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FOR IMMEDIATE RELEASE

TO ALL MEDIA HOUSES

POLICE REFORM WORKING GROUP (PWRG) STATEMENT ON CABINET SECRETARY REMARKS TO THE MEDIA CONCERNING THE NPSC AND IPOA.

We, the members of the Police Reforms Working Group – Kenya drawn from thirteen governance and human rights organizations, are deeply concerned by remarks by Joseph Nkaissery, the Cabinet Secretary for Interior, made soon after he assumed the office.

As reported by multiple media outlets, the Cabinet Secretary expressed extreme dissatisfaction with the National Police Service Commission (NPSC) and Independent Policing Oversight Authority (IPOA). In the media reports, Mr. Nkaissery labelled the two bodies as “*an impediment to the efficient delivery of the mandate and vision entrusted to the National Police Service*”.

He further said “*...we cannot have civilians commanding uniformed people. It cannot happen, it has never happened anywhere in the world. It is only the activists and civil society which brought this law and it is what is affecting the command structure.*”

More recently, he urged senior police officers not to fear IPOA or any other institution and assured them that he would personally defend them [as reported in the Standard, 12 Jan 15].

Given Mr. Nkaissery’s position in the government, and the fact that he is commenting in this manner about two statutory public institutions, these remarks are not only disturbing but also a dangerous misrepresentation and stigmatisation of the NPSC and IPOA. It is also factually inaccurate, and contradictory of the Constitution. It is also profoundly disturbing that he should be inciting police officers to break the law.

The assertion that the NPSC and IPOA are “commanding uniformed police” is a grave misunderstanding of their roles and functions as well as, a denunciation of the need for external, civilian-led, independent oversight of the police. We would like to draw Mr. Nkaissery’s attention to the constitutional delimitation of powers between the Inspector-General, who is in command of the police, and the NPSC, which is responsible for recruitment, appointments, transfers and removals of the police officers, disciplinary control and, crucially, vetting. This delimitation was upheld by the High Court in December 2013. In turn, IPOA is an independent external civilian oversight body responsible for investigating and reporting cases of police misconduct.

Contrary to the Cabinet Secretary's claim, civilian independent oversight of a police service is a widespread practice in Africa and the world at large in established democracies. In fact, the creation of civilian-led oversight bodies have been the hallmark of systemic police reforms processes in countries making transitions to democracy, South Africa being one prominent example though there are countless others. It is to Kenya's credit and a testament to a deepened democracy that these two bodies were brought into existence through a participatory constitutional reform process, through established democratic procedures with the full concurrence of Kenyan citizens.

The Constitution, to uphold which General Nkaissery has sworn, provides "The national security organs are subordinate to civilian authority" (Article 239(5)). These two bodies, to which Nkaissery so objects are designed to fulfil this constitutional prescription.

The creation of these bodies was necessitated by a long history of corruption and impunity in the Kenya's police service. Through their varying roles, both the NPSC and IPOA ensure that the National Police Service is an independent, accountable, transparent and professional service. The NPSC and IPOA are there not to constrain, but to empower the police to deliver professional service and live up to the expectations of Kenyans. To claim that these bodies are "an impediment" is therefore dangerous and misleading, particularly when it comes directly from the Cabinet Secretary who should be championing these bodies.

We emphasise the unacceptability of misrepresentations of this kind, coming from the highest echelons of power, as they undermine Constitutional structures and values and therefore hinder the processes of deepening democracy and police reform.

Instead, we strongly encourage the Cabinet Secretary to do everything in his power to build trust between the National Police Service and the NPSC and IPOA, as well as empower the NPSC and IPOA in their specific oversight roles.

Lastly we urge the Cabinet Secretary to realise that the full implementation of the NPSC and IPOA mandate and ensuring full public participation in policing is one of the key responsibilities he has sworn to fulfil.

As he starts his role we would like to remind him that the four principles of *Public Participation, Police Welfare and Capacity, Accountability* and *Quality Service* will be the measures that the public will apply to measure his success in that docket. His predecessors failed miserably in all four, and had to exit the podium due to public demand.

Signed:



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