



SITUATION OF HUMAN RIGHTS DEFENDERS IN THE WAKE OF COVID -19

How has the authorities' measures to tackle/control the spread of the coronavirus affected the situation for human rights in Kenya at large?

Following a declaration by the World Health Organization (WHO) on March 11 2020 on Corona virus as global pandemic, speed and nature of its spread, the government of Kenya has put in place a raft of measures to keep her citizens safe by curbing the spread of the virus. These measures include advising citizens to stay at home, corporates to minimize crowds at places of work, banning all public and social gatherings, implementing measures as advised by WHO and the a nationwide curfew between 7pm to 5 am to be observed by all citizens except for a select institutions and professions classified as essential service providers including Medical Professionals&Health Workers, National Security, Administration and Co-ordination Officers, Public Health and Sanitation officers in the County Governments, Licensed Pharmacies and Drug Stores, Licensed Broadcasters and Media Houses, Kenya Power & Lightening Company Limited, Food Dealers, Distributors, Wholesalers & Transporters of Farm Produce, Licensed Supermarkets, Mini-Markets and Hypermarkets, Licensed Distributors and Retailers of Petroleum and Oil Products and Lubricants, Licensed Telecommunication Operators and Service Providers, Licensed Banks, Financial Institutions and Payment Financial Services, Fire Brigade and other Emergency Response Services, Licensed security firms. The directive took effect on Friday 27th March 2020. Notably, state and non-state oversight actors were omitted from this list. This directive, consequently, omitted the recognition of fundamental oversight and watchdog institutions who play a critical role in monitoring the implementation of such directives.

The curfew directive has been the direct cause of numerous human rights violations. Majority of these violations, as you will see below, are cases perpetuated by police officers who are on a wave of using excessive force while enforcing the presidential directive. On the first day of the curfew (27th March) innocent and unarmed home-goers were brutalized, treated with indignity, whipped, battered, violently assembled-going against a directive on social distancing and teargassed even before curfew time clocked. Horrific images and videos circulated in the media



as Kenyans called on the government This incident happened in Mombasa where 16 people were injured as per data.

Can you give any specific example of human rights violations in related to the measures to curb the spread of the coronavirus? Who are the victims and who are the perpetrators?

- Muslims for Human Rights (MUHURI) a human rights organization based in Mombasa is on these matters and 3 casualties are willing to seek legal redress. One journalist from a leading media house in Kenya was assaulted while in the line of duty by police on the same day. Since the first day of the curfew enforcement, we have witnessed 6 deaths of innocent Kenyans. 4 deaths are as a result of police brutality and recklessness¹. Two are as a result of insecurity, where unlawful community policing actors stabbed 2 motorcycle operators who succumbed to the injuries in Western Kenya².
- Access to maternal healthcare for expectant women is a nightmare during the curfew period. Reports point at the possibility of unnecessary suffering of expectant women because of the fear of brutality they may be subjected to should they seek medical attention late in the night³. Women in rural and in-city informal settlements and already marginalized, have suffered a great deal.
- Reports indicate that one woman in the coastal city- Mombasa suffered a miscarriage due police brutality and trauma she was subjected to. Moreover, one of the four deaths above, was a young man who was brutalized and battered by police officers after ferrying an expectant woman to a health centre for delivery. By precedence, this has elicited reaction by expectant human rights defenders who have expressed fears that such occurrences are criminalizing access to maternal healthcare. It is even more precarious for them since the implementers of this directive are the people who have discriminated, stigmatized, conducted unlawful detention and reprisal WHRDs for decades. From this, the government is overlooking other fundamental human rights to achieve one human right that is dependent on the existence of all other human rights.

¹ <https://www.nation.co.ke/news/Boy13-allegedly-shot-by-police-dies-/1056-5509816-c80fb8z/index.html>

² <https://www.nation.co.ke/counties/kisumu/Police-arrest-10-boda-boda-riders-after-spate-of-attacks-/1954182-5513638-119j88m/index.html>

³ <https://www.nation.co.ke/counties/kwale/Kwale-man-dies-after-being-assaulted-by-police--curfew--/3444918-5512794-hlexcmz/index.html>



- Cases of persons with special needs and with disabilities rights being violated have been reported. An epileptic patient from the western part of Kenya lost his life due to police violence in his homestead. Another incident happened in Nakuru, where a deaf man was clobbered by police officers during the 7pm-5am curfew. Luckily, the man survived the beating and is recovering well. These are reports received by Defenders Coalition and have not been covered in the mainstream media.
- Sexual and gender based violence is on the rise as even depicted here by the head of the Judiciary in Kenya.⁴ To make it worse, victims are unable to proceed with the process of seeking justice because ‘the healthcare system is focusing on COVID-19’. Those who try seeking health reports are turned away. This is one development that Defenders Coalition is monitoring closely as women and children pay the ultimate price in times of war, difficult financial times and state of emergencies. The government has been reluctant in providing information and personal protection equipment for health workers. With 126 COVID-19 cases reported so far, we fear that a spike is imminent and our nurses are not well equipped. There could be a shortage in the world for PPEs but only if the only frontline caregivers are protected that we shall defeat the virus. To note, one nurse was kicked out of her house on Saturday 5th April with by her own sibling citing that the health worker was risking the health of people living in the house and the neighborhood.

What is the situation for the media in Kenya? Have you seen any further restrictions on freedom of expression that are corona-related?

Media has been a critical player and tool in providing information to the public. The media has been very vocal in covering human rights violations and pushing to hold the perpetrators to account. Throughout the COVID-19 period, three cases of assault and intimidation of journalists and bloggers have been reported. One journalist was assaulted by police while covering police brutality on the first day of the curfew⁵. Additionally, two bloggers have been arrested and charged on grounds of sharing ‘alarming’ posts on social media⁶.

These are examples of acts of intimidation, assault and threats by the state to silence those blogger and journalists from freely enjoying their freedom of expression and consequently relay

⁴ <https://citizentv.co.ke/news/sexual-offenses-on-the-rise-in-kenya-as-more-people-work-from-home-over-covid-19-328846/>

⁵ <https://nairobinews.nation.co.ke/editors-picks/ntv-cameraman-assaulted-at-5pm-by-cop-enforcing-7pm-curfew>

⁶ <https://www.standardmedia.co.ke/article/2001365603/blogger-cyprian-nyakundi-arrested-over-covid-19-post>



information for public good. An employee of the Kenya Airways faced numerous threats and intimidation for revealing that the government was still allowing planes to come into the country from the then corona virus hit nation-China⁷. The employee was suspended from work but was reinstated due to public outcry. With the above examples, already freedom of expression is limited, and further restrictions are expected.

- **Why do you think that the police violence is so extensive? What are the consequences of the violence?**

Police violence is so extensive because of a slow pace of implementation of police reforms and almost no-existent accountability mechanisms within the service. The National Police Service is clearly still a force because even with the decades-long reforms, statistics say otherwise⁸. Officers who commit such offences are protected by the state through transfers to remote areas as 'punishment' or elimination of witnesses/victims of such cases. Human rights defenders who denounce such excesses are always a target by police officers. Reprisals, threats, intimidation loss of livelihoods or death are some of the challenges they face each day. However, in recent times, cases of police officers being interdicted⁹ for committing human rights violations are being witnessed. We, however, wait to see the outcome through the justice system.

⁷ <https://www.standardmedia.co.ke/article/2001362206/kq-employee-suspended-for-recording-arrival-of-china-plane>

⁸ <http://theconversation.com/why-decades-of-kenya-police-reforms-have-not-yielded-change-127332>

⁹ <https://www.nation.co.ke/counties/nakuru/Officers-interdicted-for-assaulting-Kenyans-during-curfew-/1183314-5512270-l7h5sx/index.html>