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KENYA MARCHING SLOWLY INTO A POLICE STATE

NAIROBI, Kenya, July 21st 2023 - The last few months Kenyans have witnessed waves of protests by various groups, including civil society organizations, general public, public service vehicle operators, taxi drivers, a section of civil servants and political opposition, as an expression of anger over the soaring cost of living, controversial tax hikes contained in the Finance Act, and mandatory retesting for all PSV drivers. Most of these groups spilled into the streets to exercise the freedom of assembly and right to protest with hopes that the state agencies responsible would listen to the plights. Unfortunately, these groups have been met with brutal force by the security agencies resulting in serious injuries, extra-judicial execution, and forced disappearances.

From July 7 to 19, Civil Society Organizations (CSOs) have reported 27 extrajudicial, summary, and arbitrary executions (EJE) – Fatal police shootings. While President Ruto had promised to end the era of police killer squads, the recent unfoldings reveal that the security agencies have clear intentions to execute protestors. In fact, it has been reported that some of these officers masquerade as journalists in order to arrest and execute protestors. The five deaths in Mlolongo are clear examples of state-ordered executions. Out of these, 3 had gunshots to the head, 1 had gun-shot wound on the chest (close range), and a lady had gun-shot wound on the back. This shows that there was clear intention by the security agents to shoot-to-kill. All the five shootings took place miles away from the ExpressWay where the main protests were ongoing.

The use of non-uniformed officers who in most cases are seen to use vehicles with either distorted or no number plates, bundle protestors into car trunks and speed off to unknown locations is also on the rise. These actions contravene the Criminal Procedures Code and Police Standing Orders. Moreover, these are tactics that Kenya's killer cops who abduct and forcefully disappear or extra judicially kill Kenyans have employed over the years, where human rights defenders have fallen victim on several occasions. We are also disturbed by cases of police officers masquerading as journalists on duty, with the intention of arresting protestors. This, from our view, is an ethical issue that compromises the gains made by the media fraternity as well as trust with sources of news for proper documentation and objective reporting; put the journalists at risk of harm while on duty.

We are witnessing a disturbing pattern of police operation that exposes the country to civil strife and informal repression. Police are now working together with what appears to be private militia to attack and butcher people in Dandora and Kibera in Nairobi, Mlolongo in Machakos and some areas in Kisumu and Migori. These strikes are taking place in the cover of darkness with hope of shielding perpetrators from accountability.

We condemn the increased targeting and attacks against human rights defenders by security agencies during the protests. The attacks are a worry considering the precarious working environment for Human

Rights Defenders who are already working in an environment that is constricted. We are concerned that at least 43 human rights defenders (HRDs) have been arbitrarily arrested, abducted, unlawfully detained and slapped with criminal and trumped-up charges. We can confirm that 34 HRDs were arrested on July 7 in Nairobi and Turkana Counties respectively, 1 HRD was assaulted, arrested, and detained without access to medical attention on 12 July, 2 in Kajiado County on 12 July, 2 HRDs were attacked at their office on 19 July 2023 while one, Boniface Ogotu has been abducted on 20 July. His whereabouts are still unknown. Additionally, we are also shocked by reports of alleged torching of Nyando Justice Centre by police officers. The center that has been in operation for close to 10 years is an immediate neighbor to Ahero Police Station.

It is with deep concern and regret that we witnessed even children in schools being tear-gassed by police. 50 innocent children in Kihumbuini Primary School in Kangemi, Nairobi County were tear-gassed while in the safety of their school. Another group of children in a kindergarten school in Nakuru County were tear-gassed by the same police officers that are mandated to protect them. This came shortly after a similar incident that occurred in Ndururu Primary School in Kawangware, Nairobi County where police tear-gassed the school in a bid to disperse protesters right outside the school thereby leading to the hospitalization of 35 pupils in May. It is very unfortunate that even innocent children are not exempted from the wrath of rogue police officers who have no regard for the constitution.

With this regime, journalists have also been caught on crossfire. It seems there is a motive to silence them through subtle tactics. First, it started when the Director of Criminal Investigation (DCI) published images of protesters, taken by journalists, and said the demonstrators were wanted. This exposed journalists to risks of being attacked by protesters. Again, on Wednesday, a police officer masquerading as a journalist arrested a protester in Mathare. We all know what is likely to happen when reporters show up with their cameras in closed areas like Mathare: they are now marked men and women.

Despite these facts and evidence of police brutality, the President on Thursday thanked police for “standing firm and ensuring that there is peace” while the interior minister, Prof. Kithure Kindiki, said police acted with “utmost professionalism” and public “hooliganism” had been contained. We condemn these statements

In Nakuru West, a member of parliament, Samuel Arama, brandished his gun on Wednesday when peaceful demonstrators questioned him over the passage of the Finance Bill. At some point he was heard in a viral video threatening to pull the trigger if protesters did not disperse. This action is against section 88 of the Penal Code of Kenya. Leaders must exercise their positions responsibly, and promote unity, understanding, and constructive dialogue rather than fueling unrest. It is vital for the nation's stability and prosperity that leaders act as beacons of hope and reason.

We also acknowledge that not all the protesters are peaceful, though. Some are vandalizing private and public property and robbing by-standers. This act of hooliganism is unacceptable and should not be tolerated. The right to protest comes with responsibility. It does not permit protesters to cause havoc and destroy properties. Also, we know that not all cops are rogue, as such, we commend those who continue to do their work per the law. However, this does not mean Kenyans are enjoying over taxation. President William Ruto was elected last August pledging to champion the interests of the poor, but prices of basic commodities have risen under his administration. Several groups including civil society presented petitions to Parliament opposing the new taxes, but our recommendations were not considered. Already the court has issued conservatory orders stopping the implementation of the law.

Call to action

In response to these troubling events, we call for the following actions:

1. The Independent Policing Oversight Authority (IPOA) and the Internal Affairs Unit (IAU) should investigate cases of arbitrary arrests, mistreatment and all atrocities committed by the NPS.
2. The DCI and ODPP should take stern action against public officers (specifically, Nakuru West MP Samuel Arama) who misuse their firearms.
3. The President and the Legislature must repeal or amend the Finance Act to address the concerns raised by the public.
4. National dialogue process that involves all stakeholders including the CSOs, religious leaders amongst others.

Signed

1.	Amnesty International Kenya
2.	Article 19 Eastern Africa
3.	Kenyan Section of the International commission of Jurists - (ICJ) Kenya
4.	Constitution and Reform Education Consortium - CRECO
5.	Defenders Coalition
6.	FIDA Kenya
7.	Haki Afrika 20
8.	Independent Medico-Legal Unit - IMLU
9.	Inform Action
10.	Initiative for Inclusive Empowerment - IIE
11.	International Centre for Transitional Justice
13.	Inuka Kenya Ni Sisi!
14.	Kariobangi Paralegal Network
15.	Katiba Institute
16.	Kenya Human Rights Commission - KHRC
17.	Kenya's for Peace, Truth and justice

18.	Muslims for Human Rights - MUHURI
19.	Peace Brigades International
20.	Poverty Eradication Network – PEN
21.	Shield for Justice
22.	Social Justice Centres Working Group
23.	Social Welfare Develop Program
24.	SOWED Kenya
25.	The Kenyan Section of International
26.	Transparency International Kenya
27.	Usalama Reforms Network
28.	Wangu Kanja Foundation
29.	Women Empowerment Link (WEL)
30.	The Institute for Social Accountability (TISA)
31.	