

## MWATIKHO TORTURE SURVIVORS ORGANIZATION

Submission to the United Nations

Universal Periodic Review

### 1.0 EXECUTIVE SUMMARY

Mwatikho Torture Survivor organization is registered in Kenya as a Trust under CAP 163 of the laws of Kenya. The Mandate of Mwatikho Torture Survivors organization is to carry out psycho-social and medical support, advocacy, legal mitigation to the victims of torture, within the confines and boundaries of Kenya.

### 2.0 REPORT SUMMARY

This report is informed by the activities of Mwatikho Torture Survivors Organization and those of our partners and collaborators in Human Rights issues since the last UPR in 2010 to date. The focus of this report is the plight of Internally Displaced Persons (IDPs) from 2007-2008 whose plight has yet to be addressed by the Kenyan Government, the gang attacks in Bungoma, Busia, and Trans-Nzoia, border clashes in Kericho/ Nyakach, and to a lesser extent the human rights violations surrounding the refugees resident in Western Kenya. The report suggests recommendations to enable Kenya to comply with the ratified international conventions and UN statutes.

### 3.0 BACKGROUND AND FRAMEWORK

Mwatikho was established in 1992. It is an organization that works in parts of western parts of Kenya. It consists of those people (membership) who were internally displaced due to ethnic clashes in 1992-1993 in parts of western Kenya. In its transformation as a human rights lobby group, in 1995 it identified alleged tortured victims of February eighteen revolutionary army

(FERA) for acute medical attention. The Kenya government by then failed to get facts and evidence to prosecute the alleged members of FERA.

MATESO has been actively involved in project of acute treatment for survivors, who were identified as survivors with physical illness, attended specialized medical clinics. So far 4605 survivors were attended to under this program to date. We have also been involved in psychosocial support for torture survivors sponsored by the United Nations voluntary fund for victims of torture in 2000; Participated in the international torture campaign on yearly basis since 2000, coordinated by IRCT worldwide.

### 3.0 PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

A Cooperation with human rights and mechanisms

B Implementation of international Human Rights Obligations

3.1 Right to life Liberty and security of the person

Everyone as a member of the society has a right to social security and is entitled to realization through national effort and accordance with the organization and resources of each state of the economic, social and cultural rights for his dignity. Well-being should be adequate in all spheres.

3.2 Bungoma Kikwechi gang attack – between 11 April – 22 may 2013 organized gangs attacked innocent villagers in Kikwechi, Makutano, Ndengelwa, Tenstar, Mashambani and Marrell and left 13 deaths and about 100 residents maimed and disabled. To date two more victims have since died ([www.hrw.org](http://www.hrw.org), [www.mahteso.org](http://www.mahteso.org))

3.3 Busia Gang attacks; - On 30<sup>th</sup> April 2013 a gang attacked villages in Busia, killed two people and left 20 people injured and terrorized residents for hours. ([www.citizennews.org](http://www.citizennews.org))

3.4 Kericho/ Nyakach border clashes: - on 11<sup>th</sup> March 2013 ethnic attacks erupted between two of the largest communities along Kisumu – Kericho border. 5 people were found missing, 5 confirmed dead, 7 injured, 67 houses

burnt, 46 houses looted and 588 households displaced.

([www.kenya.redcross.org](http://www.kenya.redcross.org)).

Kenyan authorities failed to investigate adequately the spate of attacks on Western villages during and after the March 2013 elections ([www.hrw.org](http://www.hrw.org)) there is an urgent need for answers to the many outstanding questions about the attack in Western Kenya, including the police failure to properly investigate and respond to the violence.

#### 4.0 Right to education and to participate in the cultural life of the community

Education is a fundamental human right and it promotes individual freedom and empowerment. Due to these clashes, people lack entitlement of this right; they cannot afford to raise funds to take their children to school. Most of them stay in market places or camps where employment is a big problem. They rely on casual jobs such as working in people's farms, building construction work or other menial household chore. Due to the above factors they cannot contribute positively in the development of the communities that they currently live.

#### 5-0 Migrants, Refugees, and asylum – seekers

Kenya has been the scene of various attacks attributed to terrorism elements. These threats from extremists linked to Al shabaab, a militant group in Somalia has caused panic. Due to this factor the Government of Kenya has come up with a counter-terrorism attack mechanism to curb the situation which has adversely affected the refugees who had settled in Kenya.

Refugees are being treated like criminals and are being forced to be moved to the camps especially those who had acquired registration aliens under UNHCHR. A good example is in Eldoret where we have Somalia refugees who had heavily invested in various businesses that have employed many locals

but are now, through Presidential decree, required to be relocated to refugee camps miles away. This has disrupted refugees' lives as they are required to move regardless of whether they have advancement in integrating into the Kenyan society. The topmost student in the KCPE exams last year in Uasin Gishu County was a Sudanese refugee, for such a child, what will be his fate when he is in the camp? United Nations High Commissioner for Refugees (UNHCR) has called for voluntary, dignified and safe repatriation of Somali refugees living in Kenya.

#### 6.0 Recommendations:-

6.1 The government of Kenya should ensure a full, impartial, and comprehensive investigation into the attacks on villages in Busia, Bungoma, Kakamega, and Trans Nzoia counties. (The recent report [www.hrw.org](http://www.hrw.org), "were sent to kill you")

6.2 The government should enforce the implementation of the Prevention, protection and assistance to internally displaced persons and affected communities Act 56 of 2012.

6.3 Investigators should examine allegations of support for the gangs by politicians and business people in the region, and dismantle these gangs and prosecute gang Members, their leaders, and those recruiting the gang members and financing them. The Office of the Director of Public Prosecutions should prosecute those responsible. ([www.hrw.org](http://www.hrw.org) Report 2014)

#### To the Government of Kenya and Political Leaders

6.4 Political leaders should publicly commit to implementing the provisions of the Kenya National Dialogue and Reconciliation (KNDR) Accord of 2008 in which the Kenyan government undertook to dismantle all gangs in the

country, arrest and prosecute the financiers and those responsible for the crimes, and rehabilitate gang members where relevant.

6.5 The National Treasury and the Ministry of Interior and National Coordination should ensure that law enforcement agencies including police have adequate resources and capacity to respond to gangs and political violence

6.6 Political leaders in government should publicly commit to Police reforms and ensure that the process of reforms is expedited to improve efficiency, effectiveness, and internal accountability.

To the Kenyan Police Service and Office of the Prosecutor

6.7 to regularly remind police officers of the important role of the police in investigating gang violence and other related crimes and in investigating individuals credibly implicated. Those who collude with gangs should be held accountable.

6.8 The National Police Service Commission and the Independent Police Oversight Authority should investigate police failure to respond to the crimes described in this report, and take disciplinary measures against those responsible.

6.9 Police, with oversight from the Office of the Prosecutor, should conduct transparent comprehensive and impartial investigations into the gang attacks on villages in Bungoma, Busia, and other counties such as Trans Nzoia that may have experienced similar attacks.

6.10 The government of Kenya should develop more camps across the country to cater for refugees,

6.11 Decentralize the registration centers for the refugees so as not to travel all the way to Nairobi for that purpose. Many of these refugees are residing in the country without the alien papers- this has contributed to insecurity in the Country.

6.12 The Government should fast track granting citizenship to the already integrated refugees especially those born here.

End of Report