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Ref: TR-11-15

Press Release

Re: State sued for forced HIV testing and Anal Examination to Prove Sexual Orientation

This matter is about the unconstitutional medical procedure and examination of COI & GMN -the 1st and 2nd Petitioners who are two Kenyan male adults who were subjected to forced blood testing for H.I.V., Hepatitis B and other blood works and to forced anal exam without their consent at the **Coast General Hospital** in Mombasa while in police custody and while undergoing police investigations under the directions of the 1st and 2nd Respondents (Chief Magistrate, Kwale Law Courts and the DCIO, Msambweni Police Station).

The forced blood testing and anal testing sought to establish whether the two male adults might have engaged in consensual adult carnal knowledge against the order of nature at the privacy of their residences in Ukunda in dates not before the court.

The petitioners aver that they were arrested on suspicion of being gay, that they were remanded by police at Msambweni for four days and later taken to court where anal examination orders were issued by the Chief Magistrate of Ukunda Law Courts. They were escorted by police to Coast general Hospital where they were forced to strip naked, lay down facing upwards, lift legs into the air and cough while doctors inserted metallic objects up their rectum. Blood was also drawn from them. The medical reports were inconclusive as to whether they had had consensual anal sex.

The manner in which the procedures took place was non-consensual, degrading and therefore unconstitutional and a violation of their constitutionally guaranteed rights as inscribed in the bill of rights.

Through petition 51 of 2015 filed in the Mombasa High Court the petitioners are asking the High Court to declare:

1. That the act of forced medical exam of the petitioners by way of anal examinations, HIV testing and Hepatitis B testing amounted to a violation of the human and constitutional rights of the petitioners as outlined in the petition.
2. That forced anal examination amounts to degrading treatment as it violates human dignity and the violation has a disparate impact on sexual minorities
3. That non-consensual medical examination of the nature herein or any form are a violation of the right to privacy and of the rights to the highest attainable standard of health as provided under article 43 of the constitution

The Chief Magistrate of Kwale Law Courts and the DCIO, Msambweni Police Station have been sued on their own behalf so that they can serve as an example to other state officers who are not upholding the constitution.

The matter will be heard on November 17, 2015 in Mombasa

Sincerely,

Eric Gitari
Executive Director

If you have questions on this matter, contact Eric Gitari through: ericgits@gmail.com or /+254720780784