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An Overview of the Human Rights Movement in Kenya

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In this essay we summarize early findings of our work in progress on mapping the human rights movement in Kenya. We begin with a brief history of the human rights movement in Kenya, and then present our preliminary findings on the number and main objectives of human rights non-governmental organizations (HRNGOs) in Kenya today. Our essay is a report of findings in the early stage of our research on the movement in Kenya. The survey of the transnational human rights movement by Jackie Smith, Ron Pagnucco and George Lopez (1998), in which they constructed a census of the movement and then gathered data on the goals, organizational structures and activities of the transnational NGOs, serves as the model for our project. We are currently completing the construction of our census, and we provide an overview of the goals of the HRNGO industry in Kenya.

1. History of the Human Rights Movement in Kenya.

Kenya gained its independence in 1964. Soon after independence, by 1966, Kenya moved into varying degrees of autocratic rule, an opposition to that rule (see Adar and Munyae 2001; Nasong'o 2005). By the early-1980s, President Daniel arap Moi had established an increasingly repressive regime, which, in 1982, instituted a one-party state with an all-powerful executive and which used harsh tactics, including torture and murder, to silence opposition (see Adar and Munyae 2001; Mutua 2008; Nasong'o 2005; Price 2006; Schmitz, 2006). During this repressive period, before the relative liberalization that took place in 1991, we do find some agitation for change by Kenyan non-governmental organizations (NGOs) such as the Law Society of Kenya and the Green Belt Movement as well as some church organizations; some sections of the press; and some individual politicians, clerics, and members of the university community (see Adar and Munyae 2001; Mutua 2008; Maathai 2006; Nasong'o 2005; Price 2006; Schmitz 2006). We should note here that during this period of repression, two important human rights NGOs were established in Kenya – The Legal Advice Center (Kituo Cha Sheria), established in 1973, “arguably the oldest [human rights NGO] in Kenya and East Africa” (Nasang'o 2009, 15); and the Federation of Women Lawyers-Kenya (FIDA-Kenya), established in 1985, established after the third UN Conference on Women (held in Nairobi). The Law Society of Kenya (LSK), a professional association for lawyers, was established in Kenya in 1949, though it did not become active in human rights until the late 1980s (see Murungi 2009, 39).

The end of the one-party state and legalization of the opposition in 1991 open the doors for the development and expansion of the human rights movement. As Willy Mutunga and Alamin Mazrui wrote:

“When the Kenyan Constitution was changed, decreeing multi-partyism in December 1991, the democratic space that opened up gave rise to various forces in society. ... The year 1992 was the year that Kenyans enjoyed more freedom than they had experienced for decades....” (Mutunga and Alamin 2002, 132).

Prominent Kenyan human rights activist Makau Mutua (2008, 82) made the succinct observation that “it was not until the early 1990s that a human rights movement emerged in Kenya, and became part of the open political landscape.” Thus the human rights movement *qua* human rights movement is a relatively recent phenomenon in Kenya, with the growth and development of HRNGOs largely taking place in the last 20 years or so.

One of the most significant Kenyan human rights NGOs, the Kenya Human Rights Commission (KHRC) (see Murungi 2009; Nasang’o 2009), was founded by several Kenyans, including Mutua and Mutunga, in the United States in 1991. Offices for the KHRC were opened in Nairobi in 1992. Even under the new, relative openness of the Kenyan regime (which still engaged in some repressive practices; see Adar and Munyae 2001), it took two years (1994) before it was officially registered with the Kenyan government. While we do not have a count of the number of human rights NGOs established during this period, Mutunga and Mazrui (2002, 134) write that “[i]t is important to note that many other human rights NGOs have been registered as well since 1994.” As we shall see, by May 2010, 142 human rights NGOs were registered with the Kenyan government’s Non-Governmental Organizations Co-Ordination Board (NGOCB).

The 1948 Universal Declaration of Human Rights (UDHR) provided the framework for the Kenyan human rights movement from its emergence in the early 1990s (see Nasang’o 2009). We note that the Kenyan human rights movement also has other human rights agreements they can utilize that were ratified by the Kenyan government, if not always fully observed by it: the International Convention on Civil and Political Rights (ratified in 1976); International Covenant on Economic, Social and Cultural Rights (1976); Convention on the Elimination of All Forms of Discrimination against Women ((1984); Convention on the Rights of the Child (1990); Convention Against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (1997); and the International Convention on the Elimination of All Forms of Racial Discrimination (2001). Kenyan groups can also make use of the African Union’s Charter on Human and People’s Rights. There is no paucity of international and regional agreements and institutions that Kenyan groups can utilize, though making use of them to protect human rights has its limitations. Similarly, the contemporary movement can also utilize the new Kenyan Constitution, approved in a popular referendum in 2010, which guarantees a broad range of rights, including Civil and Political and Economic, Social and Cultural Rights. However, we want to highlight the fact that the human rights situation in Kenya today is not good; the Freedom House 2011 Country Report on Kenya rated it as “Partly Free,” with a Political Rights score of 4 out of 7 -- a score of 1 being the best possible human rights score -- and a Civil Liberties score of 3 out of 7 -- again with 1 being the best possible human rights score (Freedom House 2011 Country Report on Kenya).

II. The Contemporary Human Rights Movement in Kenya.

In order to begin our analysis of the contemporary human rights movement in Kenya, our team conducted a search of all the NGOs registered with and appearing on the Government of Kenya's NGOCB website (such registration is required of all NGOs by law), using the keywords of "right," "rights," "human right" and "human rights" for NGO names and Main Objectives. From this search, use of secondary sources, and personal experience, we identified 142 Human Rights NGOs (see www.csbsju.edu/peacestudies for the Government of Kenya website and the list of 142 NGOs). Five coders then coded the main objectives listed by each NGO in the registry, and consulted whatever NGO websites and blogs were available; for those NGOs that did not have these, emails were sent to NGOs that provided emails in the registry, requesting information about the NGO. The coders then compared their coding results, and decided what to do about any differences in coding. While we are satisfied with the results of our effort, we still hope to gather more information on some of the NGOs. We note that all of the NGOs in our list used the language and framing of rights; we did not decide which NGOs are HRNGOs simply by looking at what issues they are working on. The list is composed of self-identified HRNGOs.¹

Our research helps to map the movement and identifies the human rights issues that are the focus of NGOs in the movement. As was expected, some NGOs had a narrow focus, listing only one category of rights, such as women's rights, as their main objective or focus, while others listed more than one, such as the rights of women and children. Some NGOs only listed "promotion and protection of human rights" as their main objective, and we coded these NGOs as "General Human Rights," which would include Civil and Political Rights, a category of rights which does not appear on the list in Table 1. We plan to gather more information on these NGOs in particular, though we know that some of these NGOs, such as the KHRC, which we coded in this category, work on the full range of human rights. While in theory these NGOs might be coded for all of the rights in Table 1 below, for analytical reasons we coded them in the General Rights category until we have a clearer understanding of the rights they actually focus on.

Below are our findings for the percentage of the 142 NGOs that identified the specified right as one of their main objectives/issues of focus. As noted above, an NGO may be coded as being in more than one category, which explains why the total percentage is more than 100%. The rights listed below are drawn from the information provided by the NGOs. We did not create a list of rights prior to our analysis; rather, our approach was inductive and iterative (Strauss & Corbin 1990). Consequently, not all possible rights included in international and regional agreements are listed.

¹ In this respect, our estimate of the number of NGOs actively addressing human rights is probably conservative. As is the case in nearly any census, the population that we have generated using this strategy is not a perfect representation of the population. There may be other NGOs in Kenya whose focus is heavily influenced by a human rights framework, but that used other language to describe their work to the Kenyan government. Other NGOs may have chosen not to register with the Kenyan government. Overall, we believe that relying upon government registration provides a reasonably good estimate of the HR focused NGOs in Kenya.

Table 1: Percentage of NGOs Focusing on Specific Right

1. Children's Rights – 35% of the NGOs identified this as a main objective/issue.
2. Economic, Social and Cultural Rights – 27%
3. Health Rights -- 22%
4. Women's Rights – 20%.
5. Environmental Rights – 8%.
6. Youth Rights (ages 18-35) – 6%
7. Minority Rights – 5%
8. Land Rights – 4%
9. Labor Rights – 1%

The percentage for General Human Rights is 27%.

We can see from the coding above that the human rights movement in Kenya covers a full range of rights, with the protection of Children's Rights the most frequently listed main objective. Economic, Social and Cultural Rights, Health Rights and Women's Rights were also listed as main objectives by a significant number of NGOs. Given the conditions in Kenya, we were not surprised that Economic, Social and Cultural Rights and Health Rights were listed as main objectives by such a high percentage of NGOs, However, we did not expect the percentages to be distributed exactly as they were -- for example, the high percentage of NGOs listing Children's Rights as a main objective was higher than we expected. It is not entirely clear to us why we find the relative distribution of main objectives in Table 1; we hope this will become clearer with further research.

We conclude with a note about human rights NGOs registered since May 2010. In May 2011, we once again selected for human rights NGOs in the complete NGO registry, using the word selection method noted earlier. Our preliminary finding is that there are possibly 74 newly registered human rights NGOs in Kenya. We still need to more carefully examine this new group of NGOs and their main objectives, but if in fact there are 74 newly registered NGOs, that would be an amazing 52% increase in human rights NGOs.

Kenya faces many challenges today, as the Freedom House report indicates. Some of the human rights issues are longstanding, such as the status of women and the problem of impunity; others have developed since the tragic post-election violence in early 2008. Our findings suggest that there is a large, and, apparently, growing number of human rights NGOs in place to work on a variety of human rights issues in Kenya today. These organizations not only promote human rights on an on-going basis, but also constitute an existing, knowledge-base about the legal foundations of human rights in the event of episodes of increased political mobilization.

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