



Upholding the right to protest in Kenya

Monday 27 March, Nairobi - The right to assemble, protest, picket and petition is enshrined under Article 37 of our Constitution. Other rights including the freedom of expression, media, public participation, and the right to security of the person underpin it. The right to protest played a powerful and transformative part in the democratisation and constitutionalism process that has enshrined equality, equity, non-discrimination, constitutionalism, and human dignity.

Very regrettably, the failure to create a conducive environment for the March 20 Azimio la Umoja rally created the conditions for the violence, death and destruction of property. This and the several acts of misinformation and disinformation by several actors, including the Directorate of Criminal Investigations (DCI) have added to the confusion.

We are very concerned by yesterday's statement by Police Inspector General Japhet Koome that seeks to threaten protesters, criminalise and illegally ban all protests. We remind the IG he publicly swore an oath to uphold the Constitution and is obligated to respect, protect and fulfil all human rights, including the right to protest.

The IG must ensure that all police officers deployed in tomorrow's operation publicly display their badges and be in uniform. All Police Officers are individually and collectively guided by the recent High Court judgement outlawing the use of lethal force unless when acting in self defence, preventing an imminent threat to life or serious injury to others, not merely in the protection of property. Under our law, both civilians and police officers breaking the law will be held individually responsible.

The police should liaise with assembly organisers to maintain law and order as well as independent agencies like IPOA, KNCHR and human rights organisations, to independently monitor the protests. Azimio la Umoja should also use protest marshals to ensure that all protests and processions follow laid-out plans. We remind the Police Service and IPOA that they, not assembly organisers, bear the primary responsibility for identifying violent protesters and violent police officers respectively.

We reiterate, only those who destroy, loot or steal property and assault others should fear arrests and prosecution. The right to public protest, demonstration, picketing and assembly is permissible under our law. We end by urging restraint on the part of the police, protesters and the public.

This statement is signed by members of the Police Reforms Working Group, an alliance of several organisations committed to professional and rule of law policing. They include the Social Justice Centres Working Group, International Justice Mission, Independent Medical Legal Unit, Katiba Institute, Kenya Human Rights Commission, Defenders Coalition, Haki Africa, Amnesty International Kenya, International Centre for Transitional Justice, The Kenyan Section of International Commission of Jurists (ICJ Kenya), Usalama Reforms Forum, Federation of International Women Lawyers (FIDA-K) Legal Resources Foundation, Transparency International Kenya, Shield For Justice, Wangu Kanja Foundation, Peace Brigades International and Katiba Institute

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