



RE: CSOs CONDEMN VIOLATION OF RIGHTS OF PEOPLE LIVING WITH HIV AT THE KDF TRAINING SCHOOL

Press Release

8th September 2022

We, the undersigned organizations, and associations, are representatives of health and human rights, civil society and non-governmental organizations, community-based organizations, and representatives of communities of people living with HIV.

Our attention is drawn to a recent newspaper article that was published in the *Daily Nation*, 1st September 2022, titled ['KDF tested me without consent, then threw me out for HIV positive status'](#). The article detailed how the Kenya Defence Forces (KDF), through its Recruits Training School in Eldoret, violated the rights of a 23-year-old recruit based on HIV status. The young recruit, having passed all physical and medical tests, had reported to the training school. Unknown to him, a further HIV test was undertaken without his consent. He would later be called out from a customary morning parade and dismissed from training without being provided with any specific reason or accorded an opportunity for due process. The recruit later learned that his dismissal was occasioned by his HIV positive status.

We strongly condemn these actions of the KDF training school that violated the rights of the young recruit. These actions further heighten stigma and discrimination against people living with HIV in Kenya. It is quite worrying that KDF dismissed the young recruit based on HIV status notwithstanding the fact that such action clearly violates the Constitution. Article 27 of the Constitution prohibits discrimination based on health status. In this case, it was apparent that through prior medical testing, the young recruit was physically fit for service.

The actions of KDF also clearly violate the HIV and AIDS Prevention and Control Act (HAPCA) 2007 that specifically prohibits compulsory HIV testing as a precondition to or for continued enjoyment of employment. KDF seems to have a policy of compulsory HIV testing, a policy that clearly violates section 13 of HAPCA. Further, the HIV test was conducted without the knowledge or consent of the recruit a clear violation of section 14 of HAPCA that prohibits HIV testing without informed consent. It is also apparent that the results of the test were first disclosed to training officers who proceeded to dismiss the recruit. This disclosure is also contrary to provisions in HAPCA.

We call upon the Chief of the Kenya Defence Forces to urgently investigate this incident and take disciplinary action against all officers of the Recruits Training School who directly violated the rights of the young recruit.

We further call upon the Chief of the Kenya Defence Forces to immediately cause the reinstatement of the young recruit back into training.

Lastly, we call upon the Chief of the Kenya Defence Forces to make public the Kenya Defence Forces HIV workplace policy. We call for an unequivocal commitment from the Kenya Defence Forces towards a non-discriminatory approach in recruitment and retention in service. This non-discriminatory approach must strictly adhere to Article 27(4) of the Constitution of Kenya.

Signed:

1. Kenya Legal and Ethical Issues Network on HIV and AIDS (KELIN)
2. Good Health Community Programmes
3. M4M PLHIV Network
4. NEXTGEN Lawyers
5. ICJ Kenya
6. Pamoja TB Group
7. National Empowerment Network of People Living with HIV (NEPHAK)