



Kenya Episcopal Conference

Catholic Justice & Peace Commission

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WITNESSING IN SERVICE – THE STATE OF THE NATION

We the Catholic Justice and Peace Commission mandated to advocate for good governance, promote peace and committed to eradication of injustice, as guided by the Social Teachings of the Catholic Church, do register our concerns as highlighted below:

Implementation of the New Constitution of Kenya

We would like to come out strongly and clearly on respecting and implementing the Constitution. This is the time when the Nation has to be extremely honest and look at truth and justice in the face. Those who have ears have heard the voice of the Kenyan people. We are saying to the Two Principals; His Excellency the President and Honorable Prime Minister, please follow the Constitution and Justice will set you free. In this season and time no single Kenyan is going to accept that a few individuals in the highest office of executive decide the destiny of thirty eight million people. The Chapter on Judiciary says the following: **Judicial Authority is derived from the people**; vests in the Courts and tribunals established in accordance with this Constitution; and shall be exercised in Courts and other Tribunals- in the people's name for their common good; and in conformity with this Constitution and the Law. The respect we have on the integrity of the named persons is one thing but however exemplary the individual is, Law and Order must be respected.

Under the new constitution, **all sovereign power belongs to the people of Kenya and shall be exercised only in accordance with the constitution**. As stakeholders we are greatly concerned by the manner in which recent nominations of the Chief Justice, Attorney General, Director of Public Prosecution and Controller of Budget were conducted. The nominations were not made in the spirit of the new constitution promulgated in 2010. Further, this does not take into consideration the provisions in the National Accord and the demand for consultation as regards to appointment to holders of public offices.

We emphasize that the law should be followed to the letter such that appointments to public offices shall be made subject to the National Accord and Reconciliation Act and after consultation with the Prime Minister with the

approval of the National Assembly without favour or bias. We are aware that because of The Hague Heat, several respected Members of Parliament have fallen into political camps. Even if there will be voting in Parliament, this does not mean that honesty had prevailed. It is only the set Judicial Service Commission that will save the face of our Nation.

Recommendation: The executive should take note of the provisions of chapter six on leadership and integrity and the relevant Articles (156, 157, 166 and 228 and Sixth Schedule) on appointment to public offices. We emphasize that "The State President shall be a symbol of National Unity". The revelations of these nominations are falling short of this great value.

Transitional Justice must maintain credibility

Kenya agreed to subject herself to the provisions of the Rome Statute in pursuing justice for the victims and perpetrators of gross human rights violations. In addition, the Truth Justice and Reconciliation Commission was set up to address historical injustices.

In the recent past, sections of political leadership and government have been applying diversionary tactics to derail the International Criminal Court effort in pursuing justice. This has been characterized by MPs voting for Kenya to withdraw from Rome Statute and government appeal to the AU and IGAD members to support the same. This gesture is not sincere and portrays the politicians' intention to delay justice, perpetuate the culture of impunity and cronyism.

Similarly, the Truth Justice and Reconciliation Commission process has been plagued by issues of credibility and inadequate support from government. Furthermore, the current political environment is not conducive for the commission to effectively carry out its mandate.

It is over three months since the tribunal to look into the suitability of the chairperson of the TJRC was set up. However, the tribunal is yet to begin its work and thus negatively affecting the TJRC process. The tribunal therefore should be seen to be working in a transparent and open manner

The commission is currently operating without two of its commissioners who were selected on the basis of their expertise and experience, thus creating a resource vacuum within the TJRC.

We are concerned about the statement taking process which was concluded on Monday. The timing was too short and many have been locked out of the process. We have also received reports of inadequate training of the statement takers, recruitment of ineffective statement takers which will eventually affect the quality of hearings and the final report.

Recommendations: We caution the government to tread carefully on the ICC prosecution process in order to ensure that true justice is accorded especially

to the victims of 2007/2008 Post Election Violence. Further, we appeal to the government and politicians to support transitional justice processes.

Internally Displaced Persons are still crying for Justice to be done

It is regrettable that over three years down the line, we still have Internally Displaced Persons languishing neglected and live in misery, poverty, disease and despair. This strips them of their constitutional right as provided for in Art. 28 of the Constitution of Kenya; that every person has inherent dignity and the right to have that dignity respected and protected. We remind the government that it has the responsibility to ensure that every person has the right to: quality healthcare, adequate housing, reasonable standards of sanitation, sufficient and quality food, water and social security.

Political responsibility

Those with political responsibility must not forget or underestimate the moral dimension of political representation which consists in the commitment to share fully in the destiny of the people of Kenya and to **seek solutions to social problems**. In this perspective, responsible authority also means authority exercised with those virtues that make it possible to put power into practice as service.

Politicians are now gearing up for the 2012 general elections and this is manifested in the media, public fallouts, political realignments and the stirring of ethnic tension. We are concerned that this focus is selfish, divisive, not in the spirit of reconciliation and does not allow for national healing and cohesion.

The political community must understand that it finds its authentic dimension in its reference to the Kenyan people. It is and should in practice be the unifying organ of Kenyans and not the agents of hatred and violence.

Sanctity of life

The Church sees in every person the living image of God. For this reason the Catholic Church recognizes her fundamental duty to assert the sanctity of human life inherent in every one of us. Recently three Kenyan police officers were suspended and put under investigation after a video that showed them allegedly shooting three unarmed men suspected to be criminals on a busy street of the outskirts of Nairobi was released.

This was followed by several police officers being shot by criminals in different instances. The shootings set off a mixture of reactions including condemnations and praise of the police actions.

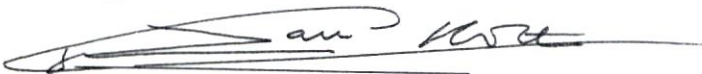
We wish to emphasize that the respect for human dignity can in no way be separated from obedience to the principle of social order. It is necessary to consider every neighbour without exception as another self, taking into account first of all his/her life and the means necessary to live in dignity. A just society therefore can become a reality only when it is based on the respect of transcendent reality of the human person.

Conclusion

The Constitution marked the dawn of a new hope. The constitution should be implemented in a way that promotes life, equality, and dignity of every human person in this country. The Catholic Social Teachings also emphasize the same. It is the responsibility of everyone, and in particular those who hold various forms of political, judicial or professional responsibility with regard to others to be the watchful conscience of society and the first to bear witness to civil, social conditions that are worthy of all Kenyans.

“Blessed are the peacemakers, for they will be called the children of God”

Signed

A handwritten signature in black ink, appearing to read 'Zacchaeus Okoth', written over a horizontal line.

Archbishop Zacchaeus Okoth

KEC- Catholic Justice and Peace Commission Chairman

2nd February 2011