



21ST March 2014

PRESS STATEMENT

TO ALL MEDIA HOUSES

PRESS STATEMENT ON TRANSFERS OF MEMBERS OF THE NATIONAL POLICE SERVICE

- The Independent Medico-Legal Unit (IMLU) wishes to note with concern the security risks Kenyans are being exposed to as a result of misunderstanding between the office of the Inspector General of Police (IGP) and the National Police Service Commission (NPSC).
- For the umpteenth time Kenyans have been treated to an unwarranted wrangling between these two institutions. When we thought the differences between the IGP and the NPSC were amicably resolved, we are sadly reminded of the supremacy battles between these institutions that should ideally be working together to foster police reforms in the country. Unless this trend is urgently addressed Kenya risks descending into lawlessness with the potential of bequeathing the nation a rogue National Police Service(NPS)
- On Thursday morning this week the IGP announced a major reshuffle in the NPS involving transfers of 55 senior police officers. In the afternoon, the same day the NPSC reportedly denied knowledge of such a reshuffle. This is not the first time these ugly scenarios are playing out in public with no one particularly held to account. We wish to strongly reiterate our position that national security cannot be a game of musical chairs and drama that we are currently witnessing. With spiraling insecurity and threats of terror hanging over this country these theatrics between two critical institutions must be brought to an amicable end.

- But who exactly should be transferring police officers? We wish to restate our position that the Constitution of Kenya unequivocally grants the NPSC undiluted powers to transfer members of the NPS. Article 246 (3) is explicit that the NPSC shall “recruit and appoint persons to hold or act in offices in the service, confirm appointments, and determine promotions and transfers within the National Police Service”. This is an unambiguous assertion that no transfers can be lawful without the involvement of the NPSC.
- In a ruling on 19th December 2013 in which police constable Morris Sagala and 29 other police officers sought legal interpretation regarding their transfers by the IGP Justice George Odunga ruled, ‘A reading of Article 245 of the Constitution, it is clear that the drafters of the Constitution deliberately left out transfer as one of the powers which the Inspector General exercises without directions from any one. Therefore the powers of transfer of members of the Service were reserved to the Commission. It is noteworthy that whereas the Inspector General was vested with the powers of appointment of any members of the police service, the powers to appoint a person to hold offices in the Service were reserved for the Commission’. Justice Odunga concluded that the ‘transfer of the applicants whether termed as deployment or otherwise was not supported by the Supreme law of the land.’ It is our assertion that this landmark ruling should guide all transfers within the NPS.
- It is also our considered opinion that consultation and concurrence between the National Police Service Commission on transfers is critical to avoid jeopardizing the ongoing national vetting exercise at county level. Transferring officers who are supposed to be vetted at specific counties without the necessary consultation and concurrence will create a logistical nightmare, and potentially compromise the vetting exercise.
- Finally we urge the IGP and the NPSC to ensure that these constitutional offices serve the broader interests of the Kenyan society, especially at this time when the security and safety of majority of Kenyans is at great risk.

Signed



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