



Kenya National Commission on Human Rights

Press Statement: Nairobi, Wednesday 29th March 2023 **For Immediate Release:**

LEST WE FORGET: CALLING THE NATION TO ORDER!

Pursuant to the Kenya National Commission on Human Rights (KNCHR) mandate of promoting and protecting human rights in the country, we have monitored the demonstrations and condemn in the strongest terms possible the current cases of unwarranted violence and human rights violations that Kenyans are being subjected.

The fundamental rights, freedoms and democratic principles enshrined in our Constitution are now at stake! The Constitution a blueprint for law and order *obligates every person in Article 3(1) to respect, uphold and defend the Constitution*. The dark and painful past of our country, where political intolerance, negative ethnicity, incitement, lack of safety and security, hooliganism and the emergence of criminal gangs was rife, is once again rearing its ugly head. It is important to note that countries that have slipped into the path of disorder and lawlessness have ultimately degenerated into anarchy. ***The price of this is too costly. It is a path of no return! The Commission is raising a red alert. We are rapidly retrogressing to the dark painful eras of our past as a country. We must not allow this downward spiral in our beloved motherland.***

The Commission in monitoring the demonstrations across the country, notes the following human rights violations with concern;

i. **Right to Assembly, Demonstration, Picketing and Petition**

Article 37 of our Constitution secures the *right to assemble, to demonstrate, picket, and present petitions to public authorities*. This right comes with the **responsibility** of exercising it when **peaceful** and **unarmed**. Any departure from these minimum standards negates this right. Further, **Article 244(c)** of the Constitution obliges the police to “*comply with constitutional standards of human rights and fundamental freedoms*”. In addition, **Article 21** of the Constitution *binds the State and every State organ to observe, respect, protect, promote and fulfil the rights and fundamental freedoms in the Bill of Rights*.

We have in our monitoring noted several incidents of persons engaging in acts that disrupt the peace, and we have also noted people armed with stones, knives and other crude weapons.

We the KNCHR :

- Call on the National Police Service to uphold and respect the provisions of Article 37 of the Constitution.
- Call upon the organizers of the demonstrations to ensure that their demonstrations are peaceful, and that the people demonstrating are unarmed.

ii. Right to life:

Article 26 of the Constitution guarantees the right to life. The Commission has documented the shooting and killing of three (3) persons allegedly by the police in Kisumu County. KNCHR is further investigating other reported incidences of deaths. Every life is sacrosanct and no person should lose his or her life during such incidences

We the KNCHR

- Call upon the National Police Service to ensure security and protection of all persons during demonstrations, and to restrain from using live bullets. We wish to clarify that as at now we have no evidence that Police have used live bullets, neither do we have confirmed information as to persons responsible for the shootings.
- Call upon the National Police Service and IPOA to conduct thorough investigations into the killings and to bring the perpetrators to justice.

iii. Freedom and security of the person:

Article 29 of the Constitution provides that every person has the right to freedom of security of the person which includes the right not to be subjected to any form of violence from either public or private sources.

The Commission continues to document serious breaches of this right. Several persons, including demonstrators, police officers, journalists and innocent civilians have sustained various degrees of harm and injury, which include gunshot injuries. These have been documented in parts of; ***Mathare Valley, Kibra, Embakasi, Jakaranda, Kawangare, Migori and Kisumu.***

We the KNCHR

- Call upon citizens to respect this right and refrain from causing harm and injury to other citizens, media personnel and the members of the National Police Service
- Call upon the National Police Service to conduct investigations, arrest and ensure prosecution of perpetrators.
- Call upon the National Police Service to observe the provisions of the Public Order Management Guidelines.

iv. Freedom of the Media:

Article 34 guarantees press freedom. The media practitioners must equally enjoy their rights to life, security, dignity and privacy. No journalist should become the target of restraint and attacks in the course of their fundamental duties and accountability to the public as they report on the demonstrations. Our monitoring has recorded incidents of knife-wielding gangs in Kibra attacking journalists from local and international news outlets, and of a rowdy gang within Kibra Dos' area injuring several others. We also have reports of journalists that were forced by security officers to delete images captured during the demonstrations while others were arbitrarily arrested. It is evidently clear, that Journalists now find themselves in precarious situations where the security officers and demonstrators view them as adversaries in the course of their duties rather than purveyors of public information. The enjoyment of media freedom is clearly stipulated and anchored in the Constitution under **Article 34** on the freedom of the media.

We the KNCHR

- Call on the National Police Service to provide security and protection to journalists covering the demonstrations in line with the Constitution
- Call upon civilians to accord the journalists due respect and avoid attacking them in the line of duty

v. Freedom of Conscience, Religion, Belief and Opinion:

Article 32 enshrines the right of every person to manifest any religion or belief through worship, practice, teaching or observance of a day of worship. The Commission has reports of the burning of a Mosque and a Church in Kibera and warns that if this trend is not promptly checked; then the country is degenerating from political stand-views into an abyss of religious intolerance.

We the KNCHR

- Condemn in the strongest terms the burning of places of worship, and urge the Inter Religious Council of Kenya and other Faith Based Institutions to put in place mechanisms, programs and activities that will promote tolerance and reconciliation between the communities and faiths involved.
- Call on all Kenyans to respect and uphold each other's right to religion, belief and opinion.

vi. Protection of Right to property:

Article 40 protects the right of every person to acquire and own property. The Commission monitoring reports have captured incidences of invasion and destruction of property that is privately owned. The Commission warns that if

such conduct is permitted to continue unchecked, it may escalate and result in a very undesirable outcome.

We the KNCHR

- Call upon all Kenyans to respect the right to own and acquire property.
- Call upon the National Police Service protect and guard this particular right without fear, favor or bias.

vii. Economic and Social rights:

Article 43 guarantees every person's socio-economic rights. The Commission takes cognizance of the limitation of the enjoyment of social-economic rights during this period. Prevalence of the current situation will exacerbate our already fragile economy that has been greatly affected by amongst others; recent drought, famine and COVID-19 debacle. KNCHR is particularly concerned by the negative effects borne out of the current political impasse that is limiting the ***right to education, access to health care, freedom of movement, right to livelihood*** and ***transportation of goods, services and people*** among others. The inability to realize these rights will have long-term effects on the realization of other rights.

viii. Freedom of Expression:

Article 33 guarantees the freedom of expression. This right is however limited in instances where the communication amounts to incitement to violence, hate speech, advocacy of hatred that constitutes ethnic incitement, vilification of others or incitement to cause harm.

The Commission notes the continuous abuse of the freedom of expression mostly on online platforms with cases of; incitement, hate speech, propaganda, misinformation and disinformation. Equally, a lot of unverifiable and tweaked information has been noted during this period, most of which is peddled on social media platforms, blogs and other channels. Such information has caused anxiety amongst the members of the public and creates animosity, intolerance and polarization in the citizenry.

We the KNCHR

- Call on the NCIC to investigate the cases and bring the violators to account.
- Call on NCIC to put in place urgent measures to stem the escalation of intolerance across communities, ethnic groupings and political leanings, and to put in place integration and cohesion strategies and programs to address the issue.

In conclusion, the Commission notes that the common *Mwananchi continues to* bear the brunt. They suffer physically and financially. When one is unable to go to mjengo, he loses income. When Mama Mboga is unable to get to Markiti and to make any sales, it amounts to loss of income. For persons who earn less than a dollar a day, loss of one day's wages or earnings is life threatening. We notice the demonstrations and police presence is heavy in the informal settlements, thus disrupting the lives of the residents of those habitats including women, children, the elderly, persons with disabilities and law abiding citizens.

We are on the *brink of the precipice* and unless the current unsavory situation is addressed urgently, we run the risk of *flying too close to the sun*. We cannot afford to keep on this trajectory. All political actors and duty-bearers must stand up to be counted and accountable.

The Commission calls on anyone with information and human rights concerns to share it through-: **SMS-22359**, Email- [**complaint@knchr.org**](mailto:complaint@knchr.org); and Toll-Free Line **0800720 627**.



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