

COMMUNIQUE ON HUMAN RIGHTS & GOVERNMENT RESPONSE MEASURES TO COVID-19 PANDEMIC

HELD ON TUESDAY 2, JUNE 2020

1. The Kenyan Section of International Commission of Jurists (ICJ Kenya) has been convening a series of webinars to discuss the impact of COVID-19 on human rights, the administration of justice and the rule of law.
2. ICJ Kenya held its 9th webinar on 2 June 2020 to discuss human rights and government response measures to COVID-19.
3. Over 100 people participated in the webinar while others followed the deliberations through social media and online streaming services including YouTube, Twitter, Facebook and WhatsApp. The participants were drawn from civil society, the private sector and the government.
4. The topic of the webinar was informed by the need to interrogate the government's policy interventions in response to COVID-19 against constitutional and human rights obligations.
5. The panelists and participants discussed the following;
 - a. The various human rights violations occurring during the COVID-19 pandemic;
 - b. The measures taken by the Office of the Director of Public Prosecutions under the umbrella of the National Council on the Administration of Justice (NCAJ) to adhere to the rule of law; and
 - c. The challenges and opportunities for civil society organisations during the COVID-19 pandemic.
10. Based on extensive and highly interactive deliberations guided by thematic experts, the following resolutions were adopted;-
 - A. To the office of the Director of Public Prosecutions;
 - i. Prosecute cases of human rights violations by law enforcement officers which have been on the rise;
 - ii. Prioritize the prosecution of serious offences such as sexual offences and Gender-Based Violence (GBV);
 - iii. Allocate funds for training of staff in the area of counselling so that they can attend to victims of GBV;

- iv. Continue with the review of cases of petty offenders and consider diversion and plea bargaining in order to decongest prisons;
- v. Consider accepting private investigation and prosecution by human rights organizations in cases where the Independent Policing Oversight Authority (IPOA) does not have capacity to facilitate the prosecution or where investigation has not been done properly; and
- vi. Issue very minimal fines in cases where accused persons plead guilty and use community service orders for those who cannot afford.

B. To the Independent Policing Oversight Authority (IPOA);

- i. Increase capacity to conduct independent investigations on human rights violations; and
- ii. Propose the amendment of the IPOA Act to include in its mandate, the conduct of ballistic investigations and forensics without relying on the Director of Criminal Investigations (DCI) and the police.

C. To the National Police Service;

- i. Cooperate with the ODPP in its oversight role of ensuring police related work ends up in court; and
- ii. Desists from arresting citizens and taking them to quarantine centers. This exposes citizens to the risk of contracting COVID-19 and violates the 24-hour rule stipulated in the constitution.

D. To the National Council on the Administration of Justice (NCAJ);

- i. Monitor the implementation of its directive to the courts on adjudication of all serious crimes and offences normally; and
- ii. Publicize reports submitted by the ODPP and IG on their responses to COVID-19 for scrutiny by members of the public.

E. To the Ministry of Interior and Coordination of National Government;

- i. Align the initiatives of the Ministry to the Constitution and the rule of law so that the government implements all measures appropriately without punishing people for errors arising from economic and social disadvantages and criminalizing poverty.

F. To the Ministry of Public Service, Youth and Gender;

- i. Provide financial assistance to survivors of GBV, and those reportedly at risk of domestic violence, who may otherwise hesitate to report threats or incidents of violence for fear of economic deprivation; and
- ii. Expand social protection measures and targeted economic support, such as cash transfers and subsidies, to include women who have lost their livelihood and women who manage households.



G. To Civil Society Organisations;

- i. Increase demand for accountability for human rights violations and effectiveness of government response measures to COVID-19;
- ii. Leverage on access to communities and grass root networks in advancing public health messages and secure basic services for the poor and marginalized such as food aid and cash transfers;
- iii. Condemn acts of police brutality and human rights violations by government agencies;
- iv. Encourage members of the public to reach out to the ODPP and IPOA to report cases of violation of rights by government agencies;
- v. Increase demand for accountability for human rights violations and effectiveness of government response measures to COVID-19.

Signed



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Chairman
Icj Kenya