



## **CIVILIANS AND POLICE BRUTALITY**

The Commission calls the government's attention to the worrying security situation in the country that is spiraling out of control.

Within the last 6 months, the country has witnessed an unprecedented upsurge in violence that has claimed the lives of hundreds of innocent Kenyans, both civilians and law enforcement officers.

In September 2012 in Tana Delta more than 100 civilians and 9 Law enforcement officers were brutally murdered in an orgy of violence that pitted two communities against each other. In Mombasa scores of Police and Prisons Officers were killed/ injured following attacks on law enforcement officers during the riots that followed the Killing of Muslim cleric Sheikh Aboud Rogo. Hardly a week ago, were more than 50 police officers mowed down by cattle rustlers in Suguta valley, in a botched security operation in Baragoi.

Since the beginning of Operation Linda Nchi in October 2011, scores of police officers have been killed and others injured in attacks that involved the use of grenades, land mines, IEDs or fire arms by suspected Al-shabab sympathizers within the Country.

The bold and audacious attacks on law enforcement agencies by civilian elements is indeed a worrying trend that poses a great risk to the maintenance of law and order and our national security.

The Commission wishes to remind Kenyans that Law enforcement agencies exist for the maintenance of law and order in the society, and are among those charged with the promotion and protection of human rights. Accordingly, law enforcement officers should be seen as part and parcel of the governments' efforts in ensuring that the rights of its citizens are protected within the confines of the Constitution, domestic law as well as in line with relevant international instruments and Conventions which Kenya has signed and ratified.

In the Commission's view, the ongoing attacks on law enforcement officers by civilians is attributable to among others,

- a) The government's careless and carefree attitude towards its law enforcement agencies, seeing them as dispensable tools to be used as and when need arises. This has translated into eroded public confidence in and respect for law enforcement officers.
- b) The earlier poor relationship between the Police and the public has made the public to misinterpret the provisions of the constitution to give them lee way to execute criminal activities under the guise of 'haki yetu' and ;
- c) The general state of lawlessness in the country that has made the criminal elements within the society takes advantage of security lapses to propagate criminal activities.

It is against the foregoing that the Commission observes as follows:

1. Government must wake from its slumber and set its priorities right. It must recognize the importance of prioritizing law enforcement agencies when allocating resources. In this regard we call for the provision of better equipment, better working conditions, better salaries among other things. The law enforcement officers have taken on them the onerous task of risking life and limb so that each of us can be safe. The least government can do is provide them with sufficient motivation, equipment and technology that will save their lives whenever they step into harm's way.
2. The public must understand that the fundamental freedoms and human rights should be exercised in a responsible manner, and that they have a key role in the maintenance of law and order within the society. Thus, a failure of law and order in the society means a failure on the part of the public. This role stems from their functions in providing intelligence and cooperating with the police in carrying out investigations and arrest among others.
3. The Security apparatus in the country must adopt a proactive and well coordinated approach towards addressing the security situation in the country. We cannot afford knee-jerk reactions at this time.
4. As we speak there are ongoing operations by the Police and Military in Baragoi and Garissa aimed at flushing out criminal elements and restoring law and order in these regions. Sadly, the Commission already has reports pointing to violations including torture, rape, assault, etc attributed to these security agencies.

5. Whereas we acknowledge that our officers are operating in an unprecedented security scenario, the Commission reminds these officers and their commanders of the provisions of **Article 238(2) (b)** of the Constitution which states that:

**“National security shall be pursued in compliance with the law and with the utmost respect for the rule of law, democracy, human rights and fundamental freedoms;”**

6. Accordingly, we will under our Constitutional mandate, hold accountable each and every officer who is implicated in human rights violations of innocent civilians in the course of these operations. We need to move away from brute methods of collecting intelligence and invest more in forensic, scientific and other credible means of gathering intelligence.
7. Lastly In respect of the obligation of citizen, the commission notes that human rights are also guaranteed for security /uniformed officers and breaching the same will undermine our nationhood .Citizens must remember that when we assault our nationhood, we destroy our country. Lawlessness can never be accepted as a way of life.