



International Center for Policy and Conflict

Thursday May 7, 2009
Press Statement on
Justice Minister Appointment, Police and Judiciary Reforms

The **International Center for Policy and Conflict (ICPC)** together with the civil society **Working Group on Transitional Justice (TJWG)** reiterates that the newly appointed Minister for Justice and Constitutional Affairs is not a reformist; and that the appointment was inappropriate as it contradicts the Public Officers Ethics Act. A person whose integrity has been questioned previously in Parliamentary Committee and Audit General Reports is deemed unfit to hold public office and/or manage public affairs. Justice and Constitutional Affairs Ministry is sensitive and critical in producing mechanisms that will ensure accountability, democracy and respect for human rights become reality through cleaning governance by weeding out human rights abusers, corrupt and incompetent state functionaries.

While nobody is devoid of redemption, we do not think that the past record of the Minister allows holding of public office. It taints and violates integrity of the office; compromises public trust and creates conflict of interest which would severely infringe on the fundamental rights of Kenyan citizenry as well as hindering enactment of progressive policies that promote sustainable accountable governance and upholding the rule of law.

ICPC and TJWG question the criteria and information that the National Security Intelligence Service (NSIS) used to vet and clear the minister before recommending the appointment. It can only be informed by political calculation which seriously undermines the institutionalization of the kind of accountability that should be in place in a properly functioning democracy. As civil society, we are soon going to launch campaign mobilizing Kenyans to step up demand for barring people implicated in human rights violations and corruption from appointment to public offices including running for elections. This is the one way of clean a corrupt rotten political and governance system.

Meanwhile ICPC and TJWG are calling for the enactment of legal framework that establishes stringent vetting mechanisms covering the police, and the judiciary. The vetting mechanisms should include a set of reforms that range from the institution's doctrine to new organic laws, new system for professional training of officers, and set of preventive and promotional measures. It is absolutely necessary that the police and judiciary be vetted to restore public trust and confidence.

In the past Judiciary has shielded itself behind the separation of powers recognized by the constitution, evading any possibility of scrutiny. We are recommending that a new independent institution, National Judicial Council (NJC) be established to conduct vetting, training, nominating, and proposing the promotion and dismissal of judges, magistrates and other judicial officers. The National Judiciary Council would further function to improve judicial independence and the quality of justice delivery as well as conducting periodic evaluation of the judges' and magistrates' professional competence and performance at all levels.

For the Police reforms, ICPC and TJWG are seeking creation of a new Kenya Police Service (KPS) with independent civilian oversight mechanisms to introduce thorough public security function. The CIPEV report recommended such an arrangement. This process must be accompanied a by vigorous vetting of the personnel serving in the current police force together with far reaching and comprehensive institutional reforms, new organic legal framework and better terms of service governing the KPS. The Police Commissioner must have security of tenure.

Signed by

Ndung'u Wainaina

Executive Director, ICPC and Co-Convenor, TJWG.