



Press Statement

12th August 2017

Status Update on Developing Post Election Human Rights Violations

I. Introduction:

The Kenya National Commission on Human Rights (KNCHR) is deeply concerned by the turn of events immediately after the announcement of the presidential results yesterday by the Chairperson of the IEBC where violence erupted in some areas. We however, note that this was not widespread as many Kenyans continue to maintain peace and calm as they have since the electioneering process began.

We would like to appreciate the people of Kenya for the way they have exercised their patriotism through the vote, count and as they waited patiently for the final announcement. As we have noted before, the KNCHR has been and continues to monitor the 2017 elections including the post-election scenarios. The Kenyan citizens have continued to exhibit civility during the voting process and did indeed come out in large numbers and exercised their democratic right to political participation. It is also important to note that the IEBC worked tirelessly around the clock to ensure that this process was fast, seamless and accurate despite the growing pressure around them. One of the issues that has arisen during this process is in respect to the tallying and transmission of the results especially after the contestation of the presidential results outcome.

The People's Response:

The Kenya National Commission on Human Rights is however concerned that while a majority of the people have begun going back to their usual routines, a few pockets of unrest have emerged. KNCHR wants to remind Kenyans that while the right of citizens to express themselves through picketing and demonstrations under Articles 37 and 38 is Constitutional, the same must be done within the rule of law. That means as members of the public you MUST respect and uphold other people's dignity, life and property. Destruction or theft to property is illegal. We have learnt that this has taken place in parts of Gatwekera in Kibra and Kawangware 56. We should not allow any sort of hooliganism in the name of picketing.

The Security Response:

Equally, the security personnel are also mandated within the law under Article 244 to protect the right to life, property and human rights of all. They are allowed to contain any unruly protestors with dignity, within the rule of law and with reasonable force.

The KNCHR has noted that there are ongoing security operations since last night in various parts of the country. This has affected places like Nyalenda, Manyatta, Nyamasaria, Mambo Leo, Kondele in Kisumu,

Migori, Bondo, Migosi and the Nairobi informal settlements which include Mathare (4A and No. 10), Dandora, Kibera, Lucky summer, Huruma.

We are however concerned by a number of human rights violations that have been brought to our attention through our various human rights monitors around the country. KNCHR has so far documented the following cases of gross human rights violations;

1. Right to Life

KNCHR has established that 24 people have lost their lives between 8th and today and this can be directly linked to the post-election environment. Specifically, these cases indicate that the casualties were felled by bullets and the same has been corroborated by family and community members who have indicated that they were killed during the protests which broke out in various parts of the country. KNCHR has established that loss of lives attributed to cases of police using live bullets in these places;

1. Nairobi City	17
2. Homabay	2
3. Kisumu	1
4. Migori	2
5. Siaya	2
Total	24

KNCHR appeals to the Inspector General and the Ag. Cabinet Secretary in charge of Internal Security to reign in the security personnel to forthwith and ask the officer in charge of operations to direct their officers stop the use of live ammunition against citizens. KNCHR also urges IPOA and the ODPP fully investigate the cases and ensure that officers involved are held to account.

2. Use of excessive force and misuse of firearms

KNCHR has confirmed that contrary to the sentiments made earlier today by the Ag. Cabinet Secretary in charge of Internal Security, the security personnel deployed to quell unrest in various parts of the country have been using excessive force, which is unlawful and unacceptable. While the Media has exercised self-censorship, it is worth noting that there are many cases of brutality being meted by the police on civilians and as a national agency charged with the mandate of protecting human rights, we want to condemn this.

Through our monitors' and reliable partners from different parts of the country, KNCHR can confirm that there has been use of excessive force and misuse of firearms by the police in dealing with the members of the public who are exercising their right to peaceful assembly as enshrined in Article 37 of the Constitution.

KNCHR has information about two people who have suffered gunshot wounds and have been treated at Russia hospital (Jaramogi Oginga Odinga Teaching and Referral Hospital) in Kisumu and five people are being treated for wounds inflicted by blunt objects at the same hospital. This has further spread to peoples' homes, including Nyamasaria, Nyalenda and Mowlem in Kisumu, where there are allegations of police forcefully entering into people's homes and beating them up as well as threatening them with rape and demanding money in exchange for their freedom. The forceful entry has further been reported in Nairobi regions of Kibera and Mathare where the GSU have been reported as the main culprits.

Police harassment has also been reported in other regions of Nyanza, including Migori where those that have been injured are currently being treated at Oruba Nursing Home Hospital and Tabaka Mission Hospital.

KNCHR also regrets and strongly condemns attacks on its monitors who have been engaged in monitoring the unfolding human rights situation.

3. Right to Property

KNCHR notes with concern the destruction of private property by both civilians and allegedly by security personnel in the course of their duty. These include an attack on Equity Bank at Kibera and looting of small scale businesses in the same region and in Dandora.

KNCHR notes that it is illegal to destroy property whether public and private. At the same time, KNCHR reminds the security personnel that they have a primary duty to protect property and any action contrary to this is unprofessional and illegal.

Conclusion

KNCHR appeals for calm and reminds Kenyans that the rule of law and human rights have not been suspended during this period. Specifically, vulnerable groups including the elderly, women, children and persons with disability must be protected. This is because the environment makes them more vulnerable to violence, including sexual and gender based violence.

As a Commission, during our preliminary report of the election observation process, we stated that the first part of the election process was generally well-managed by the IEBC. We held, and still continue to hold that in line with the election law, all Form 34As and Form 34Bs must be uploaded by the IEBC on their public portal. The availability of all these Forms will enable us to conclude our report as to the overall credibility of the just concluded presidential poll. Up to now, the IEBC has not uploaded any Form34Bs and neither have they uploaded all the Form 34As on their public portal. We urge the IEBC to move with speed and upload these Forms in line with the relevant election laws.

KNCHR will continue to monitor the situation and asks members of the public to report any human rights violations through our toll free number, 0800 720 627.

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Ms Kagwiria Mbogori
Chairperson
Kenya National Commission on Human Rights