



A PRESS STATEMENT ABOUT ACTS OF VIOLENCE AGAINST FIVE SUSPECTS IN LOLIONDO, ARUSHA REGION

Introduction

The Legal and Human Rights Centre (LHRC) in collaboration with Tanzania Human Rights Defenders Coalition (THRDC), strongly condemn acts of violence perpetrated by Police officers in Ngorongoro District against five suspects who had been detained for 15 days (From 21 December 2018 to 4th January 2019) without bail or being charged in court. This is a chronic problem in the country, and today we announce a special campaign dubbed “Defend the rights of a suspect” across the country stemming from this brutal incident in Loliondo. We congratulate and support the Minister for Home Affairs for his unwavering resolve to defend and protect rights of the suspects in the country.

Violent acts against the suspects

On December 21 2018, five residents from Ngorongoro District namely Peter Orkery, Musa Yahya, Kayanda Kisoki, Zakaria and Francis Arusha were arrested by the police in Ngorongoro and detained for fifteen days. These people, who are ethnic Maasai were accused of stealing at Simba B— a company dealing with tourism activities in Ngorongoro, whereas some of the suspects are its employees.

On the fateful day, the suspects were dragged to the police post, ostensibly to record their statement, no sooner had they arrived than they had their hands and limbs tied with a rope, precariously hanged and brutally assaulted to the extent of sustaining serious injuries on their feet. After interrogation, with human rights defenders the suspects claimed that they were brutality tortured. According to them, police officers allegedly inserted their wooden batons and shoved necks of a bottle into their bottom thus inflicting severe pain. The suspects, who are in critical condition are currently receiving medical treatment to heal the injuries they had sustained.

Since the suspects were arrested on December 21, they spent fifteen days and nobody was allowed to see them. Some of them contracted serious infection in their wounded limbs and had nevertheless appeared in court in January 4, 2019.

The suspects were subsequently, hospitalised at Wasso Hospital, where they underwent urgent operation to drain a gush of dreadful pus from their infected limbs.

Unlawful acts by the police to violate the rights of the suspects and Loliondo residents and in other areas

Let's make it clear, the Police Force was established and is supposed to perform its duties in accordance with the country's laws and various guidelines. Apart from other laws, the Police Force is guided by the Police Force and Auxiliary Services Act Cap 322 as amended in 2010. Under Section 5(1) the law expressly state the Police Force was established in the country to protect peace, to enforce the rule of law, to prevent and detect crime, to arrest criminals and to protect property.

While preventing crime, arresting and detaining the suspects, the police force is supposed to be guided by the Penal Code of 1985. According to that law, upon his/her arrest the suspect is entitled to certain rights including;

- to be informed about the suspected crime,
- to be granted bail, to see relatives/loved ones,
- to be granted medical treatment

- to be interrogated at will
- to be interrogated in front of a lawyer
- to meet his relatives
- to be charged in a court of law on time as well as
- to be informed of his right to access legal aid.
- to remain in police custody not more than 24 hours
- To be granted a police bail any time even on Saturdays and Sundays
- To sleep in a clean and safe place
- To be subjected to no physical assault or any hostility
- To be treated with respect and humanly.

In what appears to be growing impunity among police officers and other security forces, we have witnessed the police force in Ngorongoro District and in other parts of the country openly violating the rights of the suspects by locking up the suspects for a long time contrary to section 64(1)(c) of the Criminal Procedure Act of 1985 which instructs police officers to detain the suspects for not more than 24 hours or to arraign them before the court in accordance with the law.

Section 64(1)(c) provides as follows:

“64(1) Without prejudice to the provisions of any other written law for the time being in force relating to the grant of bail by police officers, a person brought under the custody of a police officer on reasonable suspicion of having committed an offence shall be released immediately, where-:

(c) after twenty-four hours after the person was arrested, no formal charge has been laid against that person unless the police officer in question reasonably believes that the offence suspected to have been committed is a serious one..”

Nevertheless, the Criminal Procedure Act of 1985 directs that police officers to grant the suspects their basic rights. Under Section 53 and 54 of the Criminal Procedure Act the police officer is obliged to give the suspect the right to communicate/reach out to his friends, relatives

or his lawyer. The law among others obliges the police force to grant the suspect the right to seek legal aid from his lawyer.

Also section 55 explain in details the circumstances and conditions under which a suspect is supposed to be subjected to while in police detention. That section, explain as follows:

55.-(1) A person shall, while under restraint, be treated with humanity and with respect for human dignity.

(2) No person shall, while under restraint be subjected to cruel, inhuman or degrading treatment.

(3) Where a person under restraint-

(a) makes a request to a police officer to be provided with medical treatment, advice or assistance in respect of an illness or an injury; or

(b) appears to the police officer to require medical treatment, advice or assistance in respect of illness or injury, the police officer shall forthwith take such reasonable action as is necessary to ensure that the person is provided with medical treatment, advice or assistance.

It's a pity to see that the police officers have often failed to enforce and practically implement important sections in the law as well as to protect the right of the suspects at the time of arrest and while they are in police custody.

A report prepared by THRDC about a vicious trend of torture of 2018 suggests the suspects are usually exposed to violent assault during their arrest and while in police custody for interrogation. Many of them are beaten while in custody, refused food, detained in horrid cell conditions and are often verbally abused.

These incidents, where suspects are locked up for a long time repeatedly happen across the country. The Police force has repeatedly arrested and detained suspects for a long time before releasing them without charges or after being instructed by the court to do so.

Some of the suspects who had been arrested and held for a long time and then released include Abdul Nondo, who stayed in police custody for 15 days before being charged in court(from

March 06 and March 21, 2018) Lawyer and politician Hashim Rungwe, who was arrested and detained for four days in 2017. No charges were filed against him.

Others are founder of Jamii Forum Maxence Melo, who was detained for four days before he was dragged in court, politicians Freeman Mbowe, Tundu Lissu, Ester Matiko and Joseph Mbilinyi who were arrested in different circumstances and detained for a long time. Lawyer Wilson Mafie was arrested and detained in a police custody for one week in Dar es Salaam. Human Rights defenders in Loliondo(Supuk Olemaoi and Clinton Mshao) had been arrested and detained for a total of six days, Henry Nkya from Mbeya was arrested for allegedly committing online offences and detained for 15 days until now.

These undue police acts have sometimes occasioned death of the suspects while in police custody. For example Chacha Heche Suguta(a sibling to legislator Heche) died in the hands of police in 2018 because of blatant violation of legal procedures, including arbitrary arrests and subsequent detention of of the suspects without following due procedures.

These are some of the suspects who were unlawfully detained for a long time and had their basic rights trampled on. There are so many citizens who had been arrested by the police and put in detention for a long time before they were sent to court or released for lack of evidence.

Continuation of Human Rights Violation in Ngorongoro District-Loliondo

There has been blatant violation of human rights in Loliondo for quite some time now. This situation is fueled by the existing Land dispute between local residents in Loliondo and an investor, OBC company, which holds a large parcel of land for game activities. This dispute has largely fueled human rights violations in which police officers in in Ngorongoro district and other security forces, including wildlife warders are frequently oppressing the local residents. The government too, frequently conducted several operations, which led to human rights violations and the violation of the rights of the suspects in Loliondo and in other areas.

For instance, in 2017 the policed conducted a special operation to evict local residents in 14 villages, the government accused of encroaching a protected wildlife area. Hundreds of huts and personal effects were set ablaze, some people were badly injured while other were arrested and detained for a long time. In 2018, more than 100 people were arrested Ngorongoro, sometimes

for no reasons whatsoever. Others were detained in Mugumu, Serengeti and Mwanza police stations.

The police have repeatedly arrested and Human Rights defenders and violated their basic rights with impunity. The police officers and their agents have randomly arrested and detained innocent people and later releasing them.

On January 7 2019, two human rights defenders (Clinton Kairungi and Supuk Maoi) as well as two other citizens were arrested and detained for more than six days, with their basic rights violated. The police had also conducted yet another operation to search illegally held firearms, and detained dozens of people for a long time. For example Aloyce Ngurumwa and 13 other people had been detained from January 18 to 21 2019 without getting access to see their relatives.

During the sad incident in Ngorongoro, five people were brutally beaten by the police in Loliondo and Ngorongoro. They are currently receiving treatment to heal injuries sustained on their feet. Humiliation against innocent citizens in Ngorongoro is conducted with impunity and no efforts are taken to stop it. Those suspects, for instance, were released without any charges after spending 15 days in police custody. We sincerely think that the police were supposed to interrogate the suspects without putting them in detention where they had been tortured and end up being freed.

Police officers in Ngorongoro and in other parts of Tanzania, seem to have the whim to beat the suspects at will, refuse them PF3, detain them for as long as they please. District authorities, including the District Commissioner, Ngorongoro OCD, the Arusha Regional Police Commander (RPC) are fully aware of what is going on there but no punitive measures have been taken against those errant police officers.

The effects of detaining suspects for a long time

Putting the suspects in unlawful detention for a long time has a lot of implications as we have witnessed in many parts of the country: The effects are as follows;

- i. Police officers are not specially trained to hold the suspect in remand for a long time as it is the case for Prison warders, who are trained to live with the inmates or the suspects for a long time.
- ii. The police force does not have enough personnel to provide care to remand prisoners for a long time such as feeding them and providing other humanitarian needs, this has forced many suspects who stay in custody for a long time, such as those who spent 15 days in custody to starve because they are not allowed to see their relatives..
- iii. Many suspects go through untold suffering whenever they spend a long time in police custody. Such cells were not designed to accommodate many suspects at the same time and for a long time, some of them are poorly ventilated and are untidy something fueling the possibility of contracting infectious diseases.
- iv. Some of them end up sustaining injuries and lose their lives due to brutality and inhuman conditions.
- v. Because the police force does not employ medical workers as it is the case for the Prisons Department, it is increasingly hard to detect health problems befalling the suspects who remain in custody for more than two days.
- vi. Fuels corruption in the police force because the relatives of the suspects are tempted to bribe police officers so that their loved ones are set free.

Our Call

- i. We urge the government and top leadership of the Police Force to take stern punitive measures against police officers involved in the alleged brutality which goes against human rights as spelled out in the constitution of the United Republic of Tanzania of 1977 and also in other country laws. The government should also foot any medical bills for the victims.
- ii. We continue to urge the Police Force to carry out its duties in accordance with the law and other guidelines, professionalism and to refrain from detaining suspects for more than one day.

- iii. We advice security forces in Loliondo, to take a lead role and protect the security of the citizen in that area and avoid getting into the trap of trampling on the rights of nomad pastoralists especially ethnic Maasai who live in Ngorongoro/Loliondo.
- iv. The new Arusha Regional Police Commander (RPC) should take to task all police officers who are accused of perpetrating brutality against five innocent citizens in Loliondo.
- v. The Inspector General of Police(IGP) and the Minister for Home Affairs should intervene in this matter where innocent citizens were allegedly tortured in Loliondo and in other parts of the country.
- vi. If these steps are not taken we will initiate legal measures against the police officers involved in this great violation of citizens rights.
- vii. We call upon all Tanzanians, religious leaders, government leaders, leaders of the political party, Minister for Home Affairs, Members of the Press, Civil Society Organisations, to join forces in this campaign to denounce brutality against suspects and inmates in remand prisons in Tanzania(Defend the Rights of the Suspects).
- viii. For anyone with information about the suspects who are subjected to torture, or who have spent a lot of time in police custody kindly dial (+255742322586 and +255755490360) You can also use our twitter harshtag to post that information in the social media #TeteaHakizaMtuhimiwa

Issued today 22 January 2019

By,

.....

Advocate Anna Henga
Director
Legal and Human Rights Centre(LHRC)

.....
Onesmo Olengurumwa
National Coordinator
Tanzania Human Rights Defenders Coalition(THRDC)