

Open Letter And Eleven Point Demand To The President and Prime Minister

Delivered through a meeting with the Prime minister on March 9, 2009

We, the undersigned Kenyan citizens and civil society organisations, have sought this meeting following the assassinations of Kingara Kamau and George Paul Oulu of the Oscar Foundation, and a University of Nairobi student last week.

We note that these assassinations come in the context of non-implementation of Agenda Items One and Two of the mediation process last year:

- ending the post-election violence and disarming and demobilising all armed groups and militias

- restoring fundamental rights and freedoms to Kenyans

On Agenda Item One, ending the violence and disarmament and demobilisation of all armed groups and militias, we reiterate the position of the human rights movement:

- that the heavy-handed security approach is insufficient for the task
- that this approach has allowed security services to stigmatise young, un/deremployed males in low-income rural and urban areas leading to the disappearances and extrajudicial executions.
- that this approach has also allowed security services to extort money from the public by threatening disappearances and extrajudicial executions;

On Agenda Item Two, the restoration of fundamental rights and freedoms, we reiterate the position of the human rights movement, that the Constitutionally guaranteed rights of assembly, association and expression have been suspended since last year. This has allowed security services to harass, assault (including sexually assault) and illegally detain many human rights defenders seeking to legitimately and peacefully protest government actions and inactions.

We further note that we raised these concerns at a meeting with the minister of Justice, National Cohesion and Constitutional Affairs last year. She promised she would seek audience for us with the minister of Internal Security. This promise that has not been honoured.

We finally note that last week's assassinations have occasioned, as we believe they were intended to do, an atmosphere of fear and threat among human rights defenders. As we speak, several human rights defenders who have documented, with evidence, these disappearances and extrajudicial executions, have received verbal threats, have had to move to safe houses within the country and have even had to leave the country.

This atmosphere of fear and threat has been fostered by the repeated public statements by heads of security services, their spokespersons and the supposed government spokesperson, linking human rights organisations to armed groups and militias. No evidence has been tendered to the public to support these allegations, nor have formal legal charges been filed.

We therefore demand:

In the immediate and short term:

- (1) That the government, through the President and Prime Minister, publicly reiterate its commitment to full implementation of Agenda Items One and Two – and the rights of all Kenyans to life, safety and security of the person; freedoms of assembly, association and expression; as well as the right to be

presumed innocent until proven guilty in a court of law;

(2) That the President and the Prime Minister demonstrate concretely this commitment by offering financial support to the families of those assassinated, for funeral expenses and livelihood losses;

(3) That the President and the Prime Minister, demonstrate concretely this that commitment by enabling the protest demonstration planned by University of Nairobi students for tomorrow, March 10, to proceed peacefully, with full support of the security services, and with no negative consequences such as the closing of the University of Nairobi.

(4) That the government, through the President and the Prime Minister, publicly reiterate its commitment to human rights defenders by halting state-generated dis/misinformation, and by guaranteeing their protection from the increased levels of risk and threat resulting from last week's assassinations.

(5) That the President and the Prime Minister proceeding with the independent investigation into the assassinations, for which the United States of America has already offered the services of its Federal Bureau of Investigations.

(6) That the President and the Prime Minister immediately dismiss from office, the Police Commissioner, the Police Spokesperson, the head of the Criminal Investigations Unit, the Provincial Police Officer for Nairobi, and the acting Officer in Charge of Police Division at Central Police station, who all bear direct political accountability (if not legal accountability) for the harassment, assault (including sexual assault) and illegal detentions of human rights defenders.

(7) That the President and the Prime Minister release to the public any information they hold on the supposed links between human rights organisations, such as the Oscar Foundation, with mungiki, by bringing charges to bear in a court of law against such human rights organisations;

In the medium to long term:

(8) That the government, through the President and Prime Minister, release to the public proposed laws and policies to address security sector reform – such as those announced recently by the minister of Internal Security – to allow for public debate and discussion.

(9) That the President and the Prime Minister push forward not only the laws and policies required for security sector reform, but also the core, critical and fundamental demand of the reports of both the Commission of Inquiry into the Post Elections Violence (CIPEV), and the United Nations Special Rapporteur on Extrajudicial Executions UN SR). This demand is for:

a) impartial, independent internal and external accountability mechanisms for all security services and

b) the utilisation of those mechanisms to impose individual legal accountability on security service members involved in all disappearances and extrajudicial executions

(10) That the President and the Prime Minister ensure the delivery to the public of a benchmarked and timebound plan of action on implementing the security sector reform proposals of the reports of the CIPEV and the UN SR.

(11) We recognise that Kenya's security agreements with bi/multilateral bodies (notably the governments of the United Kingdom and the USA, as well as the European Commission) on matters ranging from anti-terrorism, to training, to piracy and regional peacekeeping, contribute to the apparent sense of impunity and lawlessness of our security services. We demand that the President and the Prime minister arrange tripartite discussions between the government, such

bi/multilaterals and civil society, to ensure that legitimate security interests are not pursued at the expense of fundamental rights and freedoms of Kenyans.

Signed:

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Centre for Multiparty Democracy (CMD)
Centre for Rights Education and Awareness (CREAW)
COBADES
Constitutional Reform and Education Consortium (CRECO)
Fahamu
Gay and Lesbian Coalition of Kenya (GALCK)
Independent Medico-Legal Unit (IMLU)
International Centre for Policy and Conflict (ICPC)
Kenya Human Rights Commission (KHRC)
Legal Resource Foundation (LRF)
Mazingira Institute
Muslim Consultative Council
National Council of Non-Governmental Organisations of Kenya
Pambazuka News
Partnership for Change
Release Political Prisoners (RPP)
Social Reform Centre (SOREC)
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With the support of:

Kenya National Commission on Human Rights (KNCHR)