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**Promoción y protección de todos los derechos humanos,
civiles, políticos, económicos, sociales y culturales,
incluido el derecho al desarrollo**

Comunicación escrita de la Comisión Nacional de Derechos Humanos de Kenya*

Nota de la Secretaría

La Secretaría tiene el honor de transmitir al Consejo de Derechos Humanos la comunicación escrita de la Comisión Nacional de Derechos Humanos de Kenya**, que se distribuye de conformidad con el artículo 7 b) del reglamento del Consejo (véase la resolución 5/1, anexo) y con las disposiciones y prácticas convenidas por la Comisión de Derechos Humanos en su resolución 2005/74.

* La institución nacional de derechos humanos tiene la acreditación de la categoría “A” ante la Alianza Global de las Instituciones Nacionales de Derechos Humanos.

** Se distribuye tal como se recibió, en el idioma en que se presentó únicamente.



Anexo

Comunicación escrita de la Comisión Nacional de Derechos Humanos de Kenya

Comunicación escrita de la Comisión Nacional de Derechos Humanos de Kenya sobre los defensores de los derechos humanos que se ocupan del albinismo

1. Introduction

The Kenya National Commission on Human Rights (KNCHR) (herewith the ‘Commission’) welcomes the report of the United Nations Independent Expert on the enjoyment of human rights by persons with albinism, Ms. Muluka-Anne Miti-Drummond. The Commission agrees with the findings and recommendations as they guide governments, civil society organizations and the international community in general in taking action that respects the rights of human rights defenders with albinism and human rights defenders working on albinism.

The following information provides additional input for the consideration of the UN Independent Expert and the Human Rights Council. As a result of this effort, we were able to achieve, not only the re-accreditation by the Sub-Committee on Accreditation (SCA) of the Global Alliance of National Human Rights Institutions (GANHRI), of our Institution as a National Human Rights Institution (NHRI), but also the upgrading of the Institution to an A status NHRI (from B status after the accreditation by the SCA in 2015). This way it has now been recognised that our Institution is now fully compliant with Paris Principles.

2. About the Commission

The Commission is a constitutional Commission established under Article 59 of the Constitution of Kenya, 2010 and operationalized under the KNCHR Act, 2011 with the mandate to promote and protect human rights in Kenya. Its specific functions include: monitoring, investigating and reporting on observance of human rights in all spheres of the Republic; receiving and investigating complaints about alleged abuses of human rights; researching on human rights matters and making recommendations to improve the functioning of State organs. With regard to the safeguarding of all aspects of human rights in the Republic of Cyprus, our work and efforts aim to preserve the rights of all persons living in the territory of the Republic of Cyprus, without any exception, and to protect them from any form of discrimination, unequal treatment or ill-treatment.

The Commission is also the designated principal organ of the State in ensuring compliance with obligations under international and regional treaties and conventions relating to human rights. In 2017, the Commission was re-designated by the Attorney General to act as the national monitoring agency under Article 33(2) of the Convention on the Rights of Persons with Disabilities (CRPD).¹

3. Situation of Persons with Albinism in Kenya

The Commission acknowledges that in Kenya, and indeed sub-Saharan Africa, albinism is a form of disability often shrouded in mystery by a significant section of the society. Myths and misconceptions, and not proven scientific knowledge, form the large part of knowledge on the condition. To show the extent of lack of awareness on the condition, there have been cases where persons with disabilities have publicly been referred to in an extremely demeaning way. In February 2021, the Suna East Member of Parliament (MP) Hon. Junet Mohammed made derogatory remarks regarding Hon. Isaac Mwaura, a person with albinism. This triggered the KNCHR to express displeasure. In a press statement, the Commission mentioned that such utterances are the epitome of stigmatization of disability and that stigma

¹ Letter from the Hon Attorney General to the Secretariat of the Committee on the Rights of Persons with Disabilities referenced DOJ/COM/8/21/TY (97) dated 9th June 2017.

creates social exclusion and exacerbates mental and psychosocial distress amongst individuals with disabilities.²

Kidnappings, abandonment, killings and ritual attacks compounding the stigma and discrimination that this group faces have all been reported in Kenya.³ Despite all these atrocities, the country is making progress in ensuring that persons with albinism have their rights respected, protected and fulfilled. In a first in its history, Kenya included an indicium for persons with albinism in its 2019 Kenya Population and Housing Census (KPHC). The census revealed that there are 9,729 persons with albinism in Kenya.⁴ This data enables the government to put in place mechanisms that serve persons with albinism. Also, the State, since 2011, has the National Albinism Sunscreen Support Programme (NASSP) in place that is implemented by the National Council for Persons with Disabilities (NCPWD), a semi-autonomous government agency coordinating disability matters in the country including registration of persons with disabilities and countrywide-disability mainstreaming.

4. Human rights defenders with albinism in Kenya

The Constitution of Kenya, 2010 obligates every person to defend its provisions, including all the rights in Chapter Four on the Bill of Rights. Article 3(1) of the Constitution provides as follows:

“Every person has an obligation to respect, uphold and defend this Constitution.”

In 2017, Kenya adopted the Model Human Rights Defenders Policy and Action Plan championed by the Commission. This was in recognition of the human rights violations perpetrated by state and non-state actors against human rights defenders, including those working on albinism. Reports of targeted attacks against HRDs have been documented in Kenya. There is also a growing narrative of fear amongst the HRDs and shrinking advocacy space due to a number of restrictive and punitive legislations enacted. For this reason, there is need for protection and the policy seeks to create a safe and enabling environment in which HRDs can work without fear.⁵ The Policy’s key concerns and actions include investigations, protection, legislative and policy frameworks, public education and sensitization, confronting marginalization and stigmatization, resourcing and budgeting, monitoring and evaluation.

To this end, the Commission has produced reports on the status of human rights defenders in conflict with the law, held media briefings to defend human rights defenders, developed self-representation manual for human rights defenders, and generated a report on the situation of human rights defenders in various counties in Kenya. Key engagement strategies with human rights defenders include training them on advocacy, relevant legislation and legal frameworks both local and international; training law enforcement agencies and community media on the role of human rights defenders and community sensitization amongst others.⁶

5. KNCHR as a human rights defender working on Albinism

In its capacity as the State’s principal human rights organ, the KNCHR also serves to defend the rights of human rights defenders with albinism, and those working on albinism. It has a disability rights focal point where officers work to advance the rights of persons with disabilities, including albinism. The Commission recognizes that there exists lack of visibility and recognition of these defenders. The Commission, in its work, has roped in associations of persons with albinism. It has invited the associations’ officials, who are also prominent human rights defenders with albinism, in its functions as keynote speakers and its program work.

² <https://www.knchr.org/Articles/ArtMID/2432/ArticleID/1109/Press-Statement-in-Response-to-Hon-MP-Junet-Mohamed%e2%80%99s-Disability-Comments-Against-Senator-Dr-Isaac-Mwaura>.

³ Report of the Independent Expert on the enjoyment of human rights by persons with albinism available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/364/80/PDF/G1736480.pdf?OpenElement> accessed on 25/5/2022 para 15, 16.

⁴ <https://devinit.org/resources/status-disability-kenya-statistics-2019-census/>.

⁵ KNCHR (2017) Model Human Rights Defenders Policy and Action Plan available at https://www.knchr.org/Portals/0/CivilAndPoliticalReports/Human%20Rights%20Defenders%20Policy%20and%20Action%20Plan_B5_L_22-1-18.pdf?ver=2018-06-06-191138-293.

⁶ <https://www.knchr.org/Our-Work/Human-Rights-Defenders#:~:text=The%20rights%20that%20defenders%20seek,from%20non%2Ddiscrimination%20among%20others>.

Secondly, the Commission receives complaints and conducts investigations into alleged violation of the rights of persons with albinism, their parents or caregivers. It does this in relation to violation of both socio-economic and cultural rights and civil and political rights. All the complaints received, processed and redress provided are held in confidence in its complaints database. This serves to deter further violations and enhance accountability as alleged perpetrators are held to account. The Commission also continues to work closely with law enforcement agencies to ensure the protection of the lives and property of human rights defenders, including those working on albinism.

Thirdly, the Commission has set out to build the capacity of organizations of persons with albinism through trainings on human rights, relevant legislation and exploration of possible areas of collaboration. In 2022, the Commission conducted a study to map laws, policies and programmes on albinism and existing gaps and mapping organizations of persons with albinism in Kenya. The soon-to-be launched report makes recommendations to development partners, the Government of Kenya and other stakeholders to build the capacity of these organizations through targeted trainings and funding. The mapped organizations shall be used by the Commission to create a cooperation and coordination mechanism so that they can better advocate for their rights.

To roll back stigmatization and discrimination-an end result of lack of ignorance on the condition-the Commission has embarked on an awareness creation campaign. In 2021, to mark the International Albinism Awareness Day (IAAD) on June 13, the Commission hosted an essay competition targeting young learners in the country. The essayists competed to prove how persons with albinism have defied all odds stacked against them in the country, Africa and the world. This helps to change perceptions about the condition as persons with albinism have been trailblazers in their fields including fashion, sports, politics, academic, music and others.⁷ In the 2022 IAAD celebrations, the Commission, in conjunction with persons with albinism and their representative organizations, held a public meeting to take stock of the gains and note the gaps that exist in protecting their rights.⁸

The Commission also celebrates initiatives by persons with albinism themselves to increase visibility, recognition and capacity. For instance, the Albinism Society of Kenya (ASK) has been running beauty pageants held to celebrate persons with albinism as beautifully created. It has hosted Mr. and Miss Albinism Kenya, Mr. and Miss Albinism East Africa and Mr. and Miss Albinism Africa beauty pageants to raise awareness on this condition and inclusion for people who remain the target of sometimes deadly stigma.⁹ Also, Positive Exposure-Kenya, another albinism organization, has developed a mobile application known as *Albinism and I* that the general public can learn about the condition.¹⁰ These are good practices that should be celebrated.

The Commission has also been working with regional associations of persons with albinism, and particularly the Tanzania Human Rights Defenders Coalition (THRDC) and the Africa Albinism Network (AAN). This has helped in sharing of experiences and building each other's capacities to better advocate for the rights of persons with albinism in the region. This has included trainings on fund raising strategies, especially since programs may be short term. Furthermore, the Commission has been working to ensure that there exists sound legislation and other policy frameworks to defend persons with albinism. This includes submission of memoranda to amend/repeal the Persons with Disabilities Act, 2003 to bring it conformity with the Convention on the Rights of Persons with Disabilities, 2006 and the Constitution of Kenya, 2010 and submission of advisory for the adoption of important legal

⁷ KNCHR (2021) International Albinism Awareness Day Essay Writing Competition: Different in Color, equal in Rights. Available at <https://www.knchr.org/Articles/ArtMID/2432/ArticleID/1112/International-Albinism-Awareness-Day-Essay-Writing-Competition-Different-in-Color-equal-in-Rights>.

⁸ KNCHR (2022) Highlights of the International Albinism Awareness Day available at <https://www.youtube.com/watch?v=HTFOdF3kdXs>.

⁹ Tato, L.(2018) The first ever Mr. and Miss Albinism East Africa available at <https://www.aljazeera.com/gallery/2018/12/26/the-first-ever-mr-and-miss-albinism-east-africa>.

¹⁰ Waweu, M. (2019) Mobile App “Albinism and I” Unveiled to Create Awareness Available at <https://www.capitalfm.co.ke/news/2019/10/mobile-app-albinism-and-i-unveiled-to-create-awareness/>.

frameworks such as the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa.¹¹

Currently, the Commission is working with the National Council for Persons with Disabilities (NCPWD) and albinism associations to finalize the Kenya National Action Plan on Albinism 2023-2028. This Plan, modelled along the Regional Action Plan on Albinism in Africa 2017-2021 and the African Union Plan of Action to End Attacks and Other Human Rights Violations Targeting Persons with Albinism in Africa 2021-2031, seeks to put in place a framework that will further bolster the protection of the rights of persons with albinism in Kenya.

6. Conclusion and recommendations

The Commission recognizes the important role played by human rights defenders with albinism, and also human rights defenders working to promote and protect the rights of persons with albinism. The Commission is also aware of the numerous challenges the defenders face in the course of their work, including limited recognition and visibility, lack of resources and capacity, threats and intimidation, insecurity and stigmatization and discrimination. However, the Commission notes the positive steps that the Government of Kenya and albinism associations themselves are making to create an enabling environment for defenders of human rights of persons with albinism.

To this end, the Commission makes the following recommendations:

To the Parliament of Kenya:

- (a) Expedite amendment/peal of the Persons with Disabilities Act, 2003
- (b) Increase budgetary allocations to the sunscreen program implemented by the NCPWD

To law enforcement agencies: Promptly investigate and bring to book perpetrators of attacks against human rights defenders with albinism and those with albinism

To human rights defenders with albinism and those working on albinism in Kenya: Continuously work on building individual capacity, prioritize personal safety and security and embrace lawful conduct in implementation of activities.

To the International Community: Build the capacity of albinism associations and HRDs through funding and trainings.

¹¹ <https://www.knchr.org/Publications/Thematic-Reports/Group-Rights/Rights-of-Persons-with-Disability-PWD>.