Speech by Dr. Fred Matiang’i, Cabinet Secretary Ministry of Interior and Coordination of National Government during the launch of KNCHR Strategic Plan at the Stanley Hotel, Nairobi

Thursday, August 23, 2018

1.0 Background to the Strategy

In the lapsing Strategic Plan (2013-2018), the Kenya National Commission of Human Rights (KNCHR), pointed out to its then future roadmap of achieving protection and promotion of human rights and fundamental freedoms. At this auspicious occasion of launching a new strategic direction, we would like to make some observations.

First, it is our hope as a Ministry that the KNCHR, will or has ably documented that journey, and reflected back on the same. For example, some of you, especially the Commissioners, have been in these struggles for long, and that I am sure you have seen the most tumultuous of changes to both the democratic progression of this country, to its ever worst state in 2007/08.

Therefore, there is need to reflect on that journey, assess what was done to protect and promote human rights, challenges that were recorded and the lessons that we have learnt as a country. As we launch this new Strategic Plan (2018-2023) let those matters be ably documented and also strategic choices made especially how to surmount the challenges.
2.0 Perception as a Challenge

This lapsing Plan is interesting, especially to us in the Ministry about the values’ proposition. It highlights the Vienna principles, which were to be rolled out within the framework of accessibility, independence and also tolerance. Allow me to be observant as well as critical.

In the period under review, have you been tolerant to all those divergent views that were contrary to yours? Have you been independent from the political forays and stood as non-partisan? Have you been accessible to all those who need your services, including security agencies that have suffered human rights abuses? These are just questions for reflection on, as we launch this new Strategic Plan.

To move forward, the Commission must ably demonstrate real independence in not only decision-making but also illustrate operational professionalism, to attract bipartisan political, social, technical and financial support from all quarters.

3.0 Constitutional Imperatives

First and foremost, the KNCHR is a Government agency established by an Act of Parliament, initially in an Act of 2002 but later in the Act of 2011; following the promulgation of the Constitution. Second, and equally important, the Constitution had envisaged an overarching Kenya National Equality and Human Rights Commission (KNHREC), through Article 59, which merged three Commissions, but we missed that opportunity.

During the formulation of the law to have ‘one stop-shop’ for complaints against human rights violations, in accordance with the Constitution, the debates pitting those ‘progressives’ for the merger, versus ‘conservatives’ for retention of the status quo are ably documented. As late as May 2018, this debate has resurfaced yet again. The basis for this new discussion is based on whether the public should access one institution, and have all their issues addressed, or they are shoved from one Commission to the other.

This debate is important as we discuss access to public funds, which are ever dwindling, particularly so if we have multiplication of functions or duplication of duties, yet it is the same taxpayer paying for all these Commissions.
As we approach the tenth anniversary of the Constitution in 2020, which falls within the Plan that we are set to launch, Kenyans are or should be taking stock of what each of these Constitutional Commissions and Independent Offices have achieved: NOT what they have done; as the latter is documented in many voluminous reports of these institutions.

4.0 Moving Forward

In terms of moving forward, it is imperative at least from a constitutional point of view, that the new Strategy points out to several issues: first, how to distinguish the roles between the Secretariat and full-time Commissioners. Second, how to re-engage the State, particularly our Ministry, as our relationships are often soured by acrimony. Our Ministry does not intend to pursue that path anymore. In the spirit of ‘building bridges’, we are extending an olive branch to KNCHR and all other stakeholders in the security sector.

Third, there is need to agree, at least basically, that the Constitution had envisaged an all overarching Commission, with various directorates perhaps, meant to achieve all what the three Commissions are currently doing. This matter fits squarely in the Plan (2018-2023), where the then projected revision after five years, will occur.

Indeed, from my recollection, that debate was not constitutional or legal as such. It was political and transitional, that to-date three bodies are undertaking protection and promotion of human rights, and working at cross purposes most of the time. Now Kenyans are demanding answers. You too, especially the Commissioners who are the leaders, must provide those answers.

The need for restructuring organizations undertaking human rights, protection, promotion and working towards fulfillment is now. The world over, especially in the United Kingdom, these disparate institutions have existed, but were subsequently merged into one institution, thereby saving a lot of taxpayers money wasted in bureaucracy. Further, it is easier for the Mwananchi to get these services across the country. Finally, it is easier to fundraise; not just from the Treasury and Parliament, but also externally from development partners.
5.0 Ministry Proposals

We are not here to pass the buck or shove responsibility. We have to agree on some of these fundamentals, if we are to move forward. Of course, no one wakes up in the Ministry to violate rights or freedoms. Our officers and officials work under sometimes very difficult circumstances.

Now, here is the strategy. First, the Ministry will remain open to ideas and also, legal advisories on how we could improve our human rights records. We urge the KNCHR to approach us with a view of correcting, rather than condemning. We are open to receiving policy proposals on how to carry out the work of the Ministry in accordance with the Constitution. We are also open to human rights advisories, which is part of the mandate of this Commission.

Second, I am aware that the Commission is not fully-constituted. The law provides for four Commissioners and one Chairperson. One Commissioner was not appointed, owing to many factors and variables. We would like to see proposals, from KNCHR and other human rights organizations, how we could pick this ball that was dropped in the past.

Third, the Ministry notes that KNCHR cannot work alone. It is complemented by the civil society. Therefore we have embarked on the process towards gazettement of the Commence Date, of the Public Benefits Organizations’ Act (PBOs’ Act). This week, we have met with the NGO Coordination Board and we have agreed on strict deadlines of preparing for this transition.

The Ministry is aware that there are transitional and consequential matters, as per the Third and Fifth Schedules of the PBOs Act, and therefore we will ensure that the transition is smooth.

Fourth, the Ministry notes that there are valid concerns on the operating environment by civil society actors, such as the numerous cases in court, whether activists have been sued by the State or vice versa, on matters such as the right to picket, demonstrate and also petition public authorities. We are aware many of these cases have persisted in courts of law, some for over a decade in Nairobi, in Mombasa, in Kisumu and in Nakuru, among other Counties.
To end these matters, the Ministry will soon be seeking legal advice from the Attorney General’s office on how to proceed. Indeed, some of these cases need to be independently verified by the Director of Public Prosecution with a view of expediting them. Having the cases resolved through alternative means or even, being terminated altogether.

Finally, we are taking the view that the past is behind us, and that is why we came to this event. It is our considered view that the foregoing proposals by, and commitments of, the Ministry will assist, protect and promote human rights for all, at all times, as the Motto of KNCHR reiterates. In the period of the Plan, we shall walk with you in the spirit of ‘building bridges’ and we hope you will be open to our complements as well as constructive criticism.

6.0 Concluding Remarks

Our Ministry will pursue the new direction as directed by His Excellency the President particularly on how we interact with human rights groups and more particularly, this Commission. From the Office of the Cabinet Secretary, we give you our reassurances. This is not empty talk. It is now upon KNCHR and the human rights NGOs to do what it takes, and to also move their constituencies towards mending the past.

The ultimate message, as we envisage, is to ensure that all stakeholders within the security sector move together, in common resolve, to secure our country from both internal and external enemies. We owe this to our country and our prosperity largely depends on our security. As a Ministry, our strategic and policy work will continue to be guided by principles of human rights and fundamental freedoms.

Thank You All!

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