



11th April 2012

PRESS STATEMENT ON TORTURE BY STATE SECURITY AGENTS

The footage that was shown on TV on the Eve of Easter holidays united the entire nation in horror and disgust at the brutality meted on a young man by Police Officers; viewers had been informed that the incidence had recently occurred in Turkana, but the Police Commissioner clarified that incidence happened in Trans Nzoia in 2009.

The Kenya National Commission on Human Rights (KNCHR) is greatly perturbed by the incident and condemns unambiguously and in no uncertain terms the callousness of the assault on:

1. An **unarmed** and defenseless young person
2. By **protectors of human rights**. The Police Officers have the duty of, and ought to have, in particular, protected the young man's right of non-subjection to torture, cruel inhuman and degrading treatment.

The KNCHR reiterates that extrajudicial punishment of whatever nature is totally unacceptable and contrary to the rule of law. This particular incident of unbridled and undisguised savagery defies, and is abhorrent to, every conceivable notion of law enforcement, the rule of law or, indeed, civilized living. From what was seen on the footage, it is evident that the young man needs immediate medical examination to ascertain whether police brutality rendered him infertile.

KNCHR wishes to congratulate the whistle blower on the Ribbo case; the conscientious cop who had captured the incident on his cell phone, and who issued the video to be aired to the public. In the second case of Joseph Kakuko, who also gave an account of his ordeal after Ribbo spoke out, KNCHR also applauds the police officers who rescued him from the hands of his tormentors, an indicator that there are men and women in the force out to give true service.

While the Kenya National Commission on Human Rights applauds the pledge of swift action made by the Commissioner of Police, it is not enough to sack the officers involved. We demand the following actions to be taken:

1. That the officers responsible be subjected to a court process and, in accordance with Section 234 of the penal code, charged with “*assault causing grievous bodily harm*”, - the maximum penalty of which is life imprisonment
2. That the State should not subject the Ribbo family to any court processes while seeking compensation, and should initiate talks with clear steps on compensation; from medical to any other material support. The footage of incidence is already “public”, thus the State cannot deny participation of state security agents; hence our call for immediate compensation to the family.

Pursuant to the KNCHR mandate, we hereby publicly refer this matter to the Director of Public Prosecution in accordance with S.41 (a) of the KNCHR Act. This does not mean that our work has ended; we will follow up to ensure that justice prevails.

KNCHR is expresses fear that that Master Ribbo’s case is just but the tip of an iceberg; that torture, cruel inhuman and degrading treatment of persons suspected of being in conflict with the law is chronic and systemic within our National Police Services.

Many more cases go unreported on account of intimidation and fear. The fears are real; a whistle blower, who had served as a driver in the police

force, lost his life after exposing details of extrajudicial executions to KNCHR. We, therefore, have only received complaints involving 504 cases in around 12 years; many of these involved persons missing after being taken into and deaths in police custody – torture being the suspected cause in many of the deaths.

Handling of suspects by state security agents, who should be deemed as innocent until proven guilty by a court of law, leaves a lot to be desired; the process is characterised by indignity as, more often than not, a victim's private parts are also manhandled. The process traumatizes many victims physically, psychologically and/or emotionally.

It is it our constitutional right and duty as citizens to speak up so as to help eliminate torture, cruel, inhuman and degrading treatment from within the ranks of the Police Force. If impunity is to end and accountability to start, any person(s), including Police Officers, who have witnessed incidences involving the torture of wananchi, and which incidences have either been covered up or unprosecuted, to come forward and inform the Commission.

We wish to draw attention to Article 21 of the Constitution of Kenya, and to remind the police that, like all other state institutions, they are custodians of the human rights of Kenyans, and must be leaders in respecting, protecting and enforcing human rights; the police ought to work with other institutions to ensure such, respect protection and enforcement.

We also wish to refer to Article 10 that provides for National Values and Standards which bind all State organs, State officers, public officers and all persons; Article 25 that prohibits torture; Articles 238, 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; and Article 244, which obligates the National Police Service to comply with constitutional standards of human rights and fundamental freedoms.

Finally, we urge the Legislature to expedite all Bills needed to anchor Police Reforms so that Kenyans may be able to hold the National Police Services accountable within the framework of the new constitutional dispensation. The Sixth Schedule to the Constitution of Kenya (2010), *Article 262(3)* states that Until the National Police Service Commission mentioned in Article 246 is established, section 108(2) of the former Constitution applies to appointments, discipline and the removal of persons from office in the National Police Service.

Signed

Dr Samuel Tororei

KNCHR Chairperson