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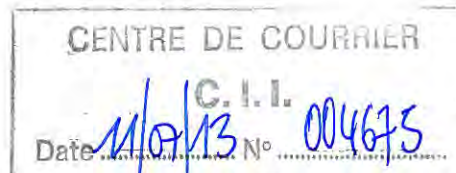
KED/U/13/VOL.1/33

5th July 2013

Réf. N°

Date

Mr. Janis Karklins
Assistant Director-General for
Communication and Information
UNESCO



Dear *Amb. Karklins*,

RE: STATUS OF JUDICIAL INQUIRY OF MR. FRANCIS NYARURI

Reference is made to your letter Ref No. CI/FEM/FOE/13/0302, dated 4 February 2013 on the above subject.

Herewith attached, please find a response from the Kenya Ministry of Information, Communications and Technology.

Please accept the assurances of my highest consideration.

Sincerely,

Mary M. KHIMULU, PhD.
AMBASSADOR/PERMANENT DELEGATE

REPUBLIC OF KENYA



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June 19, 2013

H.E. Mary M. Khimulu, PhD,
Ambassador/Permanent Delegate,
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STATUS OF JUDICIAL INQUIRY OF MR. FRANCIS NYARURI

Reference is made to your letter Ref. No. KED/U/13/VOL.1/31 dated 18th February, 2013 on the above subject.

I attached hereto a copy of the status of the inquiry into the death of Mr. Francis Nyaruri which you requested for your further necessary action.

Bruce M. Madete

AMB. BRUCE M. MADETE, MBS
FOR: PERMANENT SECRETARY

(A) STATUS OF JUDICIAL INQUIRY INTO THE DEATH OF MR. FRANCIS NYARURI

In reference to the above subject and following the request by UNESCO that the Director General be informed about the progress made by the Government of the Republic of Kenya on the subject, the findings of this report establish that a court case is currently on going to determine the circumstances leading to the death of the above named journalist who worked as a correspondent in Western Kenya and whose remains were found in Kodera Forest in Homa Bay County in 2009.

(B) JUDICIAL PROCEEDINGS

Following the finding of the remains of Mr. Francis Nyaruri the Government through the Provincial Criminal Investigations Department (CID) conducted investigations (File No. CR. 6A2/20/09) which resulted in the arrest of two suspects, who are currently held in custody in Kisumu for murder charges. So far more than six witnesses have testified and the case number HCCRC 24/09 of the Republic Versus the two suspects is in the final stages of hearing. The next date for hearing is set for 10th July, 2013.

As the case is a matter before the courts any further comment is limited to its findings of the court.

(C) BRIEF ON FINDINGS

Initial background research has been made with regard to this case through various sources within Nairobi. They include former officials of the Kenya Union of Journalists (KUJ). It was found that various organizations such as the Media Institute, the Kenya Correspondents Association, and the Global Committee on the Protection of Journalists had an interest in the case. The Local Media had also previously demanded for action on the case during the celebration of the World Press Freedom Day in May 2012. The events below follow a chronological order, but do not include all the contacts, especially those whose credibility could not be verified or whose story varied significantly.

(i) FIRST CONTACT

A media correspondent based in Kisii town alerted an officer from the Department of Public Communications (MOIC) on the sensitivity of the case. It was noted that even the local media have avoided covering it following threats on their lives. The contact said he had credible information as to the killers of the correspondent whom he alleged belonged to a terror group in the region named Sungusungu (who are said to practise the reverse of community policing) and who were actually drawn from his neighbourhood. The contact explained that Mr. Francis Nyaruri had been lured to Kisii town from his Nyamira home for “a big story”. Being an enthusiastic reporter covering stories on scandals, and at the invitation of a prominent politician, Mr. Nyaruri allegedly fell into the trap. On arriving in Kisii town, he was taken to Armstrong Hotel where he shared drinks with his caller. Later, he was asked to join two people in a taxi outside the hotel to ‘go for the story’. He was sandwiched between two men and driven to his fateful destiny in Koderia forest. It is said his neck was broken before he was beheaded.

The correspondent explained that before this event, the late Mr. Nyaruri had worked on stories exposing corruption in Nyamira Police Service especially the misuse of A.I.E and police vehicles. The last story which was printed posthumously was about the local police diverting resources meant for a Police Housing Project, in which low quality iron sheets were being used instead of those tendered for. The iron sheets were allegedly removed at night after the anticipated exposure. It is claimed that some local journalists betrayed Mr. Nyaruri on the last story he was working on. This is said to be the catalyst of the correspondent’s woes. It is alleged that the local politician in collaboration with the Nyamira Police boss, engaged the services of the Sungusungu to eliminate Mr. Nyaruri.

A local journalist based in Oyugis indicated that a boy who was herding cattle nearby witnessed four men alight from a vehicle. They allegedly headed into the forest but only three of them returned. It was the story the boy told his father about the occurrence that prompted him to counter check, only to encounter human remains. It was claimed that the journalist’s jaws were broken to ensure he did not scream before he

was led into the forest for decapitation. A pathologist is expected to testify during the final hearing. According to information that is available, the OCPD Nyamira was reluctant to assist the family to undertake the initial search for lost persons or in collecting the remains. Local journalists helped both in the collection of the remains and the subsequent burial.

(ii) SECOND CONTACT

On the realization that most contacts were reluctant to talk about the case on telephone before they established whom they were dealing with, the Department of Public Communications team sought for contact with the family lawyer, who apparently was operating from Mombasa following alleged threats on his life. He had allegedly previously been forced to flee to South Africa for refuge. The discussion on the case was mostly through sms and e-mail. Conversations on phone were limited and could not help to confirm the details. It is important to note that the advocate having had access to the family, was privy to a lot of details about the case. He alleged that he was forced to stop representing the family and instead become one of the witnesses. He is of one those expected to testify on 10th July. The advocate alleged that the police were not doing enough to nail the real culprits.

(iii) THIRD CONTACT

The Department of Public Communications team found the wife of the late journalist, Mrs. Josephine Kwamboka Nyaruri, operating a kiosk outside the Nyamira County General hospital. She narrated at length about the case and the final threat that she believes led to the loss of her husband's life. She said that before her husband died, he was following the story on the Nyamira Police Housing. The OCPD had allegedly threatened him while at Nyamira Posta using the words, "Stop or we face each other as men!" However, Mr. Nyaruri was relentless and filed a story on the use of sub-standard iron sheets as opposed to what was tendered for. The iron sheets were allegedly removed at night after the story broke.

Mrs. Josephine Nyaruri explained that her husband had been called by someone he was familiar with. He left Nyamira on Friday at 10.00 am. At 12.00 noon of the same day his phone had been switched off which was unusual for him. Having failed to turn-up at home on Friday, his wife tried to contact him through his cell phone on Saturday but it repeatedly went to voice mail. She contacted his fellow journalists who tried to contact him without success. By Sunday his mobile phone was still off. On Monday, the family was informed of his absence and they reported to the Nyamira Police, who allegedly disregarded the matter. On Tuesday, the family embarked on radio announcements and paid visits to accident scenes and mortuaries.

It was not until the second week on a Tuesday that a report reached the family that Mr. Nyaruri's colleagues in Kisii had received information from members of the Press in the neighbouring Uyugis township that a body had been found in Kodera Forest. The family was invited to identify the body, which the wife positively did from the clothes he was wearing.

After the funeral, CID officers from Kisumu launched investigations. Three people were subsequently arrested among them the taxi driver who was found with the deceased's phone. This led to the arrest of the other two who had since passed on. Mrs. Nyaruri's concern is that the person who may have engineered her husband's death roams free while her family suffers.

(iv) FOURTH CONTACT

Having seen the direction the case was taking, the Department of Public Communications team established contact with the Investigating Officer. This led to the trip to the Kisumu Provincial Criminal Investigation Office. The team was informed that the case had changed hands many times. The Investigating Officer said that he could only talk with authority of the boss, as is normal in Police protocol. The conversation the PCIO was brief as he indicated that he had only been recently deployed to the town and that he knew little about the case. The Department of Public Communication team supplied the PCIO with the outline of the case, the name of the Investigating Officer and why the information was required.

The team was then informed that the investigating officer was off duty and that a different one would be assigned to give them the facts that were required.

(v) THE FIFTH CONTACT

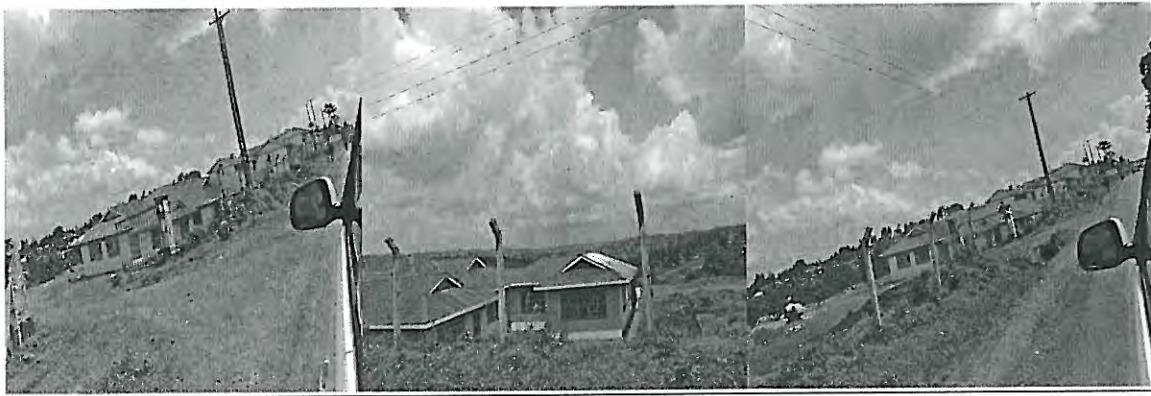
Having established that the case was indeed in court, the visit to Koderia Forest was essentially to verify the location where Mr. Nyaruri was allegedly killed. The forest is about 12 km from the Kisii-Oyugis main road and about half a kilometer from Oyugis town to its junction.

The forest guards at the station informed the DPC team that the forest covers 700 hectares and consists of indigenous and exotic trees. The guard-in-charge sought the services of one of the oldest guards in the station to help the team locate the site where the body was dumped. On reaching the said site, the team found the bush to be so dense that they had to stand on the opposite side of the road to take a picture. Since there are cypress trees and an electric post nearby, it was a challenge to locate the approximate site. Although the area chief seemed to differ sharply with the guard, it was the team's considered opinion that since the guard's was better acquainted with the forest he was better placed to pinpoint it.

It was alleged that the body was found no more than hundred meters from the murrum road clearly.

NB:-*(Names have been omitted as the case is currently in court).*

APENDIX



Part of the Nyamira police housing project alleged to have been connected to the journalist's murder.



The site where the remains of the late Nyaruri are said to have been found marked by the electricity pole or immediately as you turn as in first picture.



Forest guards' office about 200 metres from the site.



General view of the forest.



The density of the bushes from the roadside.