

13th March 2017

**KHRC's PRESS STATEMENT ON IMPENDING COURT CASE CHALLENGING THE
LEGALITY OF THE CAK's DIRECTIVE THAT THREATENS RIGHT TO PRIVACY**

KHRC has initiated court proceedings challenging the legality of the directive which proposes the installation of a device, software program and or a system that has the implication of allowing the state to access private information and data to the detriment of Kenyans in General and other individuals in Kenya.

KHRC accesses information of violations of human rights and fundamental freedoms from informers, whistle blowers and affected persons through mobile and other electronic devices. KHRC states that when the mobile systems is rendered unsafe for lack of confidentiality, the institution will be cut off from vital information relayed by whistle blowers and anonymous individuals.

KHRC states that by installing the device, Kenyans can no longer maintain free and natural conversations for fear of eavesdropping, sniffing and or tapping of the private conversations which is a violation of the right to privacy and by extension the right to life. Further that the government's intention of mopping up the so called "fake" mobile devices and stolen devices from the market is an unwarranted violation of the rights of the consumers. KHRC reiterates that there are other better more effective and less restrictive means of achieving the intended objectives.

KHRC reiterates further that the existing mechanism for detecting, investigating and prosecuting crimes is sufficient and there is no reason to interfere in the networks and the devices of subscribers. The cited reasons for spying and sniffing into the mobile networks are only disguises, and the existing mechanisms, facilities, legal provisions, infrastructures and institutions are sufficient, and no utterance has been made by CAK to show the deficiency of any nature of the existing mechanisms.

KHRC states that if the CAK really meant to fight counterfeits as they purport nothing would be easier than to:-

- a. Liaise with phone manufacturers intending to export their phones to Kenya and ascertain only genuine mobile phones and access the Kenya market.
- b. Vet and accredit genuine mobile phone dealers and distributors.
- c. Direct and or Liaise with the Directorate of Criminal investigations to establish a repository stolen phones in form of (Black book) and phone of doubtful status in a (Grey Book).
- d. Instruct the mobile service provider to undertake that responsibility.

Sniffing into phone conversation will violate the crucial confidentiality that is the clinch pin of many professions, such as, the legal profession, medicine, counseling where instructions and services are increasingly received and rendered over the mobile networks.

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