

THE PRESIDENT OF THE REPUBLIC OF KENYA: HIS EXCELLENCY UHURU KENYATTA.

RE: ENACTMENT OF THE NATIONAL CORONERS SERVICE BILL, 2015 AND THE PREVENTION OF TORTURE BILL, 2014.

Your Excellency,

We (The Police Reform Working Group) are deeply concerned by the delayed enactment of the Protection against Torture Bill 2014 and the National Coroners Service Bill 2015

The Police reform working group in Kenya (PRWG-K), is Civil Society and Citizen Coalition convened by Independent Medico-Legal Unit (IMLU) in November 2011 to catalyse and support police and security sector reforms in Kenya. The PRWG-K brings together like-minded organizations which strive to reform police service in the country.

It is with great concern that we note the delayed enactment of **THE NATIONAL CORONERS SERVICE BILL, 2015 AND THE PREVENTION OF TORTURE BILL, 2014** despite Kenya having ratified the United Nations Convention against Torture and the African Charter on Human and People Rights amongst other relevant international and regional instruments. These international instruments expressly prohibit **ALL** forms of exploitation and degradation particularly; torture, cruel, inhuman and degrading punishment and treatment hence the impetus for enacting of clear legal frameworks that will facilitate access to justice for victims of torture and ill treatment in Kenya.

We further refer to the Constitution of Kenya which expressly provides for the freedom from torture and cruel, inhuman or degrading treatment or punishment being unlimited and guaranteed by the Constitution. We specifically refer to Articles 25 (a) which provides for fundamental rights and freedom that may not be limited which includes freedom from torture, inhuman or degrading treatment or punishment. Article 28 provides that every person has a right to inherent dignity and the right to have his or her dignity respected and protected. Article 29 provides for the right to freedom and security of the person which includes the right not to be subjected to physical or psychological torture.

Mr President, While acknowledging some of the positive steps taken by the state such the creation of the Independent Policing Oversight Authority (IPOA); the enactment of the National Police Service Act; the National Intelligence Service Act, the Kenya Defence Forces Act, and The Victims Protection Act, all that expressly prohibit torture, Kenyans continue to suffer torture in the hands of law enforcement agencies. As you are well aware, the current legislative framework presumes that torture is only committed by members of the National Police Service, the Kenya Defence Force, the Chiefs and the National Intelligence Service yet torture is also perpetrated by Prison Officers, County Law enforcement officers and Kenya Wildlife Service Officers.

Your Excellency, in the last one year, IMLU has documented 71 cases of torture reported from various areas and committed by different law enforcement agencies. Kenya Wildlife Service officers were responsible for 16 cases, County Council Officers 6 cases, prison wardens 1 case and member of County Assembly 1 case. The lack of a comprehensive framework has inhibited the responsible officers from being held accountable for their actions. 132 cases of extra judicial killings by security agencies were documented in the same period. The absence of a Coroner's office to conduct independent investigations into the cause of suspicious deaths will continue to hinder access to justice for the families of the victims. The National Coroners Service Bill, would go a long way in unveiling the causes of suspicious deaths that occur in police custody.

The absence of transparency and accountability has occasioned a lack of a comprehensive framework that will not only facilitate an effective death investigation process but also provide redress to victims of torture and ill treatment.

It is against this back drop that, we would like to recommend that the Government of Kenya:

1. Enact The Prevention Against Torture Bill 2014 with all relevant provisions to ensure that the definition of Torture conforms with Article 1 of the Convention against Torture as a minimum to not only facilitate justice.
2. Enact the National Coroners Service Bill 2015 to enable credible and independent medical investigations for all mysterious deaths in Kenya
3. Address arbitrary arrests and police corruption through adequate investigations and penalties as well as develop Human Rights education/ training of law enforcement officers.
4. Ensure prompt, impartial and effective investigation of all allegations of excessive use of force and torture by the police , military , Kenya Wildlife and the inspectorate department at county government level.
5. Avail adequate resources for public education and awareness raising campaigns to provide reparation and rehabilitation for victims of Torture

Signed by members of the Police Reform Working Group Kenya - PRWG_K

1. Independent Medico-Legal Unit (IMLU),
2. Kenya Human Rights Commission (KHRC),
3. Kenya National Commission on Human Rights (KNCHR),
4. Federation of Women Lawyers in Kenya (FIDA-K),
5. International Centre for Transitional Justice (ICTJ-K),
6. International Commission of Jurists -Kenya (ICJ-K),
7. Legal Resources Foundation (LRF),
8. Rights Promotion and Protection Centre (RPP),
9. Coalition on Violence against Women (COVAW),
10. Centre for Minority Rights (CEMIRIDE),
11. National Coalition of Human Rights Defenders (NCHRD),
12. Kenyans for Peace, Truth and Justice (KPTJ),
13. Transparency International (TI),
14. Amnesty International - Kenya,
15. Usalama Reforms,
16. Shield for Justice