



The
Brutal
Pandemic



2020
ANNUAL REPORT



This is a project aimed at ending police killings and enforced disappearances in Kenya. When confronted with human rights reports or media accounts, Kenyan authorities continue to either deny or dismiss the existence of what appears to be a government policy on enforced disappearances and police killings. Since its inception in August 2018, Missing Voices has documented and verified data of police killings and enforced disappearances, held several campaigns and events to increase public awareness on violent policing and to create platforms for dialogues with stakeholders.

*Ni Haki yangu kuishi.
Yes it's my right to live.*

*Welcome to Mathare where this is just but a rumour.
Don't get me wrong though,
Life here is beautiful.*

*The young toss dirt in the air, street football at its best,
the next superstars in the making.*

*Wazee gather and play boardgames discussing politics and how bored they are of 'their' games.
The women are up at the crack of dawn..cock crowing, firewood splinters as the fire crackles.*

*But then,
Gunshots huku zimekuwa lullaby,
Sign ya kuzama ama labda another soul imezama?*

*Who do we tell?
Where do we go?
Brother went missing on his way home.*

*Raw sewage inapita outside leo imeturn red,
In class I'm distracted by what I saw how do I sleep in bed?*

*Missing voices, Sauti ya mnyonge.
Time to respect life w'toto kwa wakongwe.*

And despite all these...ni haki yangu kuishi...yes it is my right to live

Poem by ChaleSlim

BACKGROUND



The Kenyan government does not keep a formal record of police killings and enforced disappearances. Our research, research from other human rights organizations and the media indicate that enforced disappearance and police killings are a systemic problem in Kenya



In 2019 Missing Voice documented 144 cases of police killings. 167 Kenyans were killed or disappeared in police custody in 2020. Out of this 157 were killed by police while cases of enforced disappearances recorded in 2020 were 10.

While Kenya has laws in books to address police killings, these laws are inadequate, and in most cases, they are not enforced adequately. The turning point for the work on enforced disappearances and police killings, at least in the public conscious, was when lawyer Willie Kimani, his client Josephat Mwenda and their driver Joseph Muiruri was abducted and subsequently executed in June 2016. The public outcry that followed the discovery of their tortured bodies has rekindled public interest in addressing the issue.

When confronted with human rights reports or media accounts, authorities continue to either deny or dismiss what appears to be a government policy on enforced disappearances and extrajudicial executions. Research shows that most police killings are preceded by enforced disappearances, which significantly increases whenever security agencies are engaged in eliminating suspected organized criminal groups. Kenyan police are implicated in enforced disappearances and police killings during security operations.

"An innocent citizen had been murdered and they were going to blame it on the Coronavirus, or call him a thug that had to be dealt with. No. They would not dishonor our community so far." - **Mradi, Nairobi**

Victim**Vitalis Owino**

WORDS: Kanyi Wyban. PHOTO: Kongo Peter



Lately I have been a mother fearful for not only her own safety, but also the future of her children. We just moved to this house a few months ago. I was forced to abruptly leave my previous house upon a peculiar late night visit by policemen – or so they claimed to be. Neighbors told them off, but strange calls the days that followed made me realize my contact details had been compromised.

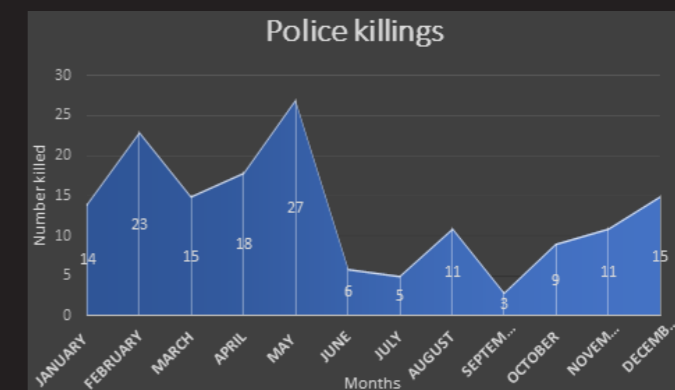
This is something that should never happen to anyone. I am just a single mom whose life is now dedicated to providing for my kids. Vitalis was my rock but he was snatched from my clenched fists. Losing him has brought me to awareness of how hateful our world is. When he died, I was still one month pregnant with my youngest daughter. It shook my world and left a hole I am not sure I will ever fill. That Sunday evening, he had left the house for the toilet not so far from here. I remember asking him to not be outside long, as the government had just imposed a 7 pm curfew. He was also to bring with him some omena fish for supper. But my Vitalis never returned. All my attempts at reaching him were futile.

I learnt of his murder from his aunt in the countryside when she called me the following morning. She was frantic and wondered if I knew of my husband's whereabouts. Someone had reached her with the terrible news that his dead body was laying in the streets of Mradi. He had been brutally beaten up – to his ultimate death! I was not able to go see his body immediately. I just could not move.

My neighbors rushed to the scene and confirmed it all to be true. It was when I finally mustered the courage to view my husband's lifeless figure that I became light-headed and weak at the knees. He bled from the head, the ears and had suffered a rupturing of

the ribs. Next thing I knew, I had long passed out and spent several hours at a nearby dispensary. While I was out, carrying his corpse out of the streets had turned a violent affair. The police came and had to call for reinforcement.

Furious residents denied them carriage of the body from the scene. In fact, the gathered mob decided to bring his body to the police station themselves, on a handcart, and in earnest protest. An innocent citizen had been murdered and they were going to blame it on the Coronavirus, or call him a thug that had to be dealt with. No. They would not dishonor our community so far. And, of course, arrival to the station in its own manner was innately understood as war. The police immediately launched tear gas to the mob, which, not long afterwards, was dispersed. It was surreal. But as much as I want to be sad and grieve – I can only move on. I can only take care of my children now, who Vitalis loved with everything that he was.



STATISTICS

Methodologyin Collecting Data

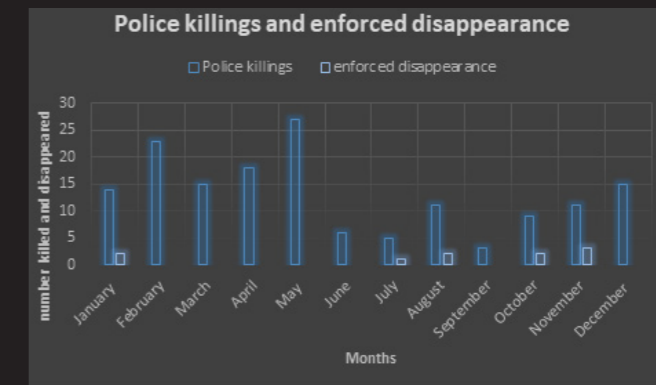
Primary approach:

Missing Voices relies on monitors spread across Kenya to document cases of police killings and enforced disappearances. The monitors document witness statements and collect evidence. After documentation, they send the cases to the respective agencies for follow-ups.

Secondary approach:

Secondary approach: Missing Voices collects secondary data from open sources, including media outlets. The verification process includes cross-checking with witness statements and police reports.

10 people were disappeared, and their whereabouts are still unknown to their families.



January, February, May, and December witnessed most police killings.

STATISTICS

Challenges

Missing Voices monitors experiences difficulties documenting all cases of known police killings and enforced disappearances because of:

- New emerging trends of police killings and enforced disappearances.
- Witnesses and families are unwilling to document cases because of fear of retaliation and the fatigue induced by a prolonged criminal justice system where cases take very long to go to trial.
- Human Rights Defenders (HRDs) face innumerable threats from security agencies
- The Independence Policing Oversight Authority (IPOA) deals with a backlog of cases, leading to delay and dissolution from the victims' families.

2020

Key findings

The Kenya police killed 157 people in 2020 compared to 144 people in 2019. Police killed 24 people while enforcing the COVID-19 restriction imposed by the government.

YassinMoyo



Missing Voices graffiti made in memory of Yassin Moyo

One of those killed is Yassin Hussein Moyo who would have sat for his Kenya Certificate of Primary Education in 2021 at Ndururumo Primary School in Kiamaiiko, Huruma, Nairobi County. The 13-year-old – timid, hardworking but with a fun-loving spirit – spoke of his dream of joining a secondary school this year.

However, his vision was cut short by a single bullet late Monday evening as he played with his siblings at his family home's balcony. It happened so fast. It was about 7 pm,



just after the curfew announced by the Kenya government to help curb the spread of coronavirus (COVID-19) had set in. Their mother, who was nearby, gave little attention to the police officers walking past the building enforcing the dusk to dawn curfew in the area.

After all, they were on the third floor of the building, so they assumed they were safe. The family heard a gunshot sound, and Yassin told his mother he was hit. They rushed Yassin to Mama Lucy Hospital and encountered difficulties because of the roadblock. When they reached Mama Lucy Hospital, they had to wait almost three hours before surgery to remove the bullet lodged in his stomach. He did not make it. According to a postmortem conducted by three pathologists from Independent Medical Legal Unit (IMLU), Independent Policing Oversight Authority (IPOA) and one representing the government, Yassin died due to excessive bleeding.

Yasin's and other killings drew local and international media attention, prompting the president to issue an apology. Almost one-year later Yassin's case has not proceeded to a full trial. Yassin's case delay is emblematic of cases involving police killings engendering a trust-deficit in the citizens' criminal justice system.



Vaite

On 01/06/2020, police killed a 51-year-old man, known in the community as Vaite in Mathare 3c, around 7:40 pm. Vaite, whose real name was James Murithi, according to a postmortem report was shot three times at a close range, two bullets to his thigh and one to his lower abdomen. The police officers were allegedly enforcing the COVID-19 curfew restrictions, but Vaite was homeless and sleeps at the same spot where police shot him. Witnesses reported the police officers fled the scene after they shot Vaite, leaving him to bleed to death. No officers has been arrested or charged for this killing.

ErickNg'ethe

On 01/04/2020 Erick Ng'ethe was alleged to have been at a local pub in Ukunda, Kwale county past the curfew hours when police officers raided the establishment to disperse the revelers. According to eyewitnesses, the police threw tear gas in the pub and the ensuing melee; he was caught and beaten by several police officers. He later succumbed to the injuries. The matter was reported to IPOA for further investigations.

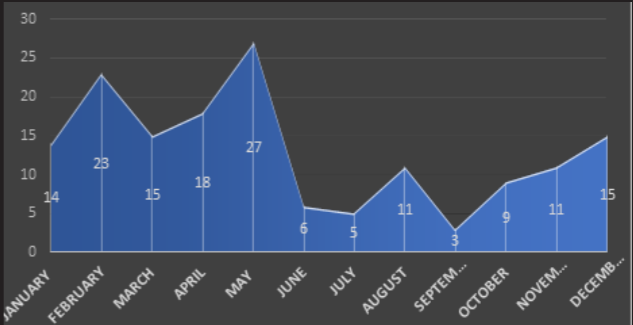


FetusMwanahalima

Eight months old fetus Mwanahalima died when the pregnant mother was shot by police in the stomach during a raid. Witnesses reported that the father responded to a distress call following an attack by Anti-Terrorism Police Unit (ATPU) officers searching for weapons. When the father stepped out to find out what was happening, he found the pregnant mother injured. Doctors at the hospital confirmed that the fetus was injured by the bullet and died. The mother survived. Besides Mwanahalima, Ramadhan Mohamed Chitswa, 41 years old, Swalha Chitswa, 4-year-old and Ramadhan Chitswa, 6-year-old were also killed on 30/05/2020.



Policekillings



STATISTICS

According to our data in 2020, the Kenya Police disappeared 10 people, two in January, one in July, two each in August and October and three in November. The 10 are Alfian Juma (Mombasa), Abubakar Kalama (Mombasa), Alphonse Mwanda (Mombasa), Seif Omar (Mombasa), two unknown persons from Mombasa, Haruni Kondo (Kwale), Mohamed Hussein (Kwale), Idris Omar (Lamu), Hamza Issa Kilifi).



Police killed 20 people in March, April, May, and June as part of covid-restriction enforcement



According to our data, the Kenya police are disproportionately involved in most of the killings of all the security agencies followed by the Directorate of Criminal Investigation (DCI). In 2020, The Kenya Police killed 101 people and the DCI killed 29. Nairobi accounts for significant cases of people killed by the police, followed by Mombasa and Nakuru Counties. There is an emerging trend of the police killing of individuals-mostly in groups of individuals they allege are criminals. The police killed the suspected criminals without due process. On January 8th, 2020, around 8 am, police officers killed four people next to Posta estate in Uasin Gishu County. Police allegedly ordered the four to stop while they were in a vehicle, and they refused and instead opened fire. The officers fatally shot all four passengers.

In another separate incident, according to the Directorate of Criminal Investigations (DCI), the unknown was shot dead alongside six others as they drove in a car in a separate incidence. Detectives allegedly asked them to stop, but the driver defied the order, with one person firing at the officers sparking a shoot-out that left all seven individuals dead.

February 29th, 2020, according to the DCI, a man was kidnapped for ransom by a group of men who pretended to be police officers. Forensic evidence led the investigating team to Dagoretti at Sun Track Estate House. No 2199 where the alleged kidnappers demanded one million for the release of the victim. An exchange of fire ensued, leaving the group of 4 dead – amongst them was an AP officer.



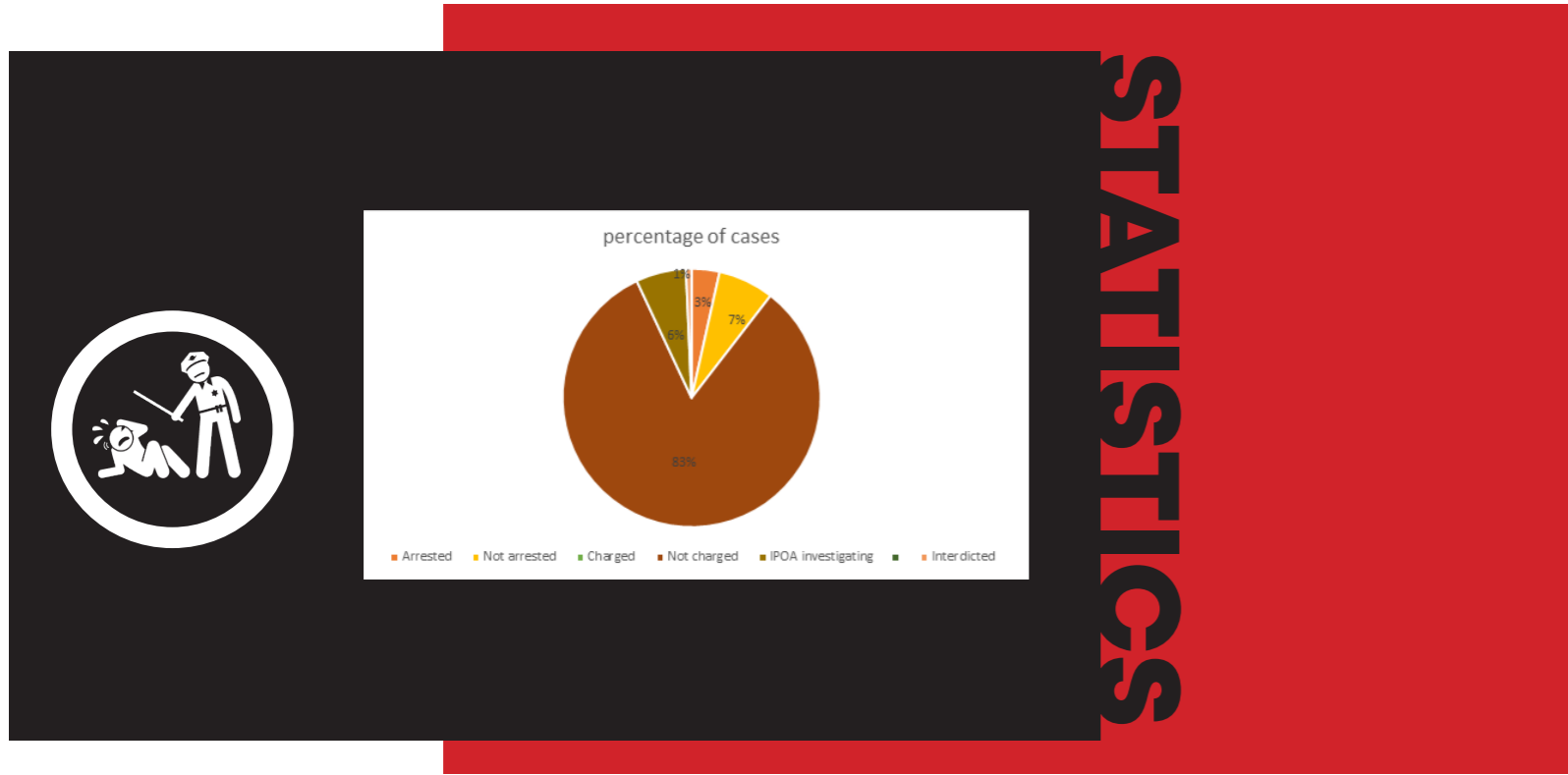
The 167 cases were a result of 131 separate incidents, 83% of the cases have not been investigated, 3.5% have led to the arrest of the perpetrators, 7% are under investigation by the Independent Police Oversight Authority (IPOA).

The Kenyan police are killing and disappearing people while the government has embarked on police reform initiatives. These initiatives include harmonising the National Police Services command control and eliminating police ghost workers, making OCSs AIE holders. Additionally, the enactment of the National Coroner Services Act and the Prevention of Torture Act, Provision of House allowance for police officers, Digitisation of the Occurrence Book, promotion of stagnated officers, and prosecution of police officers involved in crime.

The fact that police violations are happening against the backdrop of high-level police and policy reform initiatives is an indication of either: a disconnect between policing blueprints and community experiences; or the failure of discipline and command control. The low number of officers held accountable does not measure to the number of those who remain free and continue to participate in cases of brutality or misconduct.

Such delay engenders trust-deficit in the criminal justice system. Most cases of police killings take an average of five years in court before a conviction or acquittal. On Enforced disappearances, the case of Daniel Baru Naymohanga shows the limitations of existing policy intervention. Through evidence, the High Court in Migori established that: Daniel Baru Nyamohanga and others were arrested by police in Kehancha town between 12 and 13 January 2017.

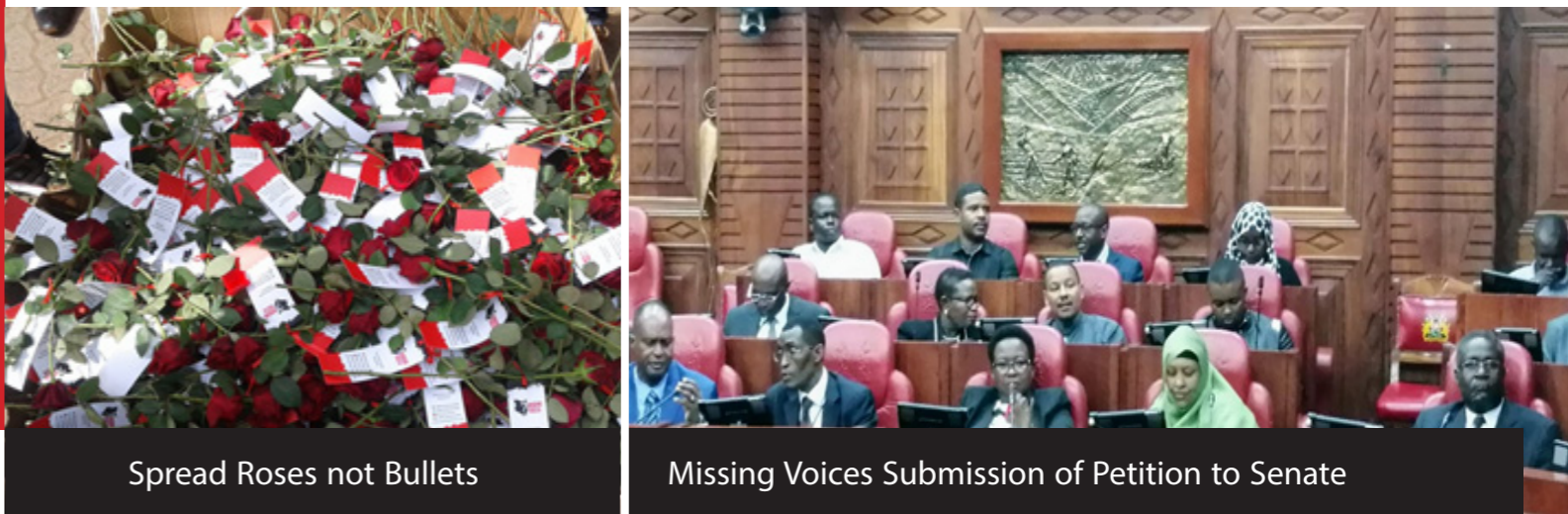
They were held in police custody at Kehencha Police Station until January 17th, 2017. At around 0900hrs, five accused persons were arraigned in court, while Daniel Baru Nyamohanga remained at the Kehancha Police Station. The five accused persons were set free after being committed to a bond to keep the peace (a law that was declared illegal by the High Court in 2014). The OCS, Kehancha Police Station, was the last person to be seen with Daniel Baru at Kehancha Police Station. In its final determination, the court ordered the Director of Public Prosecutions (DPP) to charge the officers involved with the murder. Four years since Baru disappeared in police custody, the OCS is yet to be charged. This shows the futility of pursuing justice in cases of enforced disappearances such as Daniel Baru’s.



One feature of most police killings cases is they take an inordinate amount of time before they are taken to court. It is one-year anniversary since Yasin was killed, his case has not yet gone to full trial. Some of it could be attributed to the lockdown of the courts occasioned by Covid-19, but even outside Covid-19, cases are hardly resolved on time.

“

“... It didn’t matter that he screamed for help from nearby residents. My lastborn sibling died alone.
Mabatini, Nairobi



Elvis Otieno (Chatuu)

WORDS: Kanyi Wyban. PHOTO: Kongo Peter



Before I secured a job, my little brother helped me to stay afloat. He had always been extremely generous. In fact, his last act on earth was that of kindness. He occasionally touted at the matatu stage but primarily maintained a public toilet facility for a living. That day, someone begged him to allow them entry into the toilet block, shortly past the 10 pm curfew. Chatuu, out of his sweetness of character, heeded the pressed stranger's request. It was upon leaving the block when he met the police on patrol. They would then immediately pounce on him with their batons and clubs, thrashing him ruthlessly. It didn't matter that he screamed for help from nearby residents. My lastborn sibling died alone. The cops made it crystal in their threats that anyone who dared come out of their houses was

going to join in his anguish. I say anguish because he died handcuffed, tortured and was shot twice, in the chest and thigh. I also say anguish because of the deep pain his untimely death brought to his family, wife, and child. All those who loved him, who were forced to accept the narrative that their boy died a thief.

Highlights: Advocacy, Campaign, and engagement with the authorities

February 14th 2020: Spread Roses not Bullets. Survivors of police violence launched the Missing Voices 2019 annual report in Nairobi. The event was attended by Missing Voices Partners led by IMLU Director Peter Kiama and Amnesty International Kenya Board Chair Renee Ngamau. The survivors handed over roses to members of the public urging them to support calls for end to police killings on this day that was also St Valentines Day. The event was widely covered by the media.

Following a spate of police killings and the release of Missing Voices 2019 report, the Police Reforms Working Group Submitted a petition to parliament regarding police killings and enforced disappearances in Kenya. In their submission, the group stated, "Some of the prominent killings include Eastleigh killings by Rashid, the Killing of lawyer Willie Kimani, his client Josephat Mwenda and driver Joseph Muiruri, and most recently the killing of Daniel Mburu- the bodaboda rider at Mama Lucy Hospital. Many other killings take place without the benefit of mass media coverage."

In response, Nairobi Senator Johnson Sakaja said, "The number of young people being brutalized and executed by rogue officers is alarming. As a house, we must demand that all those responsible be reprimanded, dismissed, and prosecuted in accordance with the law not transferred to other stations. It is sad and totally unacceptable for us to continue condoning the level of impunity that is being displayed by our police officers in broad daylight.

The Senator called The Inspector-General should, ***"be personally held liable and should be summoned to shed more light on the steps taken to bring this to an end and the status of the 107 cases of extrajudicial killings that have taken place in the last 15 months. The IG must present to us the strategy and new regulations that ensure humane, professional, and responsible policing even during demonstrations and picketing as allowed for under Art.37 of the Constitution. He must also update us the state of investigations and prosecutions of the police officers who are alleged to have shot these young people."***

Senator Sakaja urged his colleagues to stand with the youth of Nairobi, the youth of Kenya. In line with the Police Reforms Working Group demands, the Senator demanded the establishment of the National Coroners Service Act and the Prevention of Torture Act, establishment of a National Inquiry into Violations by Security Agents, Reparations to victims & families of extrajudicial killings & enforced disappearances and for Kenya to ratify the International Convention for Protection of all Persons from enforced disappearances."

Covid-19 derailed the Senate's planned nationwide dialogue on police killings and enforced disappearance.

June 23 **Day of Commemoration for Willie, Joseph and Josephat.**



International Commission of Jurists Kenya (ICJ-Kenya) held its 12th in a series of its' webinars on June 23rd 2020 to discuss enforced disappearances and advancing accountability for torture in Kenya.

ICJ Kenya convened the webinar with International Justice Mission, Kenya (IJM Kenya) and the Missing Voices coalition. Over 450 participants joined the webinar. Others followed the deliberations through our social media and online streaming services, including YouTube, Twitter, Facebook, and WhatsApp. The participants and panellists were drawn from state agencies, civil society, the private sector, the international community, and the government.

July: Webinar on the Implementation of the Coroner's Service Act

AG's office representation stated they would try to get the September budget and implement it by the end of the year.

August 30: International Day for Victims of Enforced Disappearances.

Community-webinar

Community exhibition on EJE's and EDs

Artistic Documentary

Legal analysis video on Habeas Corpus

Installations of graffiti

Outcome

Community lead campaigns allowed for community discussions on reporting cases and de-normalizing police excesses.



Isaiah Omollo (Kobingo)

WORDS: Kanyi Wyban. PHOTO: Kongo Peter



Recommendations



“... I was nothing but a body. Perhaps even less: a poor hollow body invaded – and devoured – by immense pain.”

Mathare 4A, Nairobi

I could feel the life come out of my body the moment I fell to the bottom of that rocky ditch. It was impossible to move. Now I was nothing but a body. Perhaps even less: a poor hollow body invaded – and devoured – by immense pain. My left foot suffered two grim fractures, to the knee and the ankle. I had hardly closed down my shop in time to beat the 7 pm curfew when baton-wielding askaris appeared from the south. They were clearly on a mission to smite with godly force, anything that walked. No time for questions; much less from persons at the wrong place, at the wrong time. Like myself. People ran in every direction to the safety of their homes.

The whole situation had been so tense. The cops got to me before I could promptly jolt back into my house. I do not remember ever being beaten quite as bad in my life. The officers kept hammering me and commanding me that I should get up and run! I was sure I was going to die today. But finally, my wife and concerned neighbours pulled me out and rushed me to the hospital while I drifted in and out of consciousness.

One year down the line, I remain largely impacted by the assault meted out on me. Here I am now, Kobingo – my popular nickname which alludes to a strong and tough man – the once go-to barber, who can now no longer give a clean shave to his customers without taking a breather or two. A sickly old man who barely affords medication for his injured foot, let alone the underlying diabetic condition. The person I was has been consumed and all that is left is a shape that resembles him. I am unable to pride myself on being strong and tough anymore. But still, my customers identify me as their Kobingo. So, Kobingo I must remain.



To the Legislators

- I. Enact a law on enforced disappearances or amend the existing legislation to criminalize enforced disappearances. The law should include recourse and reparations for victims and their families.
- II. Comprehensively implement the National Coroners Service Act 2017 and the Prevention of Torture Act 2017.
- III. Ratify the International Convention for the Protection of All Persons from Enforced Disappearance.
- IV. Ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT).
- V. Allocate sufficient budget to the Witness Protection Agency to adequately protect witnesses and families of persons who have been forcefully disappeared.



To the National Police Service

- I. Offer support to investigating officers to conduct investigations to obtain evidence to prosecute the perpetrators of enforced disappearances and killings.
- II. Ensure that documentation in the occurrence book indicates all persons in police custody to facilitate rapid investigations of enforced disappearances.
- III. Ensure that police officers wear the uniform, have their identification badges and drive police vehicles while on duty to be easily identifiable by the public.



Inspector General

- I. Inspector General to present to the National Assembly police own data on police killings and actions taken and formally respond to Missing Voices 2019 Annual Report on the State of Police Killings and Enforced Disappearances in Kenya (he has a copy).
- II. Inspector General to update National Assembly on the state of investigations and prosecution of the four officers including Corporal George Mwathania, Police Constables Jonathan Kibet and Boniface Muthama of Makongeni Thika Police Station and Juja Police Station caught on camera meting excessive force on a JKUAT students in November 2019.
- III. Inspector General to confirm in line with the Presidential directive that he will name, dismiss, and prosecute any officer found culpable for human rights violations and not transfer the officers as has been the case in the past.

IV. Inspector General to present in Parliament a strategy and new regulations that ensure humane, professional, and responsible policing during demonstrations and picketing as allowed for under Article 37 and the right to assembly.

V. Inspector General to report on reports that the Pangani Police Station has six officers that go by the name of Hessy wa Dandora, Corporal Rashid among others that have thirty cases of extra-judicial killings among them.



The Office of the Director of Public Prosecutions (ODPP)

- I. In collaboration with government oversight bodies, the Judiciary and other civil society organizations create habeas corpus guidelines.
- II. Build trust between the public and the ODPP to ensure that more witnesses come forward with information.
- III. Working in collaboration with the Witness Protection Agency to encourage witnesses to testify in cases of enforced disappearances.
- IV. Develop ODPP guidelines on the investigation of enforced disappearances.
- V. Fast track the development of jurisprudence on prime responsibility and command of responsibility.
- VI. Engage the NPS in cohesion building as far as conducting investigations of enforced disappearances.



Independent Policing Oversight Authority

Asha Yusuf Chai

Story: Asha Yusuf Chai

WORDS: Gabriel Mwanganjoni PHOTO: Haji Ramadan



The painful smile

Age: 59 years

I always look up at the sky and ask Allah (God) why did you spare me and subject me to a now painful, hopeless and ruthless life? I wish I could revive my past promising life, but unfortunately, I can't. My life is torn apart and I am living like tattered cloth.

I have become useless, a human being without focus and who cannot differentiate between yesterday, today and tomorrow as everything seems to be falling apart. I was a successful fish vendor, who fetched between Ksh. 3,500 and 4,000 in a day. In a successful week, I could bank up to Ksh.16,000 from my fish business. It is the same business that enabled me to educate my six children up to the secondary level.

My husband died 30 years ago leaving me with the burden of raising my children. I struggled daily to ensure none sleeps hungry and that they all get their basic needs including education. But all these changed in a single day. Memories of that day leave my stomach churning and tear my heart into pieces. This was actually the beginning of all my tribulations. I vividly recall it was the second day of the 7pm to 5 am dusk to dawn curfew.

It was on March 28, 2020, on a Saturday evening. I had gone to sell my fried fish some few meters from my home, in Bamburi, Kisauni Sub-county. I was almost finishing my fish stock some minutes before 7 pm when I heard people shouting "Police...police!" I started carrying my wears so that I could dash to my house, but before making a single



To the Judiciary

- I. Enhance vigilance in investigating incidences of enforced disappearances and police killings where police officers are the perpetrators.
- II. Create user-friendly interfaces for persons who wish to complain to police officers.
- III. Document and collate information across the country on persons who have been forcefully disappeared.

- I. Expedite and finalize the cases of enforced disappearances and police killings before the court.
- II. Prioritize and expedite matters of habeas corpus before the court.
- III. Track the emerging jurisprudence on torture related cases.
- IV. Enhance training of judicial officers on enforced disappearances.
- V. Prioritize the need for law reform on sanctions for government officials' failure to obey court orders for production in habeas corpus cases.

step, police officers surrounded me. Before I uttered a single word, I found myself on the ground bleeding. I was hit by those wooden 'rungus,' they kicked and stepped on my back. They were around four police officers who descended on me, they assaulted me until I was unconscious. When I regained consciousness I found myself at the Coast General Referral Hospital. I was soaked in blood. I had lost four teeth at the scene of the beating, two other teeth on my upper jaw had pushed further inside my jaw and through the nose. I was told they were affecting the nerves connecting to my eyes. I was speechless. My lower lip was hanging loosely almost falling to the ground. How my mouth was reconstructed by the doctors remain a miracle.

At Coast General Referral Hospital, no one attended to me throughout the night and even on the second day. I told my children to take me back home to Mwakirunge so that I could die peacefully. I only smelt, felt and saw death.



I was devastated and I was giving up on life.

My children who were more confused and in tears took me to a private facility at Yeshua Medicare Centre in Bamburi. The doctors said they couldn't handle my case since my mouth had started rotting. Since

I couldn't talk, my eldest son Ali Ngala Chai, 44, who was also injured after he was beaten by the same police officers when he tried helping me, pleaded with the doctors who agreed to treat me, however, they did not admit me. I spent all my savings, I borrowed money, I caused my children and relatives sleepless nights. For three months I could not sleep. Every time I went to bed I felt like my heart was popping out, my head heavy and unbearable back pains became my daily menu of sorrow.

I prayed that I would die since I was now living in poverty. I had no food, I could not afford medical expenses, I have no shelter. I kept asking, "God why did you spare me even after being unconscious for more than four hours?"

I have 30 grandchildren but when they surround me I try to force a smile, but only pain comes out. I want to at least tell them a story but whenever I try I experience strong pains all over my body. My body is very weak. When I walk to a nearby shop to buy something and come across police officers, I always hurry back home for fear of being attacked again.

I use to enjoy eating ugali with fish but now I cannot afford it, we are forced to eat ugali with salt or lemon juice as vegetables because none of my children is working. This pains me a lot. I always sit here painfully waiting for death whenever I compare my life before those monsters turned my life upside down. I do not think that an ordinary Kenyan can get justice in this country that is full of impunity. I painfully smile hoping that justice will be served but since it is taking long, whichever comes my way first, death or justice I will open my arms and embrace it.



HamisiJuma Mwanundu

Story: Momo Suleiman Mwamchera, spouse(39 years)

WORDS: Gabriel Mwanganjoni PHOTO: Haji Ramadan



A bleeding wound that never heals

Age: 48

Our lives have been very tough in the past year.

I was left with nothing to fend my five children and ensure everything is okay. We were barely surviving before, but the situation turned from bad to worse after the painful death of my 48-year-old husband, Hamisi Juma Mwadungudu. I am always down on my knees, asking God to heal my heart, but the innocent faces surrounding me always remind me of their late father. They keep asking about his whereabouts. One day, my youngest child asked me, "When will you bring back our dad?" How am I even supposed to respond?

My husband used to take our children to school in the morning and picked them up in the evening. That had strengthened the bond between them. We were a humble but happy family. We did not lack basic needs despite the struggles. God was always on our side. My husband was well known by many Bodaboda operators in Likoni, Kiteje and other community members he used to help. He was like a saviour in this locality.

Until the day my husband was beaten by police officers and left for the dead. He was rushing a pregnant woman to Likoni hospital from our home area in Kiteje in Matuga Sub-county, Kwale for a medical emergency. That alone is a true indication of how kind-hearted my husband was. On returning from Likoni at an area known as Mkunazini he was assaulted by police officers enforcing the curfew. He fell off from his motorcycle. All the police officers descended on him very hard.

They used all sorts of weapons like wooden 'rungus', elastic pipes, blows and kicks until he was unconscious. They thought my husband was dead, and they left him by the roadside just near his motorcycle. Sometime later, he gained consciousness and took his motorcycle and rushed home.



He was at high speed when he arrived home, he entered the house and fell on the floor. We were all shocked and trembling since we saw that all was not well. "I was assaulted by police officers at Likoni. I am in deep pain... I cannot walk," he told. We started looking for help from

neighbours to take him to the hospital, but since it was during the curfew hours, no one was ready to step out. We had to wait until the next morning for us to rush him to the hospital. We took him to Kwale hospital, but to my surprise, none of the doctors attended to him as an emergency case.

Hamisi complained of deep chest and stomach pains. His body was full of injuries, and his back was swollen. Though the hospital confirmed that he had injuries in the stomach after conducting an X-ray, the doctors were treating the case as just 'a normal one' until I started complaining. They later admitted that my husband, now groaning in pain, needed urgent surgery, but it could not happen at that hospital because machines were not functioning.

By that time, I was almost losing my mind since my husband's situation was worsening, we were later referred to Msambweni hospital. On the third day since my husband's ordeal, I watched helplessly as he breathed his last at the wee hours of Sunday, March 29, 2020.

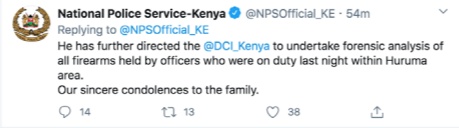
An autopsy that was conducted at the Coast General Referral Hospital showed that my husband had perforated intestines that released toxic waste to other vital organs that failed, causing his death. His demise left me with no choice but to struggle with what life brings my way. For the past year, I have restrained myself from going to Likoni since that place gives me fresh memories of my husband lifeless body lying at the Msambweni Sub-county hospital. He was our only source of hope, we fully depended upon him for upkeep, not only with my children but the entire extended family.

His father is under psychological torture and suffers from mental disorders because of the loss of his son. The painful part is that Inuka police officers detained his motorcycle which was our only source of income. To date, they have not returned it to us. I decided to start a food hawking business so that I can feed my children. Our firstborn completed secondary education and the last born is in class three. I go through a lot of psychological suffering, but I believe God will not abandon us and that one-day justice will prevail.



Partners





SIXTH SCHEDULE National Police Service Act [Sections 61(2), Act No. 11 of 2014, s. 54.]

A – CONDITIONS AS TO THE USE OF FORCE

1. A police officer shall always attempt to use non-violent means first and force may only be employed when non-violent means are ineffective or without any promise of achieving the intended result.

2. The force used shall be proportional to the objective to be achieved, the seriousness of the offence, and the resistance of the person against whom it is used, and only to the extent necessary while adhering to the provisions of the law and the Standing Orders.

3. When the use of force results in injuries—

(a) the police officers present shall provide medical assistance immediately and unless there are good reasons, failing to do so shall be a criminal offence; and

(b) shall notify relatives or close friends of the injured or affected persons.

4. A police officer who uses any form of force shall immediately, report to the officers' superior explaining the circumstances that necessitated the use of force and the supervisor shall judge the rightfulness and decide on the next step, subject to these regulations.

5. Any use of force that leads to death, serious injury and other grave consequences shall be reported immediately by the officer in charge or another direct superior of the person who caused the death or injury, to the Independent Police Oversight Authority who shall investigate the case.

6. The Inspector-General shall not be precluded by virtue of paragraph (5) from conducting investigations into the matter.

7. A police officer who makes a report to the Independent Police Oversight Authority in accordance with paragraph (5) shall—

(a) secure the scene of the act for purposes of investigations; and

(b) notify the next of kin, their relative or friend of the death or injury as soon as reasonably practical.

8. It shall be a disciplinary offence for a police officer to fail to report in accordance with these regulations.

9. An officer shall not tamper or otherwise damage any evidence from the scene of the act.

10. A Police officer in uniform shall at all times affix a nametag or identifiable Service number in a clearly visible part of the uniform

11. Following the orders of a superior is no excuse for unlawful use of force.

12. The Cabinet Secretary responsible for Internal Security and the Inspector- General shall make regulations for giving further direction on the lawful use of force, and the regulations shall include, among other things—

National Police Service

a list of lawful means to use force;

training requirements to be allowed to use these means;



procedures for reporting the use of the means of force, indicating whether the use of such means was necessary or not.

B – CONDITIONS AS TO THE USE OF FIREARMS

1. Firearms may only be used when less extreme means are inadequate and for

the following purposes—

- (a) saving or protecting the life of the officer or other person;
- (b) in self-defence or in defence of other person against imminent threat of life or serious injury;
- (c) protection of life and property through justifiable use of force;
- (d) preventing a person charged with a felony from escaping lawful custody; and
- (e) preventing a person who attempts to rescue or rescues a person charged with a felony from escaping lawful custody.

2. An officer intending to use firearms shall identify themselves and give clear warning of their intention to use firearms, with sufficient time for the warning to be observed, except—

- (a) where doing so would place the officer or other person at risk of death or serious harm; or
- (b) if it would be clearly inappropriate or pointless in the circumstances.

3. A police officer shall make every effort to avoid the use of firearms, especially against children.

4. Any use of firearm, even if there's no injury, shall immediately be reported to the officer's superior.

5. Any use of fire arms that leads to death, serious injury and other grave consequences shall be reported by the officer in charge or another direct superior of the person who caused the death or injury, to the Independent Police Oversight Authority who shall investigate the case.

6. The Inspector-General is not precluded by virtue of paragraph (4) from conducting investigations into the matter.

7. A police officer who makes a report to the Independent Police Oversight Authority in accordance with paragraph (4) shall—

- (a) secure the scene of the act for purposes of investigations; and
- (b) notify the next of kin, their relative or friend of the death or injury as soon as reasonably practical.

8. The Cabinet Secretary in consultation with the Inspector-General shall make further regulations on the use of firearms which shall include regulations—

- (a) that specify the circumstances under which police may carry firearms and the type of firearms and ammunition permitted;
- (b) that prohibit firearms and ammunition that cause unwarranted injury or present unwarranted risk;

to regulate the control, storage and issuing of firearms, including procedures that ensure that officers are accountable for the weapons and ammunition issued to them (in principle; don't allow to take fire arms home and officers are provided by their superior with a fixed amount of ammunition and have to explain at any time when requested if bullets are missing); for the selection, training and testing of officers authorised to carry firearms including techniques that could diffuse tension and reduce the likelihood of the need to use force in order to ensure that firearms are used appropriately and with the least risk of causing unnecessary harm;

to provide for testing of officers carrying fire arms at regular intervals, but at least once a year;

and provide for consequences when failing the test referred to under paragraph (e) which shall at least include that failing to pass the test shall result in losing the right to carry fire arms until the officer does pass the test; and provide for a reporting system whenever officials use firearms in the performance of their duty.

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