1. The Kenya National Commission on Human Rights (KNCHR) lauds and welcomes the government's rapid response efforts to put in place measures and mechanisms, as announced by His Excellency the President, to curb the spread of the COVID-19 pandemic and help stem the virus in our country. Globally the disease has been declared as a "public health emergency of international concern" and the Commission acknowledges the government's decision of suspending some national operations to contain the spread of the corona virus. KNCHR supports the government to remain the mainstay role in disseminating information relating to this disease for the sole purpose of national unity.

2. While KNCHR acknowledges that the current extraordinary times call for extraordinary emergency response strategies and unity of purpose to mitigate the effects of the COVID-19 virus, KNCHR wishes to bring to the fore the following:

2.1 THAT in employing the necessary measures to contain the COVID-19, all duty bearers, both in public and private sectors, must observe a human rights-based approach. This means that any directive, policy or mechanism must be in tandem with human dignity, non-discrimination and protection of the marginalised.

2.2 THAT the needs of the most vulnerable in our society must be considered and be at the centre of all the rapid responses. This includes the elderly, the sick, persons with disability, children, the rural population in marginalised areas, the homeless, refugees, prisoners and those in informal settlements, who are likely to be most disadvantaged by measures already in place to contain the virus which could threaten their daily survival. KNCHR particularly wish to highlight those whose livelihood will be affected by the announced preventive measures; those who will not have the purchasing power to stock up supplies owing to lack of access, pricing and lack of livelihood. KNCHR thus urges both national and county governments to put in place measures, including affirmative action, emergency relief supplies so as to cushion the poor and most vulnerable groups in our society. This is in line with the State obligations under Article 56 of the Constitution and the Bill of Rights.

2.3 THAT whilst it is understood that in cases of life-threatening circumstances, certain rights may be limited, KNCHR wishes to reiterate that certain rights are non-derogable under national and international human rights obligations. These include the right to life, freedom from torture, inhuman and degrading treatment, freedom from slavery, fair trial, and habeas corpus. KNCHR thus advises that where the government is faced with two or more options that the less restrictive alternative be preferred to contain the situation. Any restrictions should meet the standards of necessity and proportionality and in line with Article 24 of the Constitution on limitation of fundamental rights and freedoms and international human rights imperatives.
2.4 FURTHER and in follow up to the announcement by the National Council on the Administration of Justice regarding the scaling down of court operations, KNCHR wishes to state that the government endeavours to put in place methods to monitor operations at the police stations to avoid incidents of abuse and human rights violations and harassments through arbitrary arrests. Right to a fair trial is a fundamental right to which derogation is not allowed under Article 25 of the Constitution.

3. In view of the need to contain the spread of the COVID-19 disease and secure lives while at the same time upholding the dignity and human rights of all Kenyans, KNCHR therefore CALLS UPON:

3.1 National and County Governments:
- To ensure that the preservation of the human dignity and a human rights-based approach is at the centre of all the response efforts to combat the COVID-19 disease.
- To do all that is within their powers to cushion the most vulnerable in our societies to ensure that their access to the basic necessities of life is not compromised. As the United Nations High Commissioner for Human Rights advises, "... our efforts to combat this virus won't work unless we approach it holistically, which means taking great care to protect the most vulnerable and neglected in society, both medically and economically". Towards this end, efforts towards the emergency relief aid needs to be considered in such situations.
- To monitor and ensure accessibility and affordability of the necessary supplies in adequate quantities to bolster hygiene including running water, soap, sanitizers and other protective measures.
- To sustain the now frequent and timely updates to the public on all the vital information relating to the COVID-19 disease.
- While the focus is in the fight against the pandemic, that other chronic health care concerns are not forgotten and that the right to health and life is addressed holistically.

3.2 The Private Sector and Business Community: To abstain from practices such as hoarding, overpricing of goods and forestall any unfair labour practices particularly targeting those in short-term employment. Further, to provide the required standards of hygiene and provide adequate protective gear to its employees to avoid exposure in line with the occupational safety requirements and other employment laws. In addition, to join hands with the government to mitigate against the economic impact that the pandemic shall have on the nation including corporate social responsibility interventions targeting the vulnerable in our society.

3.3 Consumer Advisory Committee and the Competition Authority: To heighten vigilance and ensure that consumer rights are not abused with regard to quality, affordability and accessibility of goods and services. To further ensure that consumer rights secured under Article 46 of the Constitution and other laws are well guarded and enjoyed by all consumers.

3.4 Media: The Commission appreciates the important role that the media continues to play in advancing the realisation of the right to access to information under Article 35 of the Constitution. Dissemination of the accurate and timely information is key to addressing the pandemic. KNCHR therefore urges the media to remain true to their professionalism and as usual exercise due diligence to monitor and ensure accurate and objective coverage of the COVID-19 pandemic to keep the citizens well informed on the progress in a bid to avert unnecessary panic through misinformation.
3.5 The Inspector General of Police: To fast-track the issuance of guidelines with regard to handling of arrests during this pandemic period while referencing the announcement made by the Chief Justice. These guidelines should call on all officers to abide by the law and the Service Standing Orders in the arrests and handling of arrested persons. Further the Inspector General to direct all officers to desist and avoid situations of compromise, unwarranted deprivation of the right of security and liberty of the person, harassment, extortion of Kenyans following the scaling of Court processes. Further, in recognition of the important role that our officers in the National Police Service will be carrying out in the various aspects of the pandemic responses, the Inspector General to ensure that there is requisite support provided including protective gear and medical care to mitigate the threats of the COVID-19 disease.

3.6 The Ministry of Health: To upscale and sustain the training of national and county health workers and frontline staff at the country’s entry points on how to contain the spread of the COVID-19 disease. Further ensure that health workers and the frontline staff have the requisite occupational and safety gears and relevant working tools to cushion themselves from infection in the course of their noble duties. KNCHR further calls on the Ministry of Health to confirm the restoration of the withdrawn NHIF health care insurance for civil servants that also covers health workers and officers of the National Police Service and Kenya Prisons.

3.7 Matatu Owners and Operators: To abide by the laws and guidelines stipulated by the State department of transport services under the Ministry of Transport and Infrastructure to protect themselves and passengers in order to prevent and contain the spread of the Corona virus within the transport system. Due to the constant national and county vehicular movement of public service vehicles, there is need for sustained advocacy and outreach for operators to observe the relevant basic hygiene procedures to protect the users of the public service vehicles.

3.8 ALL KENYANS: To be law-abiding citizens and keep calm. Further, to remain vigilant and put into place precautionary measures to protect self and others as advised by the government agencies and support the government’s efforts in curbing the spread of the COVID-19 disease. Ultimately, members of the public must desist from spreading unverified information which could mislead and cause unnecessary panic.

4. During the rapid response period, the Kenya National Commission on Human Rights will closely monitor the unfolding of events to ensure that human rights FOR ALL are upheld in all the concerted efforts to tackle the COVID-19 disease. KNCHR urges all Kenyans to remain vigilant individually and collectively and keep safe by following the measures and mechanisms announced by the government in order to contain the spread of COVID-19 disease. Let us all work together to defeat this pandemic.

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