

PRESS RELEASE
Friday 25th of January 2008

**DOCUMENTATION AND INVESTIGATION OF SERIOUS VIOLATIONS OF
HUMAN RIGHTS IN THE POST ELECTION VIOLENCE IN KENYA**

Serious human rights violations have taken place in Kenya immediately before and following the announcement of the disputed 2007 Presidential elections results. The violations have taken place particularly in Western Kenya, Nyanza province, Rift Valley, Nairobi, and the Coast regions. Hundreds have lost their lives, and even more have been displaced, by this violence that has taken ethnic dimensions. More have died and been injured by the police when responding to the violence. We join Kenyans in mourning the dead and comforting the injured and the displaced.

Section 16 of the Kenya National Commission on Human Rights Act, 2002, and other provisions of the law, mandate the Commission 'to investigate, on its own initiative or upon a complaint made by any person or group of persons, the violation of any human rights'. Pursuant to this mandate, the National Commission has commenced documentation and investigations of the human rights abuses reported from different parts of the country.

Purpose and Objectives of investigation and documentation

The primary purpose of the documentation and investigation exercise is to find answers to a number of questions. The first question is, what happened in different parts of the country? This involves documentation, classification, and categorization of the patterns of violations that took place. The documentation and investigations will focus on both the violations that have occurred in situations of ethnic conflict, that is, one ethnic community against another as well as on violations that have occurred during the security agencies response to the violations, e.g. use of excessive force.

The second question is, why did the violations that have been reported happen? This will involve an examination of the immediate trigger factors and the underlying causes of the violations that have taken place. The third question is who are responsible for the violations? In respect of the allegations of 'ethnic cleansing', it is important to identify which persons bear responsibility at the highest levels for inciting, planning, funding, and directing the 'ethnic cleansing' and displacement of particular communities. With regard to the allegations of excessive use of force by security officers, leading to deaths and injuries, it is necessary to determine the persons under whose command this happened. The fourth question is, what short and long term actions should be undertaken by the country to deal with the persons responsible for the violations, and to address the immediate trigger and underlying causes of the violence? We will make recommendations out of this work.

The results of the documentation and investigation exercise of the National Commission will be to name the persons who bear the greatest responsibility for the human rights violations that have occurred; to recommend further investigations and prosecutions for persons who bear the greatest responsibility for the violations; to support the work of other processes including the proposed truth and justice commission; and to establish the basis for further investigations and actions by the International Criminal Court, the Office of the High Commissioner for Human Rights, and the United Nations Security Council.

How the documentation and investigations will take place

Teams of investigators are being dispatched to various parts of the country – including Eldoret, Kericho, Molo-Kuresoi, Nyanza/Kisumu, Mombasa, and the Coast. Teams will be in the field from next week. The teams will interview victims and survivors of the violations, security officers, religious leaders, and community leaders in order to understand what exactly happened, and why. The teams will also visit some of the sites of the violations. We aim to gather as much information from as many sources as possible.

Partnerships

The National Commission has secured the partnership of expert organizations from outside the country to assist it with the needed expertise in documenting and investigating serious and widespread violations of human rights abuses. We are particularly grateful to **No Peace Without Justice**, an international not-for-profit organization that is providing training and expert support to the team of investigators. They have provided similar expertise in the Sierra Leone and Kosovo conflicts. We will also be working with local civil society groups and faith based groups.

Conclusion

There cannot be true peace without justice and no justice without accountability. Parallel to the ongoing search for a political settlement among the main political actors, the search for justice and accountability must begin in earnest. The search for justice and accountability must be blind to political positions, or ethnic, identities. A violator is a violator.

The National Commission would like to send the strong message to those behind the violence- the violence directed against certain ethnic communities and the use of excessive force by police and extra judicial killings-that we will be pursuing the agenda for justice and to hold them accountable and that violence will never be rewarded. In the same light, we urge the Government of Kenya to fulfil its human rights obligations and to ensure that all fundamental rights, including civil and political rights, are fully respected and protected. All sides in the current political stalemate should adopt non-violent means to resolve the disputes.

A preliminary report, which will be made public, is expected in two months.

Signed by:

Florence. S. Jaoko, Vice Chairperson

Fatuma Ibrahim, Commissioner

Wambui Kimathi, Commissioner

Fatuma Dullo, Commissioner

Lawrence Mute, Commissioner

Winfred Lichuma, Commissioner

Mburu Gitu, Commission Secretary