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OPEN LETTER TO THE PRESIDENT OF THE REPUBLIC OF KENYA

**On intimidation, harassment and curtailment
of Civil Society operations in Kenya**

Nairobi, 20th August 2017
H.E. Uhuru Kenyatta
President of the Republic of Kenya
Office of the President
Harambee House
Nairobi

Dear Mr. President,

The Kenyan Section of the International Commission of Jurists, (ICJ Kenya) is deeply concerned by your government's increasing efforts to stifle Kenyan civil society as exemplified most recently by threats to deregister two leading human rights organisations, the Kenya Human Rights Commission and the Africa Centre for Open Governance.

We wish to remind you of the vital role that civil society plays in progressive democratic and open societies to act as watchdogs in promoting good governance, social cohesion, respect for the rule of law, and accountability. Historically, Kenyan civil society has played a critical role in complementing the government's development efforts as well as being a critical counterbalance to government excesses during various phases of the country's half century of independence.

It is largely due to the efforts of civil society that our country today boasts of one of the best constitutions in the world. This Constitution contains a robust bill of rights that guarantees the freedoms of expression, information, assembly, and association. Kenya is also a signatory to all the major international and regional human rights and governance treaties and conventions. All this points to the fact that Kenya aspires to be a respected member of the family of nations. The recent attacks on civil society are inimical to these aspirations.

We are therefore outraged at the continued harassment that your government has exhibited with hostility towards civil society organizations and Human Rights Defenders (HRDs). We share in the mounting concern at the systematic campaign that has sought to delegitimize the sector as well as compromise the security of civil society actors.

We specifically single out the NGO Coordination Board through its Executive Director who has continuously and illegally sought to frustrate Kenyan civil society organizations perceived to be strong government critics. In 2015, he attempted to de-register 957 NGO's among them the Kenya Human Rights Commission (KHRC), Muslims for Human Rights (MUHURI) and Haki Africa. Most recently, he has issued directives to de-register the KHRC and purported to shut down African Center for Open Governance (AfriCOG) and ordered the arrest its directors for allegedly operating in Kenya unlawfully. Both organizations are duly registered and fully compliant with their legal obligations.

This harassment by your government is seen as an attempt to superimpose full state control over the activities of organized groups of citizens that operate to promote accountable governance and the rule of law, fight corruption and protect human rights. It is a direct violation of their fundamental rights and freedoms guaranteed by the Constitution and upheld multiple times by our courts.

ICJ Kenya considers a vibrant civil society to be an essential part of healthy democracy that is tolerant of divergent views and perspectives. We therefore strongly urge your government to:

- Respect and uphold the Constitution and the Laws of Kenya and to immediately cease all forms of harassment, threats, intimidation and attacks against the civil society and human rights defenders in Kenya.
- Uphold Kenya's international treaties, regional norms and standards that protect and recognize the role of civil society organizations;
- Ensure effective and full implementation of the Public Benefits Organization Act that will provide an enabling environment for civil society organizations to carry out their watchdog role without fear of reprisals.
- Implement the provisions of the Declaration on Human Rights Defenders adopted by the UN General Assembly on 9th December 1999, in particular, Article 12 that provides; "*The State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration*"

Kenyan civil society will continue to be a critical counterbalance to the political establishment and a vanguard for justice and good governance without which there can be no sustainable peace or lasting development. Allowing civil society to be silenced through restrictive legislative frameworks, threats, harassment and intimidation by the state would fundamentally undermine efforts to build Kenya as a strong, stable and united country that guarantees peace and sustainable development for all its citizens, and would erode Kenya's capacity to continue to play a leading role in promoting peace and stability in East and Central Africa.

Yours faithfully,

**Njonjo Mue
CHAIRMAN**

ICJ KENYA