

MISSING VOICES

END POLICE IMPUNITY

2023 ANNUAL REPORT



Missing Voices recorded 118 cases of police killings and 10 enforced disappearance cases pg 7

Kenya's position on police brutality a mockery of efforts to secure justice, say Missing Voices Coalition members Pg 15

IMLU documents 67 cases of extrajudicial executions following brutality meted on protesters by police in a demonstration of impunity Pg 19

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INTRODUCTION

MISSING VOICES



"We are going to discharge our mandate without losing focus. We are aware of the situation we are in, a lot of propaganda with the intention of demoralizing police officers and intimidating them. We have seen in the recent past senior members of the society going to mortuaries, hiring dead bodies, calling media and telling them that they were killed by police officers. How low can our leaders go?"

Quote from Inspector General of Police Japhet Koome Speaking at the National Police Training College in Kiganjo during the opening of a six-week senior officers training course.

Missing Voices aims to end police killings and enforced disappearances in Kenya. Since its inception in August 2018, Missing Voices has documented and verified data on police killings and enforced disappearances and held several campaigns to disseminate our research and push the general public to report incidents of police brutality. These activities are done with stakeholders to get justice for victims and survivors and promote police accountability.

Missing Voices envisions a society that enjoys human rights and fundamental freedoms.

FOREWORD

The year 2023 saw a number of developments, which are relevant to discussions on police impunity in the country. In this report, whose theme is “End Police Impunity”, we have covered some of the most important highlights of the year’s events.

The first of the important developments in 2023 was MVC’s reporting of a reduced number of extrajudicial killings and enforced disappearances from the figures it recorded in 2022.

As this report shows, the number of those killed extrajudicially reduced by 9.2%, from 130 in 2022, to 118 in 2023, while enforced disappearances reduced from 22 in 2022 to 10 in 2023, a 54.5% decrease.

Some of the other parameters, for instance, gender, age and manner of death, did not change much. Men continued to suffer

disproportionately from police impunity. The proportion of men killed in 2023 remained high, at 94% of all victims, compared to 95.3% in 2022. The proportion of women was recorded at 4.7% in 2022, compared to 6% in 2023, a slight increase.

Whereas attribution is difficult in a situation in which there are many other actors, both state and non-state, MVC’s monitoring, documentation and advocacy processes against extrajudicial killings and enforced disappearances made a contribution to the reduction.

However, this is not the central issue.

The central issue is that, even though there was a decrease in the number of extrajudicial killings and enforced disappearances, a significant number of Kenyans were still victimised and denied

their right to live. Paradoxically, this signifies both the possibility of ending police impunity and its continuation to the detriment of many citizens.

The second significant happening was the release of the report of the National Task Force on Police Reforms, chaired by former Chief Justice, David Maraga. The report was presented to the Head of State on Thursday, November 16th 2023, at State House, Nairobi.

The Task Force was set up to identify the legal, policy, administrative, institutional, and operational constraints on effective service delivery by the National Police Service (NPS), the Kenya Prisons Service (KPS) and the National Youth Service (NYS). It also reviewed the welfare and the terms and conditions of service for members of the three services.



Amnesty ED Irungu Houghton speaks at the launch of Missing Voices report in Yala.

The third significant happening was the commitment made by the Attorney General, Justin Muturi, on Kenya’s possible ratification of the International Convention for the Protection of All Persons From Enforced Disappearance (ICPPED).

Muturi made the commitment during the celebration of the 75th Anniversary of the Universal Declaration of Human Rights (UDHR) at Gigiri, Nairobi. Various activists who attended the celebration had challenged the AG to make this a commitment in the global celebration of UDHR, which saw several governments make commitments on various human rights concerns.

MVC has been at the forefront, advocating for the ratification of the Convention, which Kenya signed in 2007. The delayed ratification of the Convention has continued to deny MVC and other stakeholders an important tool in fighting against enforced disappearances.

The fourth major development was the arraignment in court of police officers, most notably, Ahmed Rashid, on charges of murder. Rashid was charged with the murder of Jamal Mohamed and Mohamed Dahir Kheri. This also represents a significant move towards fighting police impunity.

All the four developments above are discussed in this report. This is because of their significance to the theme of ending police impunity. But, more importantly, it is because of the work of MVC and its partners, which involve all these issues.

In the 2022 report, we celebrated the successful prosecution of the Mavoko 3 case, a major milestone in fighting police impunity. This year we celebrate the above developments, which are likely to contribute to the fight against police impunity.



Haki Africa ED Hussein Khalid and Amnesty International ED Irungu Houghton, during the August 30 event in Mathare

METHODOLOGY AND DATA COLLECTION

PRIMARY APPROACH

Missing Voices relies on monitors spread across Kenya to document cases of police killings and enforced disappearances and collect witness statements and further evidence. These materials are sent to a central place where the integrity of the evidence is further examined to ensure they are as accurate as possible and followed up if necessary.

SECONDARY APPROACH

To complement primary data collection, Missing Voices collects data from open sources, including media outlets and human rights groups. The secondary data is cross-checked with witness statements and police reports. As a result, only cases that can be verified are included in the final list.

We take data integrity seriously; thus, the cases included in the annual report are verified and, therefore, as accurate as possible.

CHALLENGES

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

1. Witnesses and families are unwilling to engage the criminal justice system because cases take inordinate time before the court rules on them; some cases take almost a decade in court.
2. Human Rights Defenders (HRDs) face innumerable threats from security agencies when they pursue cases of extrajudicial executions and enforced disappearances.
3. The Independent Policing Oversight Authority (IPOA) deals with a backlog of cases, leading to delays; as a result, families give up following the cases with the IPOA.
4. Witnesses are unwilling to come forward to report cases because of a lack of protection services for witnesses and general mistrust in the Criminal Justice System.
5. No law in Kenya criminalizes Enforced Disappearance, making it challenging for families to get justice.
6. Police killings and enforced disappearances are evolving, and new groups have become targets. For instance 2023 killings have targeted workers in the informal sector, taxi and matatu drivers, boda boda riders and students.
7. Police are using mobs and informers to kill suspected criminals. Police instigate mobs to kill individuals and claim the mobs couldn't be dispersed. The informers give out the names and whereabouts of the suspects, and they are sent to execute the victims using unregistered guns.

MISSING VOICES DATA

Missing Voices recorded 118 cases of police killings and 10 enforced disappearance cases. This is a drop of 9.2% in cases of police killings and 54.5% in cases of enforced disappearances if compared to 2022, where the coalition recorded 130 cases of police killings and 22 cases of enforced disappearances.

In total, 128 people were killed or forcefully disappeared in 2023. This is a 15.8% drop compared to a total of 152 cases recorded in 2022.

The decrease in police killings and enforced disappearance could be attributed to the advocacy the coalition and its partners have engaged in the past year.

GRAPHS ON POLICE KILLINGS

GENDER OF VICTIMS OF POLICE KILLINGS

VICTIMS OF POLICE KILLINGS BY GENDER



Like the previous years, men continue to be the most affected by incidents of police killings. They represent 94% of victims of police killings countrywide, as opposed to women, who make up 6%.

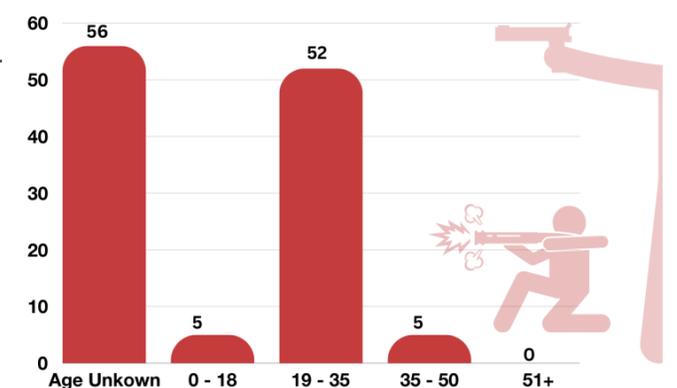
In 2022, 124 men were killed by police, accounting for 95.3%, while 6 women were killed, which was 4.7% of the total 130 killed by police in 2022.

AGE GROUPS POLICE KILLINGS VICTIMS

While men are the main target of police killings, those in the 19-35 age group are more likely to be killed. Police killed 52 people in this age group in 2023. This number is slightly lower than that of 2022 when police killed 57 people of this age group.

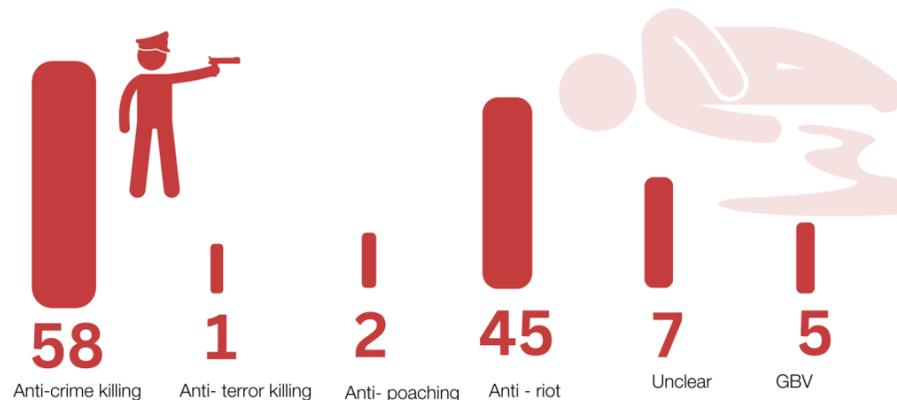
Some victims who have been classified as unknown also fall in this age group; it is easier for members of this group to be felled by a police bullet. The large number of unknowns is because it is difficult to get details of victims of police killings especially in anti-crime operations that mostly happen at night with the only verification of the killings being statements made by police themselves.

VICTIMS OF POLICE KILLINGS BY AGE



TYPE OF OPERATION

POLICE KILLINGS TYPE OF OPERATION

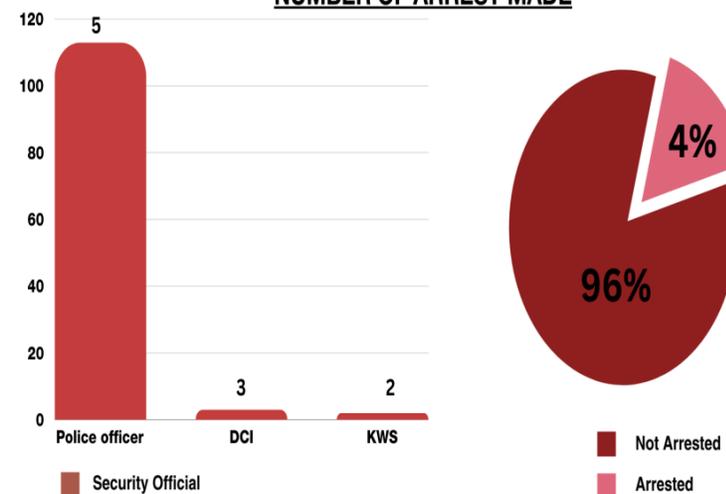


Most of the killings occur during police anti-crime operations by state security agencies. In 2023, 58 people were killed because of anti-crime operations compared to 91 cases during the same period in 2022.

Anti-riot killings increased in 2023 due to protests against the Finance Bill held by the opposition in March and July. Killings resulting from anti-terror operations decreased from 18 in 2022 to 1 in 2023. Either the government has implemented a softer approach to dealing with terror-related cases or they have found more discrete ways of executing victims, which do not raise alarm in the wider public.

SECURITY OFFICIAL RESPONSIBLE AND NUMBER OF ARREST MADE

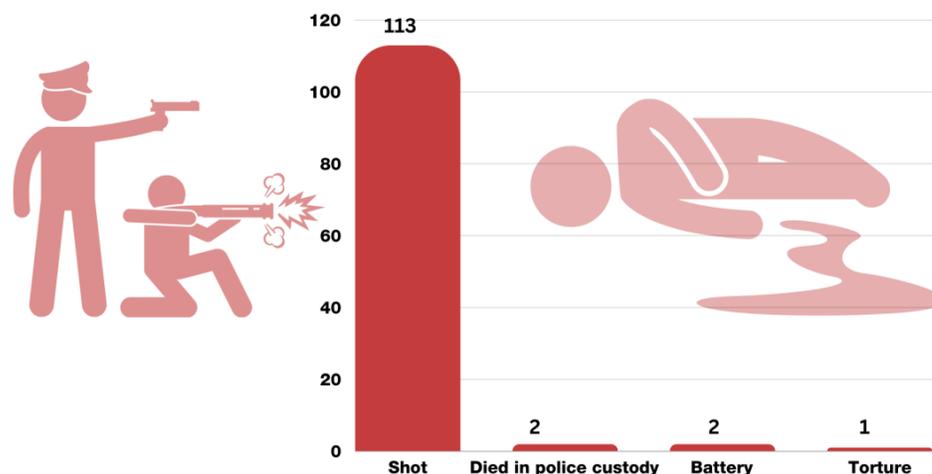
POLICE KILLINGS SECURITY OFFICIAL RESPONSIBLE AND NUMBER OF ARREST MADE



Police officers rarely get arrested for taking part in extrajudicial killings and enforced disappearances. From the chart above, only 5 police officers were arrested, while those involved in the other cases (roughly 113) still carry out their duties. These 5 cases are a result of Gender Based Violence where police officers were engaged in altercations with loved ones and shot them. The "type of operation" graph above corroborates this data, which documents 5 GBV cases. This fact has informed the theme for this year's report since police impunity has become a major hindrance of access to justice for victims of police killing and enforced disappearances.

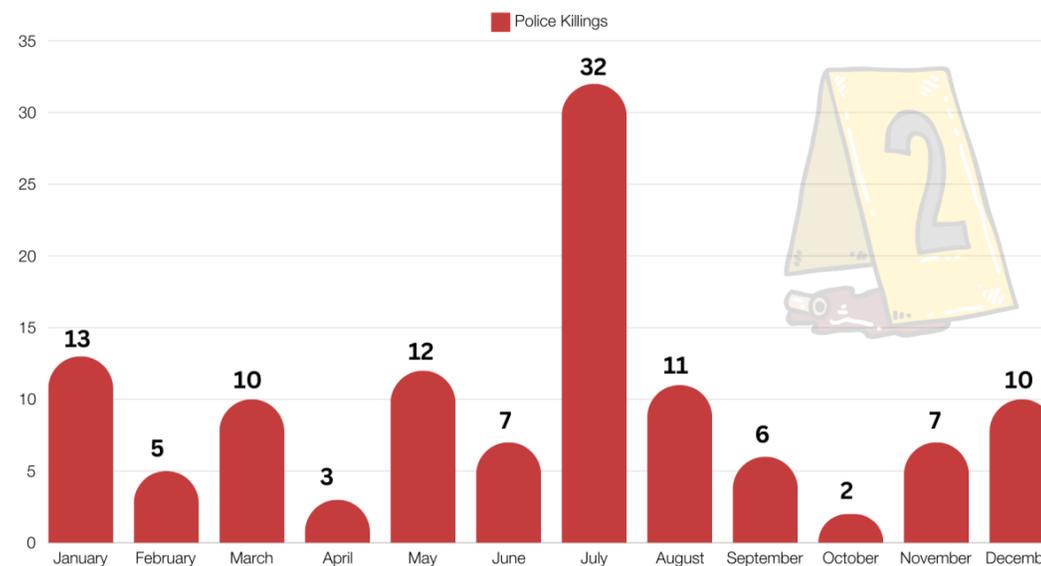
MANNER OF DEATH

POLICE KILLINGS MANNER OF DEATH



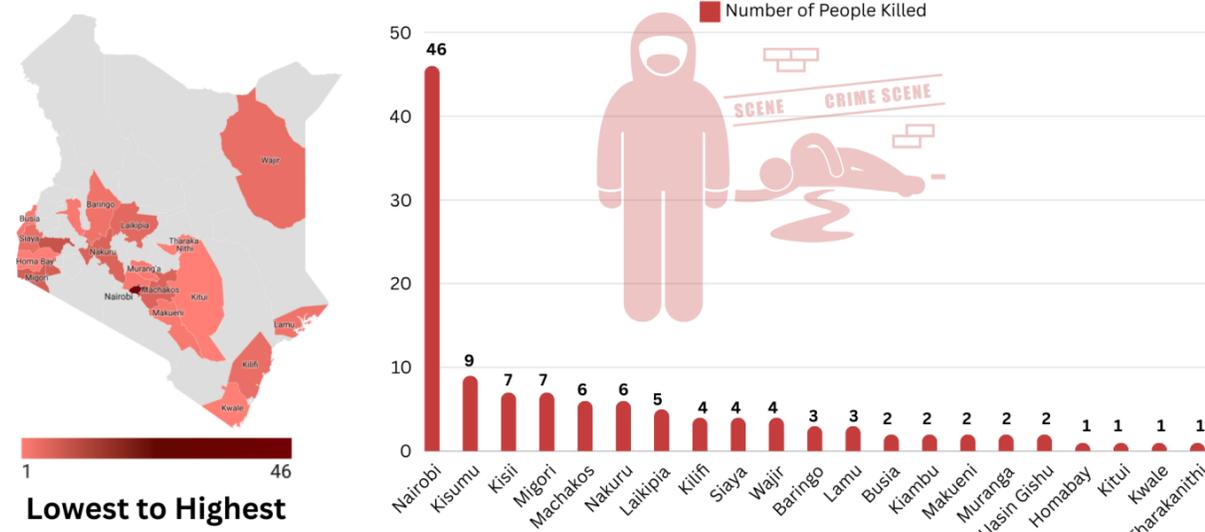
The number of people shot by police increased in 2023 compared to 2022. 113 people were shot dead by police in 2023 compared to 111 in 2022. Two (2) people died in police custody in 2023, which is one less than the 3 that died in police custody in 2022.

POLLICE KILLINGS PER MONTH



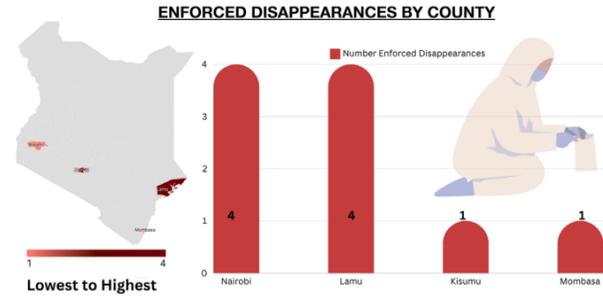
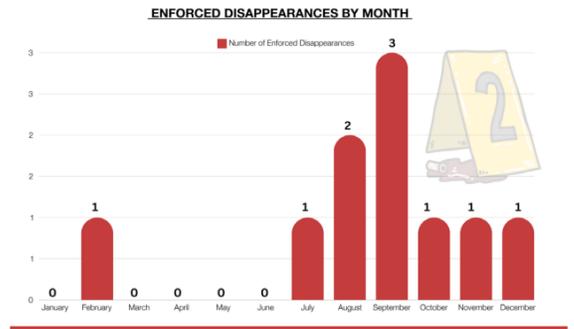
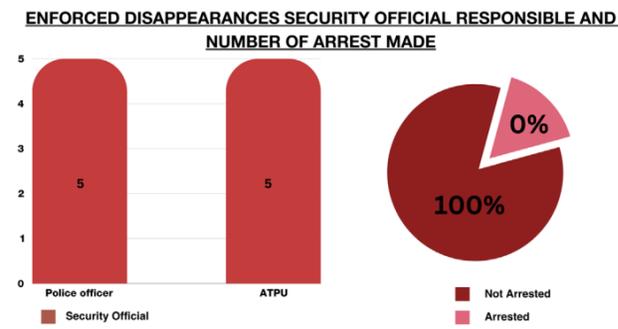
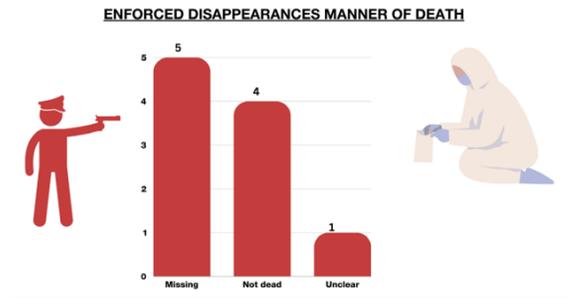
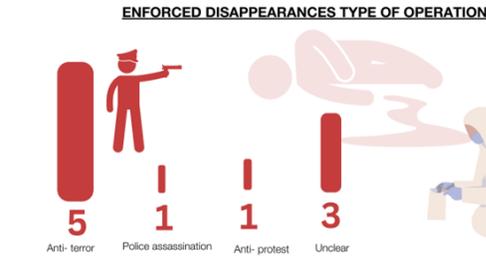
The data above shows that July had the highest number of killings at 32. This is higher than in 2022 when the highest number of police killing victims was 28 in January. In 2022, July was the month with the second highest killings with 21 cases.

POLLICE KILLINGS PER COUNTY



You are more likely to die from a police bullet if you live in Nairobi County compared to any other county in Kenya. The graph above corroborates this, showing that 46 people were killed by police in Nairobi, which dwarfs Kisumu as the second-highest county with 9 cases. It is also important to note that Kisumu figures are high due to the protests on increased cost of living held in 2023. In 2022, Nairobi recorded the highest number of police killings, at 53 cases. It is saddening that Kenya's capital is also the capital of police impunity since a majority of the cases of police killings and enforced disappearances over the years, including in 2023, have happened in Nairobi.

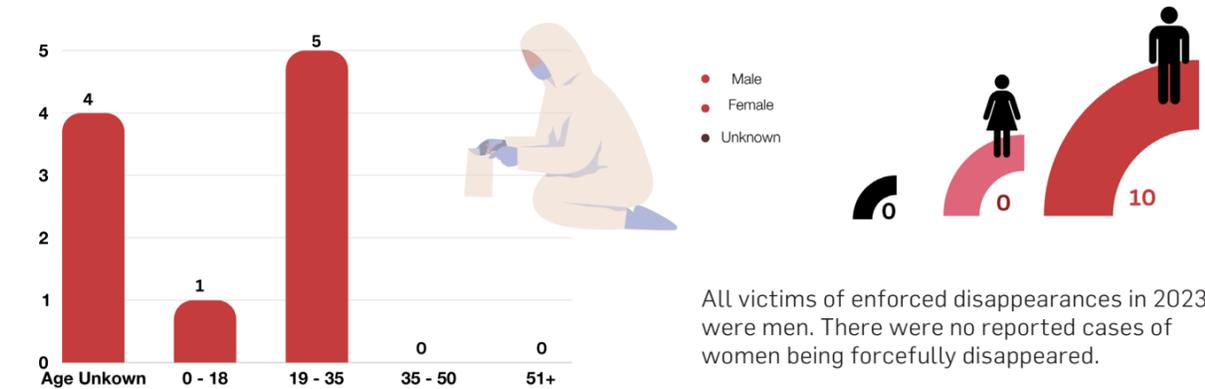
TYPE OF OPERATION AND MANNER OF DEATH AND OTHER DATA OF VICTIMS OF ED



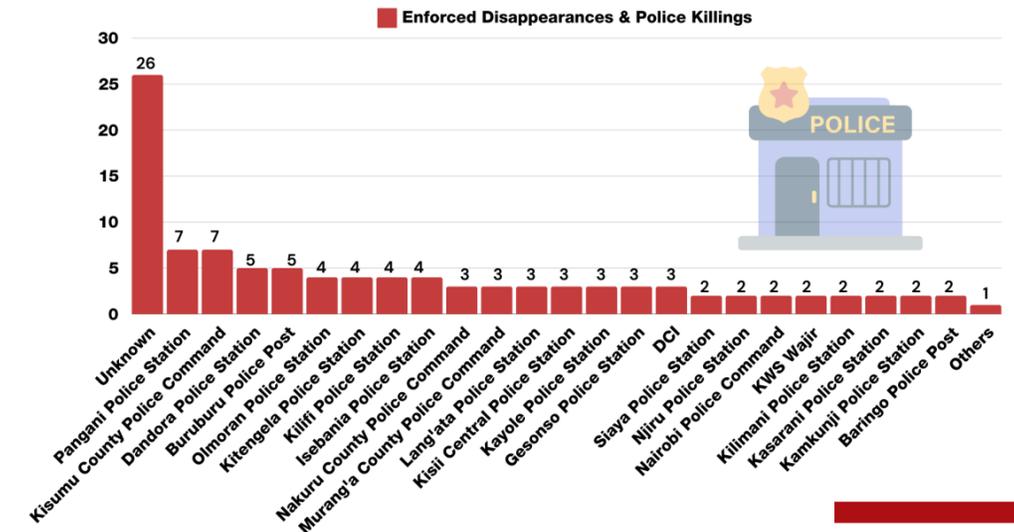
GRAPHS ON ENFORCED DISAPPEARANCES

Missing Voices recorded 10 cases of enforced disappearances in the year 2023.

AGE GROUP AND GENDER OF VICTIMS OF ED



All victims of enforced disappearances in 2023 were men. There were no reported cases of women being forcefully disappeared.



VICTIM STORY 1: KIANJOKOMA BROTHERS CASE

A CASE OF DELAYED JUSTICE LEADING TO IMPUNITY

The trial of the six police officers involved in the killings of brothers Benson Njiru and Emmanuel Mutura in Kianjokoma, Embu has been delayed for more than a year. The delay is a result of the transfer of the judge. On March 24, the matter was mentioned before Hon. Kanyi Kimondo who indicated he did not have the file. A further mention is set for September 24, 2024 before Hon. Lady Justice Lillian Mutende.

Before the transfer of the judge, seven prosecution witnesses had testified. Those who gave evidence before the judge, include the parents of the two brothers, their uncle, and two friends who were with them on the night, that is alleged, police officers brutally murdered them.

When lawyers and family members appeared in court in February 2023, the date that had been set for further hearing, they were informed that then trial judge, Daniel Ogembo, had been transferred. They were given another date to confirm a hearing date, but, since then, nothing has happened.

The next mention for directions is scheduled for March 30, 2024. During this date, the parties involved will be informed if the case file has been placed before a new judge for further hearing.

It is alleged that Benson and Emmanuel were rounded up by the police during the Covid-19 curfew and subsequently assaulted.



The Kianjokoma brothers, Benson Njiru and Emmanuel Mutura, who were allegedly killed by police officers in August 2021.

Their bodies were later found at the Embu Level 5 Hospital. Witnesses and postmortem reports suggest that they died from injuries sustained from the assault rather than from jumping out of a moving vehicle, as claimed by the police.

International Justice Mission (IJM-Kenya), the Law Society of Kenya (LSK) and the Independent Medico-Legal Unit (IMLU) are representing the family. The 6 accused police officers were initially represented by 9 lawyers who had sought to stop the plea-taking. However, their bid flopped, and the court ordered they be charged with murder.

VICTIM STORY 2

VANISHING IN THE SHADOWS OF ENFORCED DISAPPEARANCE

As the sun dipped below the horizon to end the fourth day of February 2023, armed men in police uniform, descended upon Morris Mabior Awikjok's home in Chokaa, Nairobi with brute force.

They ransacked through the families belongings, they seized phones, laptops, and any other valuables before handcuffing Morris. His wife, Angelina Aliet Marol, was gripped by fear. She attempted to intervene, only to be met with menacing threats.

The police ignored her cries, and whisked Morris away into the darkness.

Angelina's valiant efforts to seek assistance from local authorities after the attack came to nought when she discovered her husband had been extradited to South Sudan through a story in The Dawn newspaper. However, the exact location of her husband remained a mystery.

Across borders, in Juba, Marial Achut Anthony, Morris's second wife, suffered the same level of anguish, fear and uncertainty after she got news of her husband's disappearance. Marial Achut recalled how her husband had been intimidated and threatened before his departure from South Sudan. She also recounted the sense of helplessness when she sought answers from the authorities, which compounded her sense of vulnerability.

"When you approach someone for answers and they give you nothing, it leaves you feeling

vulnerable. It is terrible, like you have no rights," she said.

Awikjok, a father of 22 children who worked with an oil company previously, fled South Sudan for Kenya in April 2021. He had reportedly been receiving threats from officials and leaders from his home area of Tonj, in Warrap state, whom he criticized. At the time he went missing in Nairobi, he was a refugee registered with Kenya's Department of Refugee Affairs.

Activists and human rights organizations demanded for answers on his whereabouts and accountability from those responsible for Morris's abduction. They also called for criminalisation of enforced disappearance.

Despite concerted efforts by human rights organizations and activists, the lack of transparency and accountability within the country's law enforcement agencies has hindered progress. Cases like Awikjok's underscore the impunity with which such abductions occur, leaving families grappling with anguish and despair.

The Pan African Lawyers Union (PALU) filed a complaint at the East African Court of Justice as a way of pressuring Awikjok's abductors to produce him.

PALU's Chief Executive Officer, Donald Deya, said, "We are going for a court order for the same that he be produced immediately and be medically examined and that he be released. If he cannot be released then he should be charged immediately in a court of law,

which will protect his rights."

On February 29, 2024, the US Department of State said the country remains concerned about the multiple credible reports of South Sudanese nationals who have been threatened, killed, or kidnapped in neighboring countries, as well as persons who have been forcibly returned to South Sudan to face politically motivated reprisals.

"We support the people of South Sudan at home and abroad, including those brave individuals working to promote transparency, fight corruption, and advocate for democracy and human rights at such a critical juncture in their country's history," reads part of the statement.

The Missing Voices Coalition has made progress in addressing police killings and enforced disappearances through relentless lobbying and advocacy campaigns. The Coalition has elevated the issue of enforced disappearances onto the national agenda, demanding action from authorities.

Central to the coalition's calls for justice is the need for thorough investigations into cases of enforced disappearances. This includes holding perpetrators accountable and providing redress to victims and their families. Additionally, the coalition advocates for legislative reforms to strengthen safeguards against arbitrary detention and disappearances.



Morris Mabior Awikjok, the South Sudanese national who was allegedly disappeared by police officers in February 2023

To address enforced disappearances, Kenya must prioritize human rights and the rule of law. This entails creating a culture of accountability within law enforcement agencies, ensuring transparency in investigative processes, and upholding the rights of all individuals, regardless of their perceived political affiliations or beliefs.

Going by the findings of the National Task Force on Police Reforms, which released its report at the end of 2023, there is a lot of ground to be covered in this endeavour. The report documented the prevalence of corruption in many of the operations of the National Police Service.

The Missing Voices Coalition will continue to amplify the voices of the disappeared, demanding answers and accountability from those in power. This is the Coalition's contribution to the search for a better future in which all people are treated with dignity.

STORIES ON POLICE IMPUNITY

KENYA'S POSITION ON POLICE BRUTALITY A MOCKERY OF EFFORTS TO SECURE JUSTICE, SAY MISSING VOICES COALITION MEMBERS

Kenya's Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs, Musalia Mudavadi, defended Kenya's human rights record and the integrity of the police service during the 44th Ordinary Session of the African Union's Executive Council of Foreign Affairs Ministers in Addis Ababa, Ethiopia.

While responding to concerns raised by the African Commission on People's and Human Rights (ACPHR), Mudavadi stated that police brutality does not occur in Kenya. He emphasised the role of the Independent Policing Authority (IPOA) in carrying out investigations on police misconduct.

Mudavadi said, "IPOA investigates such impunity, if any, and holds individual police officers accountable."

IPOA was established through Act No. 35 of 2011. IPOA's mandate is to "conduct independent and impartial investigations, inspections, audits, and monitoring of the National Police Service to enhance professionalism and discipline of the service."

It is true that several officers have been convicted because of involvement in extra-judicial killings. The case of Willie Kimani, Josphat Mwenda and

Joseph Muiruri (the Mavoko 3), is probably one of the most prominent in the last decade. Policeman Fredrick Leliman was found guilty and sentenced to death for the three gruesome murders.

Justice Jesie Lessit found the murders "most foul, with meticulous planning and execution." She said Leliman had "acted in flagrant abuse of his office."

These findings, by a court of law that professionally weighed the evidence presented to it, contradict by a mile what Mudavadi presented to the African Court.

Indeed, the thought of a police officer, trained to secure the lives and properties of Kenyans, paid by taxpayers resources, coldly and meticulously planning to murder a Kenyan, is extremely frightening, if not altogether revolting. This is the record that Mudavadi defended in Addis Ababa.

Mudavadi's sentiments also contradict the findings of the National Task Force on Police Reforms, which pointed out lack of integrity as a major challenge facing the National Police Service (NPS).

The National Task Force was set up in 2023 by President

William Ruto to review the operations of the National Police Service, the Kenya Prisons Service and the National Youth Service. It was chaired by former Chief Justice, David Maraga. More specifically, it was set up to identify the legal, policy, administrative, institutional and operational constraints to effective service delivery.

According to the Task Force, "corruption in the Service remains endemic and is now deeply embedded in the institutional culture and psyche of the NPS. Despite institutional policies and strategies specifically targeted at addressing corruption in NPS and existence of guidelines and policies that seek to enhance integrity in critical processes such as recruitment, most police jobs are sold to those who can afford or only offered to relatives of the powerful and politically connected."

It goes on to state, in the executive summary released to the public in 2023, that, "Endemic corruption also permeates other aspects of the Service's operations. Transfers, deployments, promotions, as well as procurement are riddled with corruption and favouritism, which undermines morale among NPS officers."



“Cases of conflict of interest that fuel corruption have been reported. These include traffic police officers owning public service vehicles and motor vehicle breakdown services, alcohol outlets, gambling outlets, and generally engaging in business and activities that compromise their impartiality and professionalism.”

Key leaders of the Missing Voices Coalition, expressed misgivings on the position taken by Mudavadi, seeing it as a threat to the quest for justice.

According to Marion Njoroge, the executive director of Mount Kenya Defenders, “the Cabinet Secretary’s remarks denying police brutality in Kenya are a major setback in fighting abuse of power by police..... the position he has taken not only frustrates the quest for justice, but also jeopardises efforts to end impunity,” she said in an interview.

Kamau Ngugi, the executive director at the Defenders Coalition, said Mudavadi’s assertions are a mockery of the many victims of abuses committed by the police.

He noted, in answer to a question posed by the MVC Press Team, that, “Honorable Mudavadi’s

denial at the African Commission on Human and Peoples’ Rights that there is no police brutality in Kenya is a mockery of victims efforts to seek justice and suggests there is no commitment towards developing a human right respecting state.”

“Missing Voices Coalition has over the years documented and published verified cases of enforced disappearances, extrajudicial killings and other forms of brutality committed by Kenya’s security agencies. It has also recommended actions toward realising justice for victims, ending impunity and reforming the National Police Service in line with the law and global best practices,” he further noted.

Similar sentiments were expressed by Demas Kiprono, the Acting Executive Director at the Kenya Section of the International

Commission of Jurists, a member of the Missing Voices Coalition.

“Indicating that police brutality does not occur in the country, made Kenya seem like a utopian country where the police are disciplined and highly respectful of human rights and the rule of law. The truth of the matter is that police brutality and impunity do occur in Kenya, and the same cannot be whitewashed,” he said.

The unfortunate position taken by Kenya at the ACHPR must not blind Kenyans to the need to continue pressing for reforms of the National Police Service to end impunity. This, indeed, was the reason for establishing the Maraga Task Force that made recommendations on reforms. Too many Kenyan families continue to suffer as a result of the brutal actions of the police.

POLICE IMPUNITY: WHAT THE MARAGA TASKFORCE SAID

The National Task Force on Improvement of the Terms and Conditions of Service and Other Reforms for Members of the National Police Service, Kenya Prisons Service and the National Youth Service (the Maraga Task Force) delivered its report to President William Ruto in November 2023.

The Task Force was set up to identify the legal, policy, administrative, institutional, and operational constraints on effective service delivery by the three services. It also, more specifically, reviewed the welfare and the terms and conditions of service for members of the services.

In its report, the Task Force appreciated the fact that there had been many other initiatives before it which equally made recommendations on how to reform the services. It noted, “... it was clear that the problems identified were not new to the Services. They had been the subject of previous task forces and commissions.”

However, perhaps because it was not part of its terms of reference, the Taskforce made little attempt to identify the reasons why past reforms had not worked. Logically, this raises the fundamental question, among those who made submissions to the Taskforce, of whether the recommendations it made would be implemented.

“One of the most remarkable observations from the field visits was the public skepticism about whether the Taskforce’s Report

and recommendations will ever be implemented or make any difference,” it noted in its over 500-page report.

It further noted, “this is a well-founded anxiety based on the depressing reality that the issues surfaced through these public dialogues have, for decades, been flagged but remained largely unaddressed for just as long.”

Interestingly, the Task Force underscored lack of public confidence in the Services, including the National Police Service. It said, “...unlike previous commissions and committees, this Taskforce was not established to respond to any security risks.

The country was, however, faced with a dilemma: loss of public confidence in the internal security institutions, especially the police, on the one hand, and on the other, hand, the institutions feeling that their services were not being appreciated.”

The above is a strong indictment on the country’s protracted history of reforms, and the what has been achieved, many years and billions of shillings later. The constitution reform initiative, which ushered in the 2010 constitution, was meant to resolve some of these major governance issues.

Failure by those in power to implement the constitution faithfully, is the key reason why the country is caught up in “reformism” post 2010. In short,

the country is caught up in a cycle of reforms that simply do not achieve anything at the end of the day.

Most of the “reform” initiatives, including the National Dialogue Committee (NADCO) only succeed in scratching the surface and not going deep enough to resolve the country’s structural and systemic problems.

The Taskforce underscored the importance of security in the life of the nation by pointing out the following: “Security defines the contours of nationality and determines the potential and viability of any society. No meaningful socio-economic or even political development can be realised, let alone sustained, where there is no sound legal framework, and a reliable mechanism for its enforcement”

It further emphasised that, “...for a country to function properly and thrive, it requires strict enforcement of the rule of law, evident in enduring security. This is the critical role that the security agencies are expected to play.”

Even more significantly, “the women and men who serve in sensitive security roles are the first defenders of democracy: holding forte against lawlessness and chaos. When security services are unable to optimally perform their roles, for whatever reason, the very foundation of the nation and its fabric comes under threat.”

Below, we summarise what the Maraga Taskforce said when it comes to the issue of impunity in the National Police Service, corruption and other issues that make it difficult, not only for the force to offer quality services, but also to respect the rights of Kenyans.

1. The culture of impunity in the Services and their glaring failure to effectively enforce the rule of law are slowly driving the country into a state of lawlessness and anarchy.
2. We are already losing investments to neighbouring countries partly because of this sad state of affairs which should not be allowed to continue. As part of the definitive break from the past, there must be a paradigm shift.
3. The Taskforce established that institutional and cultural failures that have frustrated transformation in the three disciplined Services for decades range from endemic corruption and land grabbing to sexual harassment, inhuman treatment, and outright injustice; indolence and aversion to learning; as well as political meddling all resulting in loss of public confidence in the three institutions.
4. Corruption, in literally every aspect of the Services' affairs, was particularly singled out as having undermined professionalism and thus rendered them almost dysfunctional.
5. Every year, the National Police Service is routinely ranked as the most corrupt institution in the country without any sanctions, thus breeding a culture of impunity, which has spread to the other uniformed Services. The failure of community policing to take off is emblematic of this impunity.
6. Endemic corruption also permeates other aspects of the Service's operations. Transfers, deployments, promotions, as well as procurement are riddled with corruption and favouritism, which undermines morale among NPS officers.
7. Cases of conflict of interest that fuel corruption have been reported. These include traffic police officers owning public service vehicles and motor vehicle breakdown services, alcohol outlets, gambling outlets, and generally engaging in business and activities that compromise their impartiality and professionalism.
8. All we need is uncompromising enforcement of the law and everything will fall into place. With serious enforcement of the law, corruption, which admittedly gobbles close to seven percent (7%) of the country's GDP annually, will be radically reduced and, as a country, we will not need to seek foreign aid, especially foreign borrowing that is now almost crippling our economy.

Police impunity and corruption have a direct relationship with both extrajudicial killings and enforced disappearances, hence the importance of the findings of the Maraga Taskforce to the mission of Missing Voices Coalition.

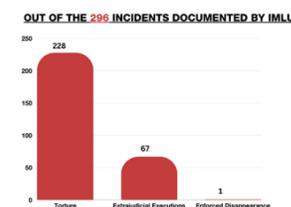
In other words, failure to end police impunity and corruption will mean that Kenyans have to continue experiencing these two crimes, which have negatively impacted families across the country.

Missing Voices Coalition will therefore continue to advocate for an end to police impunity and corruption. In this endeavour, it will work consistently with its partners, especially the Police Reforms Working Group.

IMLU DOCUMENTS 67 CASES OF EXTRAJUDICIAL EXECUTIONS FOLLOWING BRUTALITY METED ON PROTESTERS BY POLICE

General

In 2023, IMLU, a member of the Missing Voices Coalition, and host of the Police Reforms Working Group (PRWG), monitored 22 protests in 15 counties. Out of these, IMLU received 303 alerts and documented 296 cases. From these cases, 67 were from extrajudicial executions, 228 were torture and related violations and 1 was a case of enforced disappearance.



The monitoring took place from January to September, 2023. Most of the protests were organised by the opposition to protest the high cost of living, while others were related to a number of social issues and dissatisfaction over lack of essential services such as water and electricity for prolonged

periods of time.

The indiscriminate attack on protesters is an indication of two related factors: the use of police by the administration to settle political scores and the continued impunity displayed by members of the force. It is a demonstration of the fact that it will be quite difficult to reform the police if the ruling elite are not willing to end police partisanship.

Months on intake

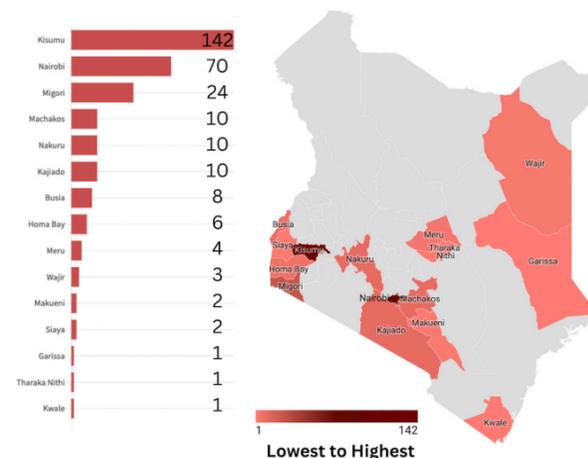
July 2023 recorded the highest number of violations at 247, with June having only a single incident. An average of 59 torture and torture-related violations occurred per month for the five months IMLU monitored the 22 demonstrations. The monitoring took place in all the 47 counties. Documentation of the violations took place in 15 counties. Numerically, 32 per cent of the counties registered cases of violations, while 68 per cent registered no cases.

Age

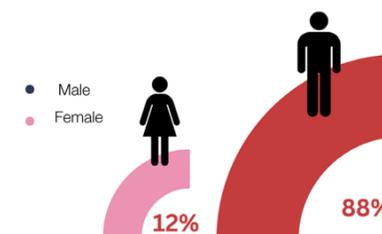
Out of the 296 incidents documented and processed, 259 (88%) involved male victims, while 37 (12%) were female. Youth between 18 and 35 years accounted for an overwhelming majority 212 (73%) of the survivors, followed by individuals aged between 36 and 55 years at 50 (17%). Significantly, children aged 17 years or younger constitute 10 per cent (29) of the victim population. Victims aged between 56 and 65 years were four (4), making up 1 per cent, while one (1) victim was over 65 years.

- The youngest Victim was 3 years old
- The oldest victim was 72 years
- The average age of the victims is 28 years old
- Majority of the survivors were youth aged 18-35 years at 72%

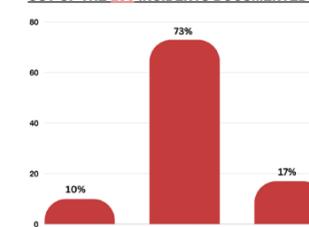
COUNTIES BY DISTRIBUTION



OUT OF THE 296 INCIDENTS DOCUMENTED BY IMLU



OUT OF THE 296 INCIDENTS DOCUMENTED BY IMLU

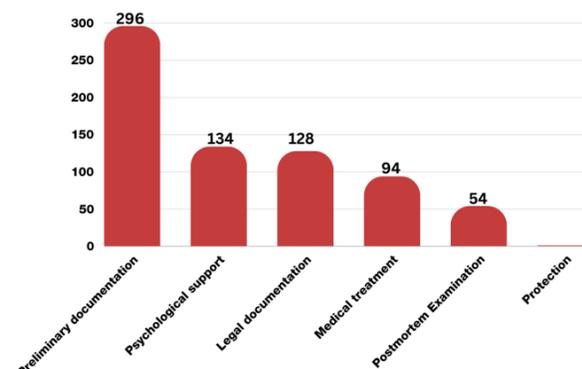


PROTESTS MONITORED

IMLU monitored, through partner organizations, phone calls through a toll-free number, and human rights defenders (HRDs), with all of them being cases of police use of lethal force against demonstrators as follows:

Isebania protest 15	March 20, 27 & 30 Migori County	Azimio/opposition-organised demonstrations (Phase 1)
Azimio-organised demonstrations (Phase 2) across 47 counties 17	July 7 July 12, 19, 20 & 21	Saba Saba demonstrations -- across 47 counties 16
Wajir Town protest against killings by KWS 19	Tharaka Nithi County Wajir County	Chuka Town boda-boda protest 18
Kisumu Jua Kali area protest against traffic police inspection 21	Wajir County Kisumu County	Wajir Town protest against repeated power outages (KPLC) 20
Kawangware demonstrations against demolition of shops 23	Meru County May 26 (Nairobi County)	Meru University demonstration 22
Nambale protest against police vehicle knocking down a pupil 25	Kericho County Busia County	Kericho demonstration against tea-picking machines 24
Eldoret youth protest against foreign jobs recruitment agency 27	Uasin Gishu County Uasin Gishu County	Eldoret demonstration over Finland scholarships saga 26
Protest over land grabbing and eviction in Kazamoyo	Kajiunduthi High Sch July 27 (Kwale County)	Student protests at Kajiunduthi High School 28
	Nane Nane (August 8)	demonstrations—across 47 counties. 29

SUPPORT OFFERED BY IMLU TO VICTIMS OF POLICE BRUTALITY



THE TRIAL OF AHMED RASHID

THE HISTORIC TRIAL OF POLICE OFFICER AHMED RASHID COMMENCES!

“I am for truth, no matter who tells it. I am for justice, no matter who it is for or against. I am a human being, first and foremost, and as such I am for whoever and whatever benefits humanity.”

The above are the words of the late Malcolm X, one of the most remarkable social rights activists the modern world has produced.

Ahmed Rashid, the police officer who served for many years at Pangani Police Station, and was said to allegedly belong to a group of officers called the “Pangani Six”, was charged at Kibera Law Courts on March 14th 2024, with the murder of two teenagers, Jamal Mohamed and Mohamed Dhahir Kheri. He allegedly shot the two fatally in 2017, and the incident was recorded in a video that went viral thereafter.

In this report, MVC has given a comprehensive timeline of the events leading up to the charging of Rashid at the Kibera Law Courts. The case is of great interests to members of MVC who have not only been monitoring it, but have also offered support to the families of the victims of this particularly disturbing alleged crime.

The murder of the two teenagers happened at the Amal Plaza in Eastleigh, Nairobi, in March 2017. Over the years, there have been attempts to delay commencement of the case, an eventuality that can only lead to more impunity and brutality on the part of the police.

What triggered the events leading up to the December 2024 arraignment, is the investigations that were carried out by the Independent Policing Oversight Authority (IPOA). IPOA subsequently recommended Ahmed Rashid’s prosecution for the two murders.

A number of lessons can be drawn from the events leading up to the arraignment of Ahmed Rashid.

First and foremost, it is important to maintain pressure from the public if police impunity and brutality are to be dealt a blow in Kenya. Both human rights activists and the general public have maintained their interest in the case, making it difficult for plans to delay its commencement to succeed.

In particular, human rights activists, especially members of the Social Justice Centres (SJC), who are members of MVC, have used the case to educate the public on extrajudicial killings and its negative impact on the rights of individuals as guaranteed by the country’s constitution and the international instruments, which Kenya has ratified.

Second, it is necessary to develop capacity among human rights activists to keep the interest and support of the general public on all cases of extrajudicial killings. At the end of the day, what matters the most in terms of solving cases of these cases, is the ability of the public to continue demanding justice.

Third, it is crucial to monitor and document the entire process from the time an alleged crime is committed. Proper documentation supports evidence-based advocacy, which has been very helpful in this case.

Forth and finally, the role of technology is crucial. It was the recording of the murders that initially raised the level of debate on extrajudicial killings in the country.

Although there are those who supported the alleged execution as a preferred way of dealing with alleged crime, the debate raised awareness on what the law requires when it comes to dealing with crime, and the danger of normalising extrajudicial executions.

But the significance of Ahmed Rashid’s historical trial goes beyond the four lessons above. The trial, as well as the happenings around Pangani Police Station over the years since the alleged shooting of the two teenagers, strike at the very core of police impunity and brutality.

As reported in the 2022 MVC’s Annual Report, the Pangani Police Station was the most notorious that year (2022) in the whole country when it comes to extrajudicial executions. In 2021, the station registered 32 cases of extrajudicial executions. This number reduced to 11 in 2022. No case was reported from Pangani Police Station in 2023!

Victims story

According to the 2022 report, the reduction in extrajudicial killings attributed to Pangani Police Station can be explained by "the transfer of 19 police officers from Pangani Police Station on November 25, 2021, following sustained campaigns by Missing Voices Coalition."

This shows it is possible not only to disrupt the pattern of extrajudicial killings, but, eventually, to significantly reduce the numbers of those brutally denied the right to live. On a broader scale of reasoning, this confirms the importance of the work and efforts of the members of the Missing Voices Coalition, the

Police Reforms Working Group and other stakeholders who monitor and document extrajudicial killings.

Isabella Obara, Acting Reparations Manager at the Independent Medico-Legal Unit (IMLU), who has been monitoring the case on behalf of IMLU and MVC, said, "Addressing historical injustices by questioning the authority of a highly protected and influential police officer in a criminal prosecution setting is remarkable. Regardless of the outcome, the trial encapsulates the victim's truth presented in court by the prosecution, victim's counsel, and complainants. The trial puts all structured, state-

sanctioned, and legitimised killer squads on trial.

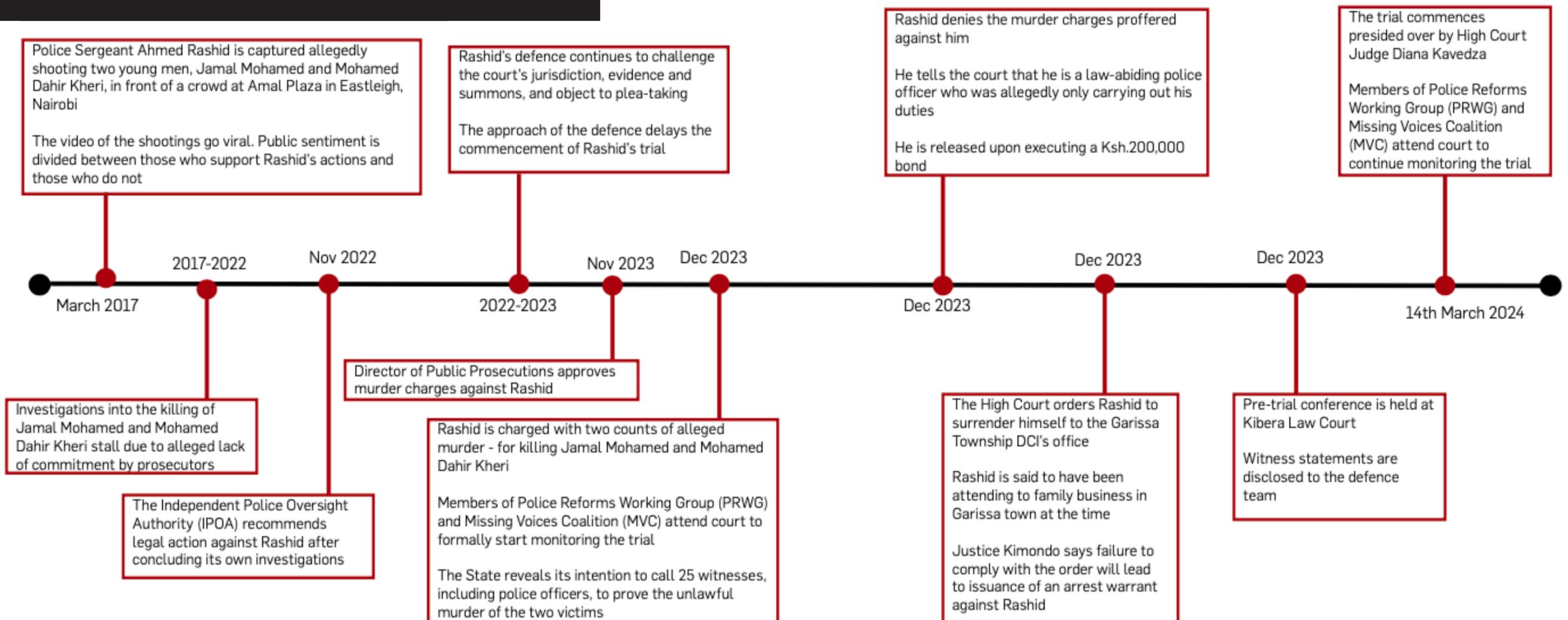
As pointed out by the Archbishop Desmond Tutu, the late iconic South African social rights activist, "...if you are neutral in situations of injustice, you have chosen the side of the oppressor."

Missing Voices Coalition will continue to put in the resources, time, commitment and resolve to solve the twin problems of extrajudicial killings and enforce disappearances. This will, in turn, reduce the stubborn problem of impunity in the National Police Service.



Police officer, Ahmed Rashid, when he appeared in court to face charges of murder

THE AHMED RASHID STORY TIMELINE



STORIES ON ENFORCED DISAPPEARANCES

CRIMINALISE ENFORCED DISAPPEARANCES NOW! - AGGREY JUMA

In October 2023, the Office of the Director of Public Prosecutions released a press statement on the case of enforced disappearance of Mohamed Zaid Sami Kidwai, Zulfikar Ahmad Khan, and their driver Nicodemus Mwana Mwange allegedly abducted by officers of the former Special Service Unit SSU under the Directorate of Criminal Investigations.

The DPP, Renson Mulele, listed a myriad of charges to be preferred against the 15 former law enforcement officers. While the first line of the statement accurately captured the crime in question as enforced disappearance, none of the charges listed on the second page of the statement explicitly mentioned enforced disappearance.

The reason is simple. While enforced disappearance is a crime of monumental proportions recognised internationally, is not a crime in Kenya when committed in a manner that is not “widespread” – which would make it a crime against humanity under the provisions of the Rome Statute – as domesticated by the International Crimes Act of 2005 in Kenya.

Over the years, the Police Reform Working Group, the Social Justice Centers Working Group, Missing Voices Coalition, the Kenya National Commission of Human Rights, and the Independent Policing Oversight Authority, among others,

have called on the government to criminalise enforced disappearances to no avail.

One high profile deliberation on enforced disappearances took place under the auspices of the Senate Standing Committee on Justice, Legal Affairs and Human Rights. In its report titled Report on Inquiry into extra judicial executions and enforced disappearances in Kenya, the committee recommended to the Attorney General to initiate the process of ratifying the International Convention for the Protection of all Persons from Enforced Disappearance in accordance with section 7 of the Treaty Making and Ratification Act.

The follow up actions of the Standing Committee were thereafter affected by the COVID 19 pandemic. Post COVID 19, implementation of the report

was further affected by the 2022 electioneering period and transition into the 13th Parliament.

Civil society actors have equally held advocacy activities aimed at attracting attention to the need for criminalization of enforced disappearance in Kenya. On 20th of June, International Justice Mission Kenya in partnership with ICJ Kenya held a webinar on this very issue. In the resolutions that followed deliberations by among others the then DPP Noordin Haji, Li Fung, UNODC, Wamaitha Kimani of IJM and, a representative from the AG office, the meeting resolved to pursue criminalization of enforced disappearances in Kenya.

To date, the Missing Voices Coalition Website has documented an aggregate of 109 cases of enforced disappearances from 2019 in addition to annual campaigns



Missing Voices signature collection



Missing Voices signatures

to criminalise enforced disappearance in Kenya on the UN International Day of the Victims of Enforced Disappearances on August 30th. In each of the documented cases, the whereabouts of the victims remain unknown.

Inherently, the present case involving the disappearance of Mohamed, Zulfikar and Nicodemus is widely perceived to enjoy political goodwill. This emanates from the status of the disappeared being contractors of the then UDA party. Technically, they were guests of the then Deputy President now the Head of State – who one would imagine bears immense responsibility and unmatched capacity to find justice and closure for the three families.

Other disappearance cases of similar nature do not enjoy this level of actual or perceived

goodwill. The most successful ones have ended with the issuance of an OB number for a missing person’s report – not for an enforced disappearance. They have not seen the agility of the Directorate of Criminal Investigations, or the prosecutorial creativity employed by ODPP in charging enforced disappearances using penal provisions on inter alia abduction, conspiracy, and torture.

The judiciary has also previously faced a similar challenge in the now infamous Habeas Corpus case of Daniel Baru Nyamohanga which happened at Kehancha Police Station. The Hon. Justice Anthony Mrima held that six known police officers were responsible for the disappearance of Mr. Nyamohanga. In an attempt to hold the officers accountable, the court directed the Office of the DPP to charge the officers with

murder. The charge is yet to be preferred – and in the event that these officers are charged with murder, the prosecution will struggle with proof of both fact of death and cause of death which may render the case futile.

By the nature of the crime of enforced disappearance, individuals that are disappeared without a trace have effectively been taken outside the protection of the law. As long as their whereabouts remain unknown, Amnesty International has stated that such disappearances are “continuing crimes”. Yet the current Kenyan law in its totality is incapable of accountability for perpetrators, or justice for families.

By criminalizing enforced disappearances, we may not resolve the whereabouts of past disappearance cases.

But we will ensure deterrence for would-be perpetrators, and accountability for those accused of enforced disappearance.

Lastly, we must admit as a country that we have failed the many families whose loved ones have been disappeared. Equally, we have failed the criminal justice system actors – investigators, prosecutors, and judicial officers by our failure to avail to them laws that allow them to effectively hold accountable those accused of enforced disappearance.

That is why all Kenyans must support a petition by Missing Voices coalition that aims to criminalize enforced disappearance in Kenya.

Aggrey Juma is a Senior Manager at International Justice Mission Kenya

AFRICAN COMMISSION CALLS ON KENYA TO CRIMINALIZE ENFORCED DISAPPEARANCES

By Marie Ramtu

The African Commission on Human and Peoples' Rights has urged Kenya to revise its penal code and criminalize enforced disappearances.

This recommendation aligns with the persistent appeals from various human rights organizations, including the Missing Voice coalition.

In 2022, the Commission provided counsel to Kenya after reviewing the country's 12th and 13th periodic reports on implementing the African Charter on Human and Peoples' Rights and the Maputo Protocol.

Currently, Kenya lacks a specific definition for enforced disappearance as a criminal offense.

According to the Guidelines on the Protection of All Persons from Enforced Disappearances in Africa, enforced disappearance means "the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by the refusal

to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, thereby placing them outside the protection of the law".

This guideline remains the only comprehensive document within the African Union human rights system focusing on enforced disappearances.

Kenya has already taken initial strides towards ratifying the International Convention on the Prevention of Enforced Disappearance, a move hailed by the Commission as a "very positive development."

Throughout the years, Missing Voices has documented instances of enforced disappearances. Although there has been a discernible decline in overall numbers, it remains a concern for the community of human rights advocates. Questions also persist about the nature of the decline. It remains to be seen whether it results from more covert strategies employed by perpetrators or if law enforcement officers have become more respectful of the Constitution.

Additionally, there have been instances of extrajudicial killings, a significant number of which Missing Voices has recorded. These victims continue to pursue justice. In response, the Commission has asked Kenya to hold perpetrators accountable, including members of the police and defense forces, and to provide remedies for the victims.

The Commission has further advised Kenya to train her police officers to fully respect and comply with human rights and ensure full implementation of the Coroners Service Act and the effective functioning of the police oversight authority.

The Kenyan government must allocate financial and non-financial resources to operationalise the Commission's recommendations while fostering collaboration with all relevant stakeholders. In the forthcoming review cycle by the Commission, Kenya bears a moral and ethical responsibility to showcase substantial progress in implementing the recommendations put forth in 2022.

"There is always a tendency to classify cases as abductions instead of enforced disappearances. This is meant to help the police officers involved escape accountability. Enforced disappearances are, by definition, carried out by security forces," she said in an interview with the MVC Press Team.

"Once the country finalises the ratification and domestication processes, it will be easier to hold the perpetrators, both individual police and the police stations where they are based, accountable for their actions," she added.



Justine Muturi, The attorney General of the Republic of Kenya

Although Kenya signed the Convention in 2007, it has shown little commitment in ratifying and domesticating it. This has denied human rights defenders an important instrument for seeking justice on enforced disappearances.

According to the Pillar Head, Right to Life at Kayole Community Justice Centre, Perpetua Kariuki, there has been reluctance on the part of government authorities to classify cases as enforced disappearances. This has enabled perpetrators to evade accountability.

"We formulated an online petition in 2021 as part of our broader approach to advocacy on the issue. It has so far garnered some 4,000 signatures, which is impressive. With the Attorney General indicating government commitment to ratify the Convention, we can continue with the petition but also engage directly with the Attorney General's office," she explained to the MVC Press Team.

Extra-judicial killings and enforced disappearances continue

She further clarified that even in the case of Willie Kimani, the human rights defender who was killed by police together with a client and driver in June 2016, the police were initially reluctant to classify it as a case of enforced disappearance.

Missing Voices Coalition has for several years advocated for the ratification and domestication of the Convention. Immaculate Akello, a human rights defender working with the Peace Brigades International (PBI) in Nairobi, explained that the Coalition had already started the process of petitioning Kenya's National Assembly on the matter.

Information disseminated through Missing Voices Coalition's website has been used by both organisations and governments to track extra-judicial killings and enforced disappearances and to engage with Kenyan authorities on the same. The website is a one-stop-shop when it comes to information on extrajudicial killings and enforced disappearances.

ICPPED was adopted via United Nations General Assembly Resolution A/RES/61/177 in December 2006. It came into force on 23rd December 2010. It is the main instrument that commits UN member states to prevent enforced disappearance, recognised as a crime against humanity in international law.

to be major human rights challenges in Kenya. The Missing Voices Coalition's key mandate is to avail information that can be used by different stakeholders, including governments, national and international organisations, and human rights defenders, to demand accountability.

ICPPED was adopted via United Nations General Assembly Resolution A/RES/61/177 in December 2006. It came into force on 23rd December 2010. It is the main instrument that commits UN member states to prevent enforced disappearance, recognised as a crime against humanity in international law.

ATTORNEY GENERAL CONVEYS KENYA'S COMMITMENT TO RATIFY ICPPED

The Government of Kenya, through the Attorney General, Justin Muturi, made a formal and public commitment to ratify and domesticate the International Convention on the Protection of all Persons Against Enforced Disappearances (ICPPED).

Mr. Muturi made the commitment during the celebration of the 75th

Anniversary of the Universal Declaration on Human Rights (UDHR) on 11th December 2023 at Nairobi's UN Complex, Gigiri. The Attorney General was the Chief Guest during the function, which brought together human rights defenders from different counties, UN officials, and government officials. Over 10 members of the Missing Voices Coalition sent their representatives.

If implemented, this commitment will ensure give Kenyans a much-needed legal framework that can be deployed to address enforced disappearances. The law will allow Kenyans to hold authorities accountable for enforced disappearances.

missingvoices.or.ke/

missingvoices.or.ke/

STORIES ON IPOA

MVC INTERVIEW WITH THE CHAIRPERSON OF IPOA ANNE MAKORI, EBS

In early March 2024, MVC reached out to the Chairperson of the Independent Policing Oversight Authority (IPOA) for an interview on matters related to the theme of "Ending Police Brutality". MVC members have collaborated effectively with IPOA, but have also faced challenges. Below is an abridged version of the interview, the full interview will be carried in the online version of the report.

Questions:

1. Can you tell us in brief about IPOA mandate?

IPOA is mandated under Cap 86 of the Laws of Kenya to hold the police accountable to the public in the performance of their functions and to give effect to the provisions of Article 244 of the Constitution. We do this by conducting independent and impartial investigations into complaints of police misconduct, inspections of police premises, and audit and monitoring of police operations to enhance professionalism and discipline of the Service.

2. In the last one year what has been your successes?

Between January 2023 and March 2024, our investigations have led to at least 14 convictions, with a cumulative 210 cases before courts since inception. The latest conviction being that of the four Majiwa Camp GSU officers convicted of the murder of a woman in Laikipia in March 2020 and that of former officer, Ahmed Golicha, the officer who shot two people killing one in Meta Meta Market, Mandera County, on October 1, 2017.

IPOA has over the past one year also made achievements on other aspects of its functions. During the period, IPOA made several recommendations to the Taskforce on Improvement of the Terms and Conditions of Service of the NPS, KPS and NYS (Maraga Taskforce) some of which have been adopted and are set to improve the National Police Service. To ease operational efficiency, we also implemented a strategy for stakeholder engagement including dialogue sessions with police officers of all cadre. This strategy converged senior police officers to discussion fora which articulated the agenda of transformative execution of policing services.

IPOA also put in place a strategy to fast-track review of cases to manage backlog and therefore contributed to faster delivery of justice for victims of police action/ inaction. Towards enhanced processes, the Authority revamped its Electronic Content Management system and established a remote data recovery centre.

The Authority also undertook inspections of places of detention and conducted monitoring of police operations to ensure compliance with the set human rights standards. Recognising the critical role of prevention in the area of abuse of police powers, the Authority has also implemented an organizational restructuring strategy that has redefined the mandate of the directorate once charged with undertaking inspections, research and monitoring, to include preventive services as a core activity.

3. Are there challenges the Authority has faced in carrying out its mandate?

The greatest challenge facing the Authority is resourcing. The far-reaching impact of the COVID-19 pandemic negatively affected the operating budgets across Government greatly impacting technical functions. Consequently, due to insufficient budget, the Authority's

effective delivery of services was affected across the country. The inadequate budgets also affected recruitment of requisite number of technical staff to facilitate effective delivery of its mandate and in turn meet the high expectations from the public.

Non-cooperation by some witnesses and the police has also been a constant hindrance for the Authority. In some instances, the blue code of silence among the police hindered or slowed down investigations. Overlapping mandates with other state institutions has also been a challenge. In our submissions to the Maraga taskforce, we made recommendations on how to handle some of the issues. We also believe that the draft IPOA regulations, which are in the final stage of enactment and gazettment after being cleared by the Attorney General's Office, will play a critical role in effective and efficient implementation of our mandate.

4. There is a general concern around the lack of awareness of your mandate among Kenyans particularly those living in informal settlements and rural areas, who are often the victims of police brutality and impunity. What steps has IPOA taken or is taking to address this concern?

The Authority has a long term awareness creation strategy enshrined within its strategic plan that is currently under implementation. IPOA continues to conduct campaigns and outreach activities across the country within the provided budget which is limited but slowly gaining from the impact of COVID-19 and the subsequent budget cuts. With the Exchequer funding coupled with support from stakeholder partnerships, we hope to reach more Kenyans with our mandate messages.



Ann Makori, Chairperson of IPOA

5. Some of the victims of police misconduct have complained of slow response in IPOA visiting victims of police abuse of power especially in the informal settlements, what could be the challenge?

IPOA has developed an internal system of categorization of cases where certain cases are prioritised and even handled by a rapid response team. These include deaths, serious injury and sexual offenses. Other lesser magnitude cases are evaluated and allocated ranking in a queue that is attended to chronologically on a rolling basis. However, in the end, we handle all the matters that are presented to IPOA.

6. Members of MVC, including the Social Justice Centres, have documented, and shared many cases that demonstrate police brutality and impunity particularly among those in informal set ups. Families have complained that they often do not receive feedback after filing complaints. What is the main challenge in informing victims on the status of investigations?

The investigation process is self-determining and as such case completion is determined by many factors including surpassing the evidentiary threshold to warrant appropriate case completion and consequent recommendations for remedial action. The Authority has demarcated stage points in its investigations where it provides clients with feedback. This includes at complaint lodging, progression to investigations, during investigations and upon investigation completion.

To maintain open a communication feedback channel, IPOA set up a 12-hour call center and toll-free number - 1559 - which is available for clients to use at no cost to get frequent updates on the progression of their cases.

7. There have been concerns around the safety and security of victims and witnesses of police misconduct cases. This has led to low reporting from victims and their families. How do you handle this?

We work closely with the Witness Protection Agency and other state and non-state agencies that protect victims and witnesses. When a case is lodged with IPOA, we assess the level of risk on the complainant and victims to determine the need for referral and possible admission into the witness protection mechanism.

8. How is IPOA dealing with the issue of delayed cases in the criminal justice system?

Internally, IPOA constantly reviews its standard operating procedures for all its technical mandate functions with a view of enhancing efficiency. IPOA also through partnerships, capacity builds its technical staff for improved service delivery and quicker turnaround of cases.

Importantly also, though co-opted as a member of the National Council on the Administration of Justice (NCAJ), IPOA is currently advocating to be a full member of the Council in order to have a voice in advocating for faster access to justice across the criminal justice system.

9. In the past IPOA officers have been denied files and evidence by police to continue with investigations, what strides have been made to resolve this?

Appreciating the general challenge of non-cooperation by some police officers, the Board tactically focused one of the key result areas of its strategic plan on stakeholder cooperation and collaboration. This KRA was operationalised through the intensification of dialogue sessions with police officers of all ranks with the outcome of reduced non-cooperation and gradual compliance to the various legal frameworks that guide police work. The Authority also put in place various accountability mechanisms including command responsibility to ensure that the officers cooperate. For instance, in 2014, through IPOA's recommendation for non-compliance a Station Commander was charged in court for refusal to submit evidence in a matter IPOA was investigating.

10. Most victims of police killings come to you with trauma, what measures has IPOA put in place to handle victims in a trauma informed manner.

IPOA has a counselling department with a team of qualified counselling professionals who handle trauma among victims and also vicarious trauma among the Authority's investigators. The Authority has also partnered with professional counselors and institutions across the country to whom we refer victims when the need arises or when logistics challenge our sustained support of victims who may be located far from our regional offices.

11. What is the view of IPOA when it comes to command responsibility in cases of police killings.

IPOA supports the idea of command responsibility and is advocating for uptake of the same. That is why IPOA recommended the prosecution of 12 senior police officers in Baby Samantha Pendo's matter, pegged on the principle of command responsibility, under the Rome Statute which Kenya domesticated as the International Crimes Act (ICA). The police officers were charged with Crimes against Humanity following deaths that occurred in Kisumu County after the 2017 General Election.

12. In your view do you believe Kenya has sufficient laws to charge officers in cases of enforced disappearances?

Yes, Kenya has sufficient and robust laws to charge officers in cases of enforced disappearances. What lacks is a well-structured implementation mechanism and sufficient cross-cutting attention to these cases.

13. Is there anything else you would want to add about your work?

Yes, I would like to assure all Kenyans of IPOA's commitment to service and to realisation of its mandate obligations. We will continue to explore strategies and best practices to ensure expenditure of professional civilian oversight efforts to contribute towards professionalization of the National Police Service.

IT IS DELAYED JUSTICE, INACTION ON THE PART OF IPOA FOR KEVIN MAINA

Sometime in 2018, Kevin Maina's friend was shot dead by the police. Kevin is said to have witnessed the killing, exposing him to the danger of suffering the same fate as his friend.

Kevin's story is, indeed, not only the story of pervasive impunity in the National Police Service, but also the story of institutions that have failed to take their mandate seriously and alleviate the suffering of Kenyans at the hands of the police.

Ahmed Rashid, one of the police officers who operated from the Pangani and Eastleigh areas of

Nairobi, was arraigned in court in 2023 on charges of killing two teenagers, Jamal Mohammed and Mohammed Dhair Kherimet, in cold blood. (Ed: see separate story on the trial of Ahmed Rashid).

This report shows a significant drop in the cases of Extra-Judicial Killings and Enforced Disappearances associated with Pangani Police Station, one of the most significant findings. In 2022, Pangani took the lead in the number of cases.

That the death of Kevin was premeditated and well-planned, is evident from the accounts of

human rights activists, his own mother and several human rights organisations that have since been involved in seeking justice for the victim and his still-grieving mother.

After the death of his friend, the police area said to have arrested Kevin though the reason and intention of the arrest remain unclear. However, when word got to Kevin's mother that her son had been arrested, she moved fast to inform a number of human rights organisations, which intervened. The result is that Kevin was taken to Makadara Law Courts and charged.



members of the public view stories of the disappeared during the launch of the 2022 MVC Annual Report in Yala

The magistrate at Makadara Law Courts decided there was no evidence to sustain the charge and released him unconditionally. However, as they were leaving the court premises, the police officers who had arrested him warned that they would harm him. As a result, Kevin's mother rushed to report the matter to the Independent Policing Authority (IPOA). That is how Kevin's life was saved at that juncture; however, the officers did not give up.

The second time he was arrested, Kevin was not as lucky. This time, his body turned up at the City Mortuary. It seems the officers had finally fulfilled their mission of executing him.

Kevin's story is the story of resilience on the part of the mother, who, despite being driven to despair and bearing the memory of her son's brutal death, has been able to sustain a campaign for justice.

Mama Kevin has been to IPOA not once, or twice, but three times to push the case. She has recorded statements, providing evidence she thought would have led to justice for her son. She even managed to present witnesses to IPOA who were ready to testify in the case.

One of the witnesses has since died.

Kennedy Chindi, the right to life coordinator at the Mau Mau Road Haki Centre at Mlango Kubwa, has walked part of this journey with Mama Kevin. Talking to MVC media team, Chidi revealed how his attempts to follow up the matter had led to threats on his life, a testament of the impunity that pervades Kenya's National Police Service.

"Being a human rights defender with Mathare Social Justice Centre at the time, I accompanied Mama Kevin to report the matter to IPOA. That time we thought something would be done because we had even garnered the support of major human rights organisations," he reports.

"Things did not go as expected. There were hurdles at every point. One time, we were asked to get an OB number from Pangani Police Station, when we visited IPOA. We were denied the OB number. We had to request IPOA to call the OCS, who then issued the OB number," he further explained.

Asked why he thought the case had never taken off, even with all the evidence they had given to

IPOA, he said, "I think they prefer to deal with high profile cases. When a case involves people from the informal settlements, they do not seem bothered at all."

IPOA was born out of the need to provide civilian oversight to policing in the country. Although police impunity had been a concern for many years, reform efforts until the post-election violence of 2007/8 had not directly provided for a civilian oversight of the police. Little was done to impose structural changes that could increase police accountability.

The Authority owes its existence to both Act No. 35 of 2011, and the 2010 Constitution. Its mandate includes that of investigating "the more serious complaints of police misconduct," while other complaints related to breach of discipline among the police are investigated by the Internal Affairs Unit of the National Police Service.

On a broader scale, the mandate of IPOA suggests that it is one of the public institutions that can end police impunity. A more responsive IPOA, by effectively acting on complaints from all Kenyans without bias, will go a long way in fulfilling this mandate.

RECOMMENDATIONS

TO THE NATIONAL ASSEMBLY

- Amend the National Police Service Act and the Independent Policing Oversight Authority Act to grant the IPOA the primary responsibility to investigate crimes alleged to have been committed by police officers. Currently, under Sections 24 (e) and 35 (a) & (j) of the National Police Service Act, the police are responsible for the investigation of crimes. But under sections 6 (a) and 25 of the Independent Policing Oversight Authority Act, the IPOA is responsible for investigating crimes committed by the police. The mandate overlaps between the DCI and IPOA investigating extra-judicial killings and enforced disappearances have prevented an adequate investigation.
- Amend the Independent Policing Oversight Authority Act, the Wildlife Conservation and Management Act, the Prisons Act, the Forest Conservation and Management Act, and the Kenya Coast Guard Service Act to expand the mandate of IPOA to exercise civilian oversight over and investigate crimes alleged to have been committed by officers from these agencies.
- Enact a law on enforced disappearances or amend existing legislation to criminalize enforced disappearances. The law should include recourse and reparations for victims and their families.
- Ratify the International Convention for the Protection of All Persons from Enforced Disappearance.
- Ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT).
- 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

- Support officers to investigate and obtain evidence to prosecute the perpetrators of enforced disappearances and killings.
- Provide adequate medical cover, including psychosocial and mental health support to officers and families, for the police officer and families.
- Ensure that documentation in the occurrence book indicates all persons in police custody to facilitate rapid investigations of enforced disappearances.
- Provide psychosocial and mental health support to officers and their families.
- Ensure those police officers wear the uniform, have their identification badges, and drive police vehicles to be easily identifiable by the public.
- Ensure hiring of police officers is impartial and end corruption within the inner workings of the NPS.

THE OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTION

- Expedite cases on extra-judicial executions and enforced disappearances in court and work with the judiciary to provide a realistic timeline for when they will be resolved.
- Develop a habeas corpus guideline with state oversight agencies, the judiciary, and civil society organizations.
- Develop ODPP guidelines on the investigation of enforced disappearances.
- Fast track the development of jurisprudence on prime responsibility and command of responsibility.

TO THE ATTORNEY GENERAL

- Operationalized the National Coroners Services Act and the Prevention of Torture Act in consultation with the CS National Treasury.
- Fast-track the payment of court awards and reparations to victims of unlawful police killings in consultation with the CS National Treasury.
- Work with the CS National Security to increase budgetary allocation to facilitate the operationalization of the National Coroners Service under the National Coroners Service Act.

TO THE JUDICIARY

- Expedite and finalize the cases of enforced disappearances and police killings before the court and habeas corpus before the court.
- Prioritize the need for law reform on sanctions for government officials' failure to obey court orders for production in habeas corpus cases.

MISSING VOICES PARTNERS



MISSING VOICES DIRECTOR'S STATEMENTS

“The right to life, freedom from torture, the right to liberty and the right to security are enshrined in the Universal Declaration on Human Rights. We commend the work of IAU in ensuring discipline among officers and IPOA in ensuring accountability to misconduct by police officers while on duty. However, despite the work of the two state institutions, impunity by police officers continues to be a big hurdle in access to justice in Kenya. Repeat offenders, especially those who have been mentioned as being involved in extrajudicial killings and enforced disappearances continue to serve by being transferred to other areas.

“We welcome the recent directive by the Interior Ministry barring transfer of rogue officers from one station to another. This move will go a long way in creating confidence amongst the people of Kenya on the effectiveness of IAU's and IPOA's work. It will also make the work of these institutions easier and might help to reduce the backlog in investigating and completing cases.”

Phanice Odhacha

Regional Director, Protection International Africa.

“A single letter separates the two 500-year-old English words "impunity" and "immunity". For criminals, the first word means going unpunished. For the rest of us, the second means protection from dangerous criminals. Unlawful killings and detention without trial neither keep us safe.

Enforced disappearances and extra-judicial killings are multiple human rights violations. They simultaneously threaten our right to liberty, a fair trial, humane treatment, and life. By removing us from the protection of the rule of law, state agents can proceed to act unlawfully. The absence of legal consequences and the culture of impunity are the biggest drivers across Kenya and the world.

Shockingly, no single person has ever been held criminally accountable and convicted for an enforced disappearance in Kenya to date. The presence of a victim's body has been necessary in each of the rising number of convictions of police officers for extra-judicial killings. 4,269 Kenyans have signed the Missing Voices Alliance petition to criminalize 153 instances of unsolved enforced disappearances to date.

On 10 December 2023, the Attorney General publicly committed to ratify the International Convention for the Protection of All Persons from Enforced Disappearances during International Human Rights Day. Ratification and the drafting of a domestic law are important steps. They will criminalise enforced disappearances and require the Government to prevent future instances. It would affirm the right of victim's families to know the truth and seek redress for the loss of their loved ones.

State officers that commit this crime on their own volition or under the instruction of their superiors must be held legally accountable. There should be no immunity for those that look the other way. Superiors who fail to stop their subordinates must be held criminally culpable and there must be no statute of limitation.

The Kenya Kwanza Government have declared they will govern in the light and not from the shadows. Let them and Azimio la Umoja find common ground in the National Assembly and strike this practise from our nation in 2024.

We owe it to Daniel Baru Nyamohanga of Migori, Samson Teckle-Michael of Nairobi, Hemed Salim Hemed of Mombasa, Mwenda Mbijiwe of Meru, Michael Njau, Adan Mohammed Saibu and Samuel Mungai of Kiamaiko, Elijah Obuong, Benjamin Imbai, Brian Oduor and Jack Ochieng of Emali among others.”

Irungu Houghton

Amnesty International Kenya Executive Director

“The recently released Report of the National Task Force on Police Reforms (the Maraga Report) has, once again, painted the National Police Service as corrupt and therefore incapable of serving Kenyans effectively. Many past reports have documented the same. It seems as if the more things change in Kenya, the more they remain the same! Missing Voices Coalition continues to document cases of extra-judicial killings and enforced disappearances as a way of keeping the fire of police reform burning.

The data that is documented and shared every month through MVC's website is aimed at making it possible to not only demand accountability, but also, in the long-run, contribute positively to police reforms. Only sustained reform can curtail the cycle of impunity in which the National Police Service is caught! Peace Brigades International will continue to make a positive contribution towards ensuring sustained reform as a member of MVC!

“Human Rights Defenders demand respect for human rights, which is the central theme of the Kenyan Constitution, 2010. Allow the Constitution, the laws and the ethos to guide us. Failure to do so and to allow impunity to prevail is a failure to be human.

Alberto Fait

Country Director, Peace Brigades International (PBI)

No police officer or any other agent of State should ever be above the law. Impunity will only keep us in a vicious circle. Lets aspire to hold police accountable as well as all public officials as they execute their duties.

Joachim, Paul

Director, Heinrich Boll Foundation

“At the heart of Missing Voices Coalition beats a resolute mission: to halt the rising cases of enforced disappearances and extrajudicial executions that have plagued Kenya in recent days. Anchored by the conviction that every life is invaluable and deserving of justice, we navigate this journey with unwavering dedication. Our advocacy springs from a well of unity, resilience, and an unyielding commitment to human rights.

As we stand at the threshold of our collective endeavor, let us forge ahead with determination. Let our voices merge into a symphony of change, echoing through communities and corridors of power, alike. Together, we sow the seeds of transformation, cultivating a future where justice flourishes and every soul finds its rightful place in the light of equality.

Wilfred Olal

Social Justice Movement Kenya

“In 2023 we saw another significant drop in the numbers of Kenyans killed by police and an even a bigger drop of those forcefully disappeared compared to 2021 and 2022. This is a positive step that we hope will continue this year. We are however worried by the high numbers of police killings that happen during protests, nearly half of the 118 police killings recorded in 2023 were because of protest, this must not continue. No Kenyan should lose their lives while peacefully protesting, a constitutional right. All officers who misused their firearms must be held to account.

We want to applaud the former Chief Justice David Maraga and his team for releasing the Maraga report that looks at the welfare of police officers. We are looking forward to the government honoring the 40% salary increment promised in the report by July and other recommendations made in the report.

Benson Shamala

Country Director, International Justice Mission Kenya (IJM Kenya)

MISSING VOICES TEAM



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Marion Njoroge, Mt.
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Martin Mavinjina,
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Obino Nyambane,
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Marie Ramtu



Morris Odhiambo
Missing Voices Project
Coordinator



Samuel Kiro, Social
Justice Centres Working
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Albert Nyakundi,
Missing Voices Data
Collector

MISSING VOICES EVENTS AND ACTIVITIES IN PICTURES



OCS Huruma at an event marking the International Day in Support of Victims of Enforced Disappearances in Mathare



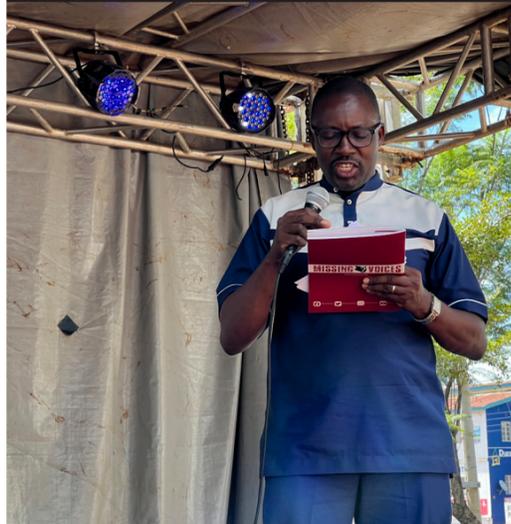
IJM Kenya Senior Manager Survivors Services Pamela Masakhwi take journalists through trauma informed interviewing at the media training in Mombasa.



IPOA CEO Elema Halake, DPP Renson Ingonga and Amnesty International ED Irungu Houghton at the opening of the media training in Mombasa



Penina Koome, a victim of extrajudicial killings at the Yala launch of MVC report



IJM Country Director reads the MVC statement at the launch of the 2022 report in Yala



ODPP Renson Ingonga after attending a meeting of MVC in Mombasa



Directors Meeting



Madam Judy Lameck, the then Head of Community Policing at NPS at the International Day of Support for Victims of Enforced Disappearances



MVC strategic planning meeting in February 2023



Media Training in Mombasa



Journalists attend Missing Voices training in Mombasa



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