

New Tactics In Human Rights Workshop Report

BY
Evans Wafula

Promoting Ethical Policing:

- **Engaging government officials to End the Culture of Impunity;**
 - **Forensics: A Power tool for human rights.**

The Independent Medico - Legal Unit (IMLU)

Introduction

The New Tactics workshop held in Nairobi in December 2004, achieved 100 per cent attendance of 27 participants from: the criminal justice system, public service, police, civil society and prisons. The good representation was indicative of deep interest in Human Rights (HR) at both advocacy and policy - making levels in Kenya.

It was stated from the outset, that while the gains of the recent political developments provide an opportunity for unprecedented transformation of HR, it is the complexity and dynamic nature of HR itself that HR experts will grapple with for some time to come. This unfinished business ranges from conceptual, contextual to implementation challenges.

Participants were unanimous on the need for critical and radical transformation within the police and legal structure to enhance HR discourse. This must take form of substantive structural and institutional reforms away from and in spite of the much – Publicised recent political transformation *per se*.

It is against this background that the workshop's main objective - to enhance participants' tactical innovativeness – was found appropriate. This is so especially given the urgency for the improvement of the quality of HR approaches in contemporary Kenya. Selected on the criteria of their strategic and unique positions in terms of potential in inputting policy change on HR in their respective areas, the participants were expected to acquire new skills for immediate use in enhancing their performance in the short run. As individuals who had already shown considerably sustained interest in HR, they would, by domino effect, stir wider HR interest among colleagues in the long run providing possible openings/foundation for intervention.

Facilitated by the Independent Medico – Legal Unit (IMLU) advocacy officer Evans Wafula and Medical Director Dr Ahmed Kalebi, the goal of the training was to broaden participants' repertoire to adapt the newly acquired knowledge and skills to peculiar and varied circumstances prevailing in their work environment. This collective effort would lay a firm base for prototype for future HR initiatives.

The workshop which used the VIP methodology, was highly interactive and participatory. Its quality was enhanced by the re-organized format that allowed free discussion, question and answer interjections. One of the basic considerations was that awareness of HR by itself, did not necessarily translate into behaviour change in terms of approach, hence the need to introduce new tactics.

HR violation itself is not static but dynamic. Many tactics used in the past cry for reinvention to improve overall HR. And the new tactics were not just practical but also theoretical. HR experts must thus grasp the underlying issues in their full scope, depth and possible impact to contrive effective ways of overcoming the many apparent and indistinguishable difficulties that impend the advancement of HR.

The workshop sustained positive observation that every society has its own potential for advancement of HR. Yet in Kenya and Africa, HR remained a long - standing intractable problem. It is in this context it was noted though that intimidation and fear – instilling methods used by successive regimes in the past to suppress HR movements, intertwined with docile public response to HR violations, still left some fund of public will and enthusiasm to support HR. Public trust in HR movement along with many indissoluble bonds of understanding and good will with potential HR

allies are all assets, which now need to be tapped to meet the needs of HR movement.

Presentation

The use of new tactics is the way to jolt the HR movement into life again.

Use of Forensic

The use of forensic as demonstrated by IMLU stands out as indisputably effective means of documenting torture and holding perpetrators accountable. IMLU performs independent post mortems and exhumations on behalf of families of victims of torture.

Example: Zephania Obara

This 51-year old man is said to have been arrested on 24th May 2004 and taken to a police station. On 28th June 2004 he was admitted at the Migori District Hospital with a diagnosis of query head injuries, query pneumonia and query malaria. A blood slide for malaria done at the time was negative. Information given to us from eye-witness statements indicated that he had been injured by the arresting police. He died on 30th June 2004. The body was buried on 4th July 2004. IMLU successfully applied on behalf of Mrs Obara for exhumation and proper autopsy, in an attempt to get answers as regarding the cause of death the court order was granted on 26th August 2004 and the exhumation done on 23rd August 2004 and the autopsy done on 24th August 2004.

IMLU's post mortem revealed:

1. Marked decomposition with skeletalisation with part preservation of the scalp and the lungs
2. Bruising on the left side of the head and a corresponding haematoma of the underlying muscle.
3. Bleeding in the chest cavity and the coverings of the lung (pleural petechiae and haematomas on the thoracic cavity)
4. No natural disease to account for the death was identified.

Taking in to consideration the history and the post mortem findings death is attributed to head and chest injuries as a result of blunt force trauma.

As it can be seen from the above case, forensic helps overcome difficulties of circumstantial evidence sealing loopholes previously exploited by perpetrators thus dealing a fatal blow to the culture of impunity. This tactic, as the participants noted, provided fool - proof means of reaching out to so many victims of HR violations who remain without a voice. Others are discouraged from pursuing their rights for fear of losing to faulty investigative methods which was costly and could provoke reprisals from accused parties.

Forensic also offers a healing to relatives of victims of torture and the community as whole. As they emerge from trauma and the care, support and counselling accompanying post mortems and exhumations are key in the healing in the process and return to normal life.

Promoting ethical policing through Community based approach (Community Policing)

Impact of community policing was most recently demonstrated in the Liberian case where ex combatants were recruited and rehabilitated in the police considerably enhancing the capacity for law enforcement and legal practice.

The transfer of the police from a war situation to regular police had positive impact of instilling a sense of collective role in raising ethical, moral and social responsibility standards, a process in which all were proud to have stakes. The sense of ownership and democratic participation made them obliged and pride to make it work for their common good.

The Kenya police has largely been condemned from outside and all and sundry. The police have had no benefit of being supported to initiate reforms. It is now time to localise experiences such as the Liberian one to Kenya's peculiar situation.

Questions & Reactions

The participants pointed the intense interest in HR. They also noted the many dilemmas faced by many HR movements. For example HR is now two –way: both the victim and the perpetrator's rights must be upheld and new tactics call for appropriate options. It has been observed that living conditions of care - givers aggravated HR violations in the sense that the care - giver were subjected to oppressive conditions. How can this be addressed?

The way Forward

The workshop proposed:

- To hold a more broad based meeting to integrate new tactics discussion, debate and consultation
- Setting up of monitoring and evaluation systems
- Setting up of a centre to monitor HR in these fronts and ensure continuous integration of new tactics:

This centre will *inter alia* be charged with:

- Making the HR initiatives coherent and continuous from the current spontaneous, fragmented and lethargic situation
- Acquire new partnerships; alliances and collaboration
- Win recognition of new tactics in HR