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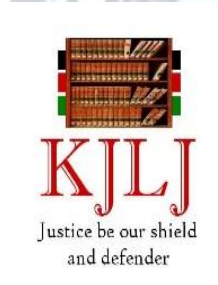
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EDITOR'S NOTE

Politics in nations all over involve confrontation; which is normal and okay within one's constitutional right to hold an opinion. This right however, has been misused. Political life especially in Kenya has been, and continues to be a notorious playhouse of the insensitive and the insincere group and one which is characterized by criminally induced actions. Accepting and respecting basic rights and civil liberties of people or groups whose outlooks differ from one's own is not typical in the political setting.

In the light of the recent incident in Kibera, Have politics in Kenya come to such a low that to hit the government, people must be incited to destroy their own? Why do we let ourselves accede to wishes of politicians who offer measly sums in the name of handouts? When are we going to break free from the leash around our necks and being let out like vicious dogs to attack people who are doing nothing but to help us?

Commonalities have time and again been used to propagate vendetta missions which see them loose the most, while their masters revel in their castles and luxurious vacations abroad. My heart breaks for those patients who looked forward to having clinics near their homes, those who were delighted to finally walk freely at night.

Let us develop our minds, and look beyond variations in political views; to handle conflicting issues in a pragmatic way. At the end of the day, the poor are the only ones who feel the blunt and pain of each blow in any political upsurge.

It was not long ago that the country was on fire with unthinkable loss of property and lives, yet we keep making the same mistakes. Talk of cutting off your nose to spite someone else's face! Will Kenyans ever learn?

Regards,

Stacy Jayo

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EU: ENAR CALLS ON EUROPEAN PARLIAMENT TO ADDRESS ANTI-SEMITISM AND ISLAM PHOBIA IN EUROPE



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European Network Against Racism (ENAR) Chair Sarah Isal made the following statement at a hearing organized by the European Parliament's Civil Liberties Committee on Anti-Semitism, Islam phobia and Hate Speech. The hearing took place at the European Parliament on 29th June.

Anti-Semitism is deeply rooted in Europe, as its resurgence after the Holocaust proved. It is with great concern that we have seen a general increase over the last years. The Community Security Trust (CST) in the UK reported an increase of 60% of violence committed against Jews in the EU between 2008 and 2014. According to the FRA survey, Jews in Europe are increasingly afraid of being verbally harassed (46%) or physically attacked (33%). In Belgium, the equality body reports that complaints received for anti-Semitic incidents have increased from 83 in 2013 to 130 in 2014 (+56%).

In France, a 2013 report from the French National Human Rights Institution reveals that anti-Semitism is not always understood properly, is often seen either as a phenomenon of the past or as isolated acts from either violent extremists or neo-Nazi groups, but is rarely seen as a structural phenomenon.

The extent of anti-Semitism in Hungary came to the forefront when, in November 2012 a Jobbik MP called in the Hungarian Parliament for a list of Jewish civil servants, after which there was no immediate outcry from other government officials. Similarly in Greece, extremely anti-Semitic rhetoric and literature have been associated with elected members of the Golden Dawn party. Understanding the complexity in which anti-Semitism manifests itself is key in combatting it. For instance, Hungary and Greece feature high levels of indigenous anti-Semitism and neo-Nazi activity, but lower levels of physical violence compared to countries such as France and Belgium in which anti-Semitism is much less socially acceptable, but violence is more common.

Bullying and prejudice at school are frequent for Jewish children. In Hungary, there are increasing reports of parents moving their child to Jewish schools following incidents in mainstream education. Jewish children also experience discrimination or segregation in education.

There has also been a worrying increase of Islam phobic incidents over the last years.

In France, the number of attacks against Muslims was multiplied by 6 following the Paris attacks compared to the same period in 2014, according to the Collective against Islam phobia in France (CCIF). In Sweden, attacks on mosques have increased. In Italy, official Islam phobic reactions including those by the Veneto educational authorities are frequent.

Muslim women are particularly targeted by violence. Because public debates focus on Muslim women and the wearing of the headscarf, veiled women are reduced to their religious signs in the view of many and are thus becoming privileged targets of Islam phobia.

ENAR shadow reports and FRA reports also highlighted that the heightened security context since the events of 11 September 2001 has contributed to experiences of direct and indirect discrimination by ethnic and religious minorities in Europe. In particular Muslim communities, and those perceived as belonging to Muslim communities, have been amongst the most vulnerable, at times victims of backlash from wider society after terrorist attacks and then victims of policy responses to these attacks.

Muslim people tend to experience the most severe labour market discrimination, as evidenced ENAR Shadow Reports. Muslims, and in particular Muslim women, also face discrimination due to restrictions to the right of wearing religious symbols in national laws and practices, for example in France, Belgium, the Netherlands and Spain.

Anti-Semitism and Islam phobia are the products of different histories and ideologies; and they cover diverse realities and types of manifestations which are specific to each.

However, anti-Semitism and Islam phobia are both specific forms of discrimination and racism in which attitudes; behavior, institutional patterns and policies reject, exclude, vilify, or deny equal treatment to people, based on their real or perceived Jewish or Muslim background. They have the same concrete implications on the physical, psychological or financial situation of individuals.

Despite the EU and national equality legislations, the specific direct and structural discrimination faced by Jews and Muslims imply that existing legal instruments and policy measures are not enough to ensure equality of outcome.

The response to anti-Semitism and Muslim hatred should therefore deal with these common and separate factors. ENAR calls the LIBE committee to include in its resolution (or resolutions) on anti-Semitism and Islam phobia that the European Commission should ask Member States to adopt specific national strategies with concrete policy goals, on the model of the National Roma Integration Strategies, to address anti-Semitism on the one hand, and Islam phobia on the other.

Policy goals should be specific to each national context and address each fields of life, in particular employment and education.

History has shown time again that there is a connection between hate speech and hate crime. Hate speech, creates a climate in which perpetrators of racist violence feel that the society condone their behavior so it is imperative that hate speech should be addressed. In some cases, and in the respect of international human rights law, they should even result in criminal proceedings.

We also hope that racist, anti-Semitic and Islam phobic violence feature in the European commission bilateral talks with member States on the enforcement of the EU's Framework Decision on combating racism and xenophobia.

There are many more issues that should be addressed, and we hope there will be in the context of the panel discussions. In particular in terms of larger context, we should keep in mind that to prevent discrimination and violence, more long-term social investment in education, housing, employment and health policies , as well as in intercultural dialogue and social cohesion programs, are crucial to stop the massive disenfranchisement of sizeable parts of the population, which nurtures violent extremism.

It is important to tackle these forms of racism and hatred - as well as anti-Gypsyism and Afro phobia - jointly, so as to show all forms of racism and hatred are of concern to all, and are equally important to address. Now is time for cooperation and alliance building to keep in mind the greater cause, beyond attempts from some to pit communities against one another. In the context of the creation of a new group in this house which gathers those who would like to promote racist, xenophobic, Islam phobic or anti-Semitic ideas, policies and practices, this is a matter of urgency.

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THE CONTRITE STATE OF OUR CRIMINAL JUSTICE SYSTEM

By Geoffrey Mbui

The Writer is an alumna of Kenyatta University. His interests include critical thinking and reason, research, human rights advocacy and philosophy. He draws his in philosophical inspiration from John Stuart mill, Karl Marx and John smith.



Criminal justice is the system of practices of institutions and governments directed at upholding social control, deterring and mitigating crime, and sanctioning those who violate laws with criminal penalties and rehabilitation efforts. The concept can also be understood as the application or study of laws regarding criminal behavior.

It is important to note that 'criminal justice' includes the word 'justice'; laws applied to those accused of crime should be fair. Justice, however, refers not only to the fair trial accorded to accused persons but also to the just retribution for victims of crime. Criminal justice is always a goal to be met or an end to be reached. The law should be the means to that end. Every person or organ of state involved in the arrest, prosecution, defense, or judgment of a suspect aims - or, at least, should aim - to be fair, both to the suspect and the victim of crime. However, this goal is not always met. This necessitates flexibility in the application of laws and the amendment of unfair laws. The judicial power of interpretation can also be employed constructively to achieve justice where it would otherwise not necessarily be guaranteed by the letter of the law.

Our criminal justice system is fallible. We know it, even though we don't like to admit it. It is fallible despite the best efforts of most within it to do justice. That's my description of the Kenyan criminal justice system. Going by police constable kirui trial, who was acquitted by the court despite the overwhelming evidence to support his murder charge, one wonders whether there is justice in our system.

Kirui case can only confirm one thing; that the criminal justice system needs serious reforms. It is naked justice that knows no shame or conscience. It is not even blind justice. It is rotten justice where the common man can be shot dead like an animal and the aggressor will never face justice. It is testimony why there have been so many police killings in our slums and rural areas without any one of them facing the law. To the eye witnesses that saw the horror of the shooting in cold blood; to the world that saw it played on international networks over and over again, that scene will remain engraved in their memories.

The case is one among many incidences where accused persons have been able to walk free from our courts. There's plenty of reason to despair the sorry state of our criminal justice system and the havoc it wreaks on the lives of too many innocent victims and their families. There are many factors which hinder proper administration of justice within the system. However I will deal with legal challenges and the challenges brought by the fragile investigative side of the state.

The Criminal Law Amendment Act No. 5 of 2003, brought sweeping changes in the criminal statutes. This Act changed the laws on admissibility of confession by inserting Section 25A of the Evidence Act wherein it is stipulated that a confession or admission of a fact tending to the proof of guilt made by the accused person is not admissible unless it is made in a court of law. On one side the confession or admission of fact tending to proof of guilt is not admissible unless made in court and on the other hand Section (29 Evidence Act) is kept intact which talks about circumstances under which a confession made to a police officer shall be proved. Similarly Sections 26 and 27 stipulate how the confession made by the Accused is admissible.

Apart from being contradictory in letters and spirit these provisions create nothing but confusion. Section 31 which dealt with discovery in consequences of information received from Accused is deleted. It gives a fatal blow to the already fragile investigating side of the state. Requirement that confessions may be made before magistrates does not seem to have been well thought. As various issues may arise; whether the provision is constitutional because it does seem, that the magistrates are placed in dual roles namely; judicial officers and Investigators.

Whether these dual roles are contemplated under the Constitution? It cannot be because the Judicial Officers cannot wear more than one hat. Is a magistrate to become a witness during the trial especially if the confession is retracted during the trial? This amendment was perhaps made in response to international principles of protection against torture. Police and investigating officers sometimes abuse the accused persons physically and verbally during detention and interrogations through the use of torture. How does the court balance its independence and the protection of the fundamental human rights when Magistrates become investigators? How does the court balance its role as the protector of public law and public interest?

To conclude, critical pillars of the criminal justice sector include the police and the Director of Public Prosecutions. The Police need to be enabled to maintain law and order. There is need to beef up investigation by acquiring forensic machines and equipment. It is this speedy incarceration of criminals that will return belief in the justice sector and rule of law. One way of making this a reality is by ensuring that the judiciary receives its requisite budgetary allocation and not the often miniscule percentage of what other organs of government get allocated in yearly government budgets. Transforming entrenched institutional cultures is also not devoid of unwillingness by those affected by reforms to change. Such attitudes should not be tolerated, as these will render the reform processes ineffective as experiences from past judicial reform initiatives have unfortunately shown.



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