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Need to Rejuvenate Public Confidence in Police Force

By Stephen Mutoro

There have been innumerable complaints in the past about the way our police go about their work. Such complaints have come from alleged arbitrary arrests, searches, lobbing of tear-gas canisters, firing of rubber-bullet or even life bullets at rowdy demonstrators, traditionally the public university students.

As a result many people have divided opinion over whether or not police have a humane face while undertaking their responsibilities. Common unfriendly terms such "police brutality" have often been applied by members of the public and media to describe the stuff that our police is made of.

Owing to this development, police-public relations have been strained leaving police isolated. Many have therefore have come to perceive police officers as enemies rather than friends. Which result has seen a sustained poor public attitude to police and their work.

The use of force by police in execution of their day-to-day duties therefore provokes a public debate on an issue so fundamental, often talked-about with little stab having been made to comprehend it, leave alone manage it.

According to section 8 of the Police Act (Cap. 84), once a police officer has duly made and signed an oath or affirmation, he or she is vested with the "powers, immunities and privileges" appertaining to that specific rank. Which means the same are relative.

Which is why a police officer is required to refer to all seniors as "sir" or "madam" which is credited with discipline. The only unfortunate bit being that it is often done as a routine aptly referred to as "acting" particularly when a comparison is made with the same 'disciplined' officer interacting with the public.

Questions however begin to emerge as to who are the "police" relative to public? Do what extent to police "powers" allow for use of "force"? And when does the police "force" cease to be "reasonable" and become "unreasonable"? No doubt that these salient questions continue to thirst for answers.

Section 15 of the same Act outlines the expectations of a police officer. It states that an officer must obey promptly all lawful orders from superiors and will be expected to execute all lawful warrants issued to him. Collection and communication of intelligence affecting law and order as well as observing all procedures towards preventing commission of offences and public nuisances is part of a police officer's job description.

Additionally, a police officer is expected to detect and bring offenders to justice. Consequently the officer is at liberty to apprehend all persons as long as sufficient grounds for such a move exists.

Section 25 of the Police Act is perhaps what has fuelled the simmering hue and cry from public towards police. It gives the otherwise sweeping powers to the police to stop and detain any person they observe doing something or handling property for which a license is required.

They are further allowed by law to stop and detain a member of public where they are simply suspicious of what he intends to do or whatever such a person may be carrying.

A condition however is that such an officer invoking this section must be in uniform and should produce a certificate of appointment, on request. Police are allowed to arrest without a warrant, any person who would fail to satisfy the officer that he would be available to answer the summons against him. The same powers will be invoked if a member of public obstructs a police officer in the execution of his duties.

Indeed it is at this level that members of the public believe the police powers may or are often prone to abuse by the so-called trigger-happy officers. And for good reasons though.

Firstly, the police are by design, the servants of the public. They are responsible to the public for prevention of crime, protection of life and property, detection of offenders and preservation of public peace and tranquility. Conventional wisdom requires that a servant cannot over-grow the master, whatever the circumstances.

Secondly, a good police officer like any other professional, is one who is very conversant with the knowledge of law, both as a common law and as the per statutes.

A number of police officers are not very conversant with some sections of the Police Act, which confirms the public fears. After all a little knowledge is often dangerous in such circumstances of life and death.

Incidentally, some of the laws trace their origin from colonialism and would thus not be compliant with the current human rights demands. It would therefore take an officer who is in tune with current human rights to take the best initiative of applying the law in a sober and effective manner.

Thirdly, police are human and therefore part of the public. Training alone at Kiganjo Police College, however magnificent will not change much of an individual who was initially a thug or social-deviant before joining the force. It is an open secret that until recently when university graduates started flocking the police force, those who joined the police until early nineties were those brought to police as a last resort of occupation or simply by parents who wanted them to "reform".

Chances are that even in uniform, their character may not change, if not for worse. Indeed this is the intrigue, which will remain a lasting challenge to the commissioner of police as he promises reform. And this are the elements who will make it almost imposible to apply a genuine community policing, even if it is legislated.

Section 28 allows for use of fire-arms, the known legal police extreme force, if police have “reasonable” grounds that they cannot prevent an escape, and that their warnings on use of fire are not heeded. It is also applicable when an officer believes that his life or that of another person is in danger.

Members of public need to however appreciate that whenever a police officer uses a firearm whether or not it results in loss of life or injury, it will become a subject of legal investigation. The only loophole here is that police would still investigate themselves in such a case.

As a result, the public will have the grounds to the doubt the outcome, which unless dealt within the courts of law, it may never be made public. Coupled with the usual delays in dispensing justice, the whole process erodes the public confidence in police internal disciplinary process.

There is however the other aspect of provocation from the public especially during violent riots. The public attitude against the police has been poor. The policy on applicable force by police cannot be divorced from the reigning public attitude and relations with the police and their work.

It would indeed be absurd for a police officer to apply excessive force against a cooperative person. In the same vein, it would be unrealistic for members of the public to defy lawful police orders and still expect a welcoming response.

What is most intriguing is that even when known hardcore criminals are gunned down, public sympathy, at times shifts away from police. Whenever police lose their lives at the hands of criminals, the media seems to sway public opinion towards the make-believe perception that police would be losing the war to criminals.

It is anticipated that ideal policing is not one that focuses on crisis management. It ought to detect and pre-empt crime before it actually occurs. To achieve this, public-private partnerships between police, media and public must be inculcated into the broader policing domain.

Public-private partnerships between police, media and public must be inculcated into the broader policing system. To assure other partners, the police will have to go an extra mile to convincingly prove that they are not paying lip-service towards realizing the anticipated reforms, internal or otherwise.

Police must take the lead. Unless this is done, the yearning for a Kenya with sustainable minimal cases of crime will remain only a big wish. It will be critical to re-check and define the applicable force.

Unless one is about to arrest a dangerous criminal, Kenyans would like to have dignified arrests particularly in cases, which are not of a criminal nature. Cases where people are ambushed and held by the trousers must be discouraged.

You probably want to have a dream-come-true where a police officer stops you smiling, excuses himself referring to you as 'sir' or "madam" and thereafter declares your arrest. It is only someone out of his mind who would not give to such 'dignified' arrests.

At the police station, the apprehended person could be made to free, or probably invited to tea if budgetary provisions allow, as one records a statement. Well-handled, realistic use of the minimal police force, increased humanity and even humor from police, where applicable, can rejuvenate police-public partnership against crime.

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