry similar punishment. They stipulated that in life, everyone has a right to be given a second chance since even god himself gives human beings who have committed heinous offences a second chance. They argued that when people are given number of years upon which one will be gauged whether one can be integrated back into the society is a good thing since it will give them a chance to life again as free men and women. The proposers cited several international laws that define life sentence to be between the averages of 15-25 years. The proposers did not mice their word when they stated that most of the people serving life sentence are a product of the system of judiciary before 2010 that was marred by corruption, nepotism among other forms of evils to an extent that it had to be revamped. When about the people who were convicted wrongly as a result of these uncontrollable forces by then, so they asked. The opposers who assumed the role of the government had their own reasons



From Left: Anthony Mulekyo, Kituo BOD Member, Ken Nyaundi Kituo BOD Chair, and Justice Patrick Kiage during the function

why the government should not think otherwise about life imprisonment. They argued that people who have been released from prison have had tendencies of committing similar or worse crimes once they get out of prison. They argued that once lifers are integrated into the society, the crime rate is likely to increase. They stated that life imprisonment should mean just that. Citing a number of articles in the constitution, they stated that the power of mercy rests with the president who decides when some individuals will be released but only after being recommended by the appointed authorities. The appellate judge Patrick Kiage was also in support of the need of revisit the penal code and life imprisonment. He was in support of the fact that although all capital offences attract similar sentences, there should be calibration stipulating the number of years that one should serve. He gave an example of a person aged

20 years and another 60 jailed for life who by nature would live for 80 years. He argued that the one with 20 years would serve 60 years as opposed to the one with 60 years who would only serve 20 years brining in a huge disparity. He stated his support for the proposal once it is brought forward. At the end of the debate, the speaker did a vote of YES and NO from both participants and the audience (prisoners) where the majority supported the motion that life sentence should be revisited to mean a number of years and be calibrated. Peter Ouko from the proposers won ten thousand (10,000) courtesy of Kituo Cha Sheria, as the bench decided he was the best debater. However, every individual from both the opposers and proposers won a book, Essentials of Criminal Procedure in Kenya by Patrick kiage while each the participating teams was given Flames of Freedom by Raila Odinga.

ENHANCING ACCESS TO JUSTICE BY PARALEGALS



Paralegals and Kituo staff pose for a photo after the training in Lamu

With the LAPSSET project underway, Kituo Mombasa office has been involved in a series of paralegal trainings in the region. This is aimed at equipping

the residents with legal knowledge in regards to their rights. In the month of June, 2014, Kituo conducted a three days paralegal training from 17th to 20th June.

Essentially, development of Lamu port implies that communities residing within the area have to be displaced. Therefore, Kituo has been training the residents informing them of their rights to avoid forceful evictions and enhance participation among other considerations in regards to the evictions guidelines. Some residents do not anticipate the benefits of the developing port due to the fear of being evicted. Moreover, there are other potential problems such as environmental and social concerns, conflicts, loss of land, and loss of livelihood in the case of fishermen who have to be relocated.

21 paralegals were trained

where out of these, 11 were men, 9 women and 1 disabled. Paralegal training is always the best alternative in promotion of ADR mechanisms which reduces the cost and time involved in length court processes. They also enhance access to justice to the local communities. Moreover, paralegals offer free legal aid services to their communities giving them assistance where they can or referring them where the need arises. Therefore, Kituo envisages that by training paralegals in the area, communities will stand strong for their rights in case of any violations.

KITUO CELEBRATES THE DAY OF AFRICAN CHILD



Primary Schools Children during the Day of African Child at Mukuru Kwa Njenga

The day of African of African child is celebrated annually on 16th June in commemoration of the 1976 protests by school children in Soweto, South Africa. The students protested against an education designed to further the purposes of the apartheid regime. The brutal response of the apartheid security agencies to the unarmed students' protests resulted in the death of a number of them. The 1976 protests contributed greatly to the eventual collapse of the apartheid regime. In 1991, the African Union Assembly passed a resolution designating 16 June as a Day for the celebration of the African

child. This year, Kituo organized these celebrations at Mukuru kwa Njenga, Our Lady of Nazareth where children were drawn from all schools in the area from both public and special needs schools. The theme of the event was, "empowerment and protection of disabled girl child living in informal settlements". The international theme was, "A child friendly, quality, free and compulsory education for all children in Africa". At Mukuru, Kituo and its partners (Amnesty International Kenya, Ujamaa family center, Mkuru CBO alliance and APDK) focused on addressing the various

challenges facing disabled girls in their daily lives. Speaking during the event, the area chief, Peter Sila expressed his concerns on the increased case of rape of school going girls. He warned those involved in these vices that they would face the wrath of law from his office. He accused parents who are supposed to take care and protect their girls from the rapists. He questioned scenarios where parents accept money from their children knowing very well that they are as a result of prostitution. He clearly stated that his office would not hesitate to take action for such parents as they are also criminals as they harbor the progress of the community. During the event, Faith Ochieng, Kituo Staff recognized that women and girls with disabilities face not only greater risks of sexual violence and abuse, but also face particular barriers in accessing information about their rights and accessing appropriate support services. She argued that there should be strategies to link the disabled groups with key institutions that can assist them access services especially quality education. She highlighted the plights of disabled girl child and urged the county government to set a side budget to facilitate the implementation of Disability Act.

SUCCESS STORY OF LEAH KAGIA



Leah Kagia receives her cash payment from Kituo Staff

Leah Kagia worked as a house help in one of the estates here in Nairobi. Three months ago, she was dismissed from work by her boss without any valid reason. Prior to her unexpected dismissal, her employer never used to pay her all her dues monthly claiming that she would be given the full amount when she will be dismissed. However, one day she was sent packing without a penny. Her pleas to be paid the amount due fell on deaf ears and she was not allowed to even re-visit the premises. In desperation, she came to Kituo Cha Sheria through the help of a friend. Kituo lawyers took her case and wrote a Demand letter to the former employer for payment of all her dues. Today, she is a happy lady as she receives her cash that totaled to almost 100,000 which was submitted by her former employer to Kituo office. She thanks Kituo cha Sheria for the assistance freely accorded and believes that others having similar issues with their employers can also be assisted.

IN THE THICK OF AN INSECURITY COMPLEX: THE PLIGHT OF REFUGEES IN KENYAN CITIES



Refugees at Dadaab refugee camp: Photo courtesy of www.tamuka.org

Following insecurity incidents witnessed in Likoni church, where worshippers were massacred at the Joy of Jesus Church, the government of Kenya launched a security operation dubbed "Usalama Watch" to enhance security within the country through suspecting, detecting, arresting, prosecuting and, on some occasions, deporting aliens suspected to be engaging in terrorist activities. And, as it were to be, refugees and asylum seekers

were not spared either. A press statement released by the Cabinet Secretary for Interior & Coordination of National Government on 26th March 2014, directed that all urban refugees residing outside designated refugee camps of Kakuma and Dadaab do return to the camps with immediate effect. The directive also closed down all urban registration centres' Nairobi, Isiolo Mombasa, Malindi and Nakuru. The directive,

further, requested all Kenyans to report to the police any refugee and illegal immigrants found outside the designated refugee camps. What followed was the gazzatement of Kakuma and Dadaab Camps as official place for refugees and asylum seekers to reside within Kenya. On 4th April 2014, security agencies barricaded and descended on Eastleigh and began to round up persons including refugees, and asylum seekers, undocumented foreigners and Kenyan Nationals mostly of Somali extraction who are residents of Eastleigh found in the course of the operation. These persons were rounded up and taken to Kasarani police station for booking and then transferred to Kasarani stadium for profiling exercise. Kituo Cha Sheria had moved the court by Petition No. 19 of 2013 seeking orders to quash the

Government Directive and stop its implementation. The High Court quashed this directive and held that the directive was a threat to the refugees fundamental rights and freedoms including the freedom of movement, right to dignity and infringes on the right to fair administration action and it is a threat to non- refolement principle espoused by section 18 of the Refugee Act 2006. However, as Kituo Cha Sheria (FMP), we continued to offer our legal services to the refugee community through legal representation. For instance on 3rd April 2014, we represented 83 refugees and asylum seekers in Makadara law courts.