

PRESS STATEMENT

August 1, 2022

ATTN: ALL MEDIA HOUSES

RE: CALL FOR EXPEDITED TRIAL IN THE KILLING OF THE KIANJOKOMA BROTHERS AT THE 1ST ANNIVERSARY OF THEIR DEATH.

It is exactly one year since **Emmanuel Mutura Ndigwa** and **Benson Njiru Ndigwa** lost their lives in the hands of police officers in Kianjakoma village, Embu County. The family continue to wait with bated breath for justice to be served.

Mutura, 19, had just graduated from the Don Bosco Boys Training Institute with a Certificate in Electrical and Solar Engineering, while Njiru, 22, was a first-year Bachelor of Laws student at Kabarak University. The two brothers were arrested on Sunday, August 1, 2021, by police officers attached to Manyatta Police Station.

Police arrested them, allegedly for defying the 10 pm to 4 am curfew at Kianjokoma shopping center. Their bodies were found a day later at Kibungu shopping center, 10 kilometers from where they were arrested. They were laid to rest on Friday, August 13, 2021.

This case of Emmanuel and Benson is one of the starkest examples of police use of excessive and arbitrary force in the enforcement of the *COVID-19 infection prevention and control measures* which we highlighted in our report: *Twin Crises: Police Brutality During COVID-19 Pandemic in Kenya* in 2021.

We documented 68 COVID-19 related cases of extrajudicial executions and torture from 15 counties as at 30 October 2020. These included 25 cases of extra-judicial executions and 43 cases of torture or ill-treatment. In 2021 we documented 210 cases of torture, inhuman and degrading treatment, extra-judicial executions and enforced disappearances by the police. Out of the 210 cases, 35 cases were related to enforcement of COVID-19 measures, 87 deaths resulting from excessive and arbitrary use of force by the police.

We laud the concerted efforts by residents of Kianjokoma who protested this heinous killing and callous police conduct, as well as other civil society organisations and investigative agencies who not only denounced this blatant disregard for the rule of

law, but also aided in the investigations to establish the facts behind these unfortunate deaths.

The matter has since gone to court based on the following key steps have been taken;

- In a report issued by IPOA on 16 August, the Authority issued recommendations that 6 officers be relieved off their duties and be charged with a capital offence of 2 counts of murder.
- On 17th of August, 2022 ODPP approved the recommendations for prosecution and the IG directed that the OCPD and OCS of Manyatta be suspended over the incident.
- After several applications by the defence to defer plea taking, on 31st August, 2022, the court ordered plea taking and the six accused persons entered a plea of “not guilty”.
- 23rd of September, 2021 The Independent Medico-Legal Unit filed an affidavit in response to the bail application made by the officers for bail. The bail application was heard and on further dates of 30th October and 20th October 2021, the hearing continued.
- Despite the spirited efforts of the prosecution, the probation team, IMLU and others watching brief on behalf of the family, the 6 accused persons were awarded bail terms of a bond of KES.3, 000,000 or an alternative of KES.300, 000 on 4th November 2021. The bail terms included a declaration of location outside Kianjokoma until the end of the trial
- The hearing commenced on the 9th and 10th of February 2022, and continued on the 16th of May 2022. On the 16th of May 2022 the crime scene expert testified and closed his case.
- The following court dates are set as the 21st and 23rd of September 2022 when various witnesses including experts’ witnesses are lined up to testify in the case.
- The Manyatta OCS and their deputy remain suspended until further directions are issued.

These killings violate the right of life under Article 26 (3) of the Constitution that provides, no person shall be deprived of life intentionally, except to the extent authorized by the constitution or other written law. In addition, it violates Article 25 that provides for the rights and fundamental freedoms that are not limited, and they include freedom from torture and cruel, inhuman, or degrading treatment or punishment, freedom from slavery or servitude, the right to a fair trial, the right to an order of habeas corpus.

We DEMAND:

- An expedited trial in the case of Benson and Emmanuel;
- A commitment of non-repetition of violations of human rights in the Kianjokoma community;
- Accelerated investigations on the alleged extra judicial executions of the two persons shot dead during the Kianjokoma community protests;
- That all witnesses in this case and other cases of torture and related violations be placed under witness protection;
- Establish a judicial inquiry to review cases of Torture, extra-judicial executions and enforced disappearances and the systemic factors contributing to the worsening situation of arbitrary use of force and firearms by police officers, especially as we head to the general elections;
- In the same vein, all victims of torture and related violations should be guaranteed of the five key components of reparation these being; assurance of non- repetition, restitution and reparation, compensation, satisfaction and rehabilitation.
- Freedom from Torture and related violations, Right to life, Security of the person as per articles, 25 (a), 26 and 29 of the Constitution of Kenya, 2010 shall ALWAYS be upheld.

Signed:

**Peter Kiama
Executive Director
Independent Medico-Legal Unit**