

PRELIMINARY REPORT ON ALLEGED EXECUTIONS AND DISAPPEARANCE OF PERSONS BETWEEN JUNE AND OCTOBER 2007.

Background

1. The Kenya National Commission on Human Rights is investigating a large number of alleged executions and disappearances. Preliminary investigations suggest that between June and October 2007 close to 500 bodies of young men have been deposited in various mortuaries in the country by the police and the KNCHR has evidence suggesting that other bodies were dumped in the wild for hyenas and other wild animals to eat. Almost all the cadavers bear classic execution signs of a bullet behind the head exiting through the forehead.
2. KNCHR started the investigations after receiving reports from residents of Ngong on corpses being dumped in the area all of which bore gunshot wounds. KNCHR was further told of a common pattern in the killings; witnesses first saw Land Cruiser vehicles, similar in make and colour to those used by the Kenya police being driven around the area, where on different days, after hearing gunshots, they stumbled upon unknown dead bodies bearing gunshot wounds. In one case, KNCHR learnt from two witnesses how they met and talked to a handcuffed person who unknown to them had escaped from police custody and was being pursued by the police only for his dead body to be found dumped within the area hours later. None of the deceased persons are known to the residents of Ngong and Kiserian areas.
3. The preliminary findings by KNCHR lead to the inescapable conclusion that the Police could be complicit in the killings. KNCHR is also extremely concerned that the emerging pattern points to possible complicity of State security agents in disappearance of persons. If these allegations turn to be true, they would constitute Crimes against Humanity and mirror the reign of the **State Research Bureau** of the Idi Amin era in Uganda.

Lack of Interest by the Police when the killings were reported

4. The residents told KNCHR that in spite of reporting the discovery of corpses with gun shot wounds to the Kiserian Police Station, the police did not appear to show much interest. While on some occasions the police collected the bodies, on other occasions, KNCHR established that the police had left bodies to be devoured by hyenas, despite receiving reports about them early enough to have collected them.
5. Also disturbing were reports that in the instances where the Police collected the bodies, they left behind the deceased persons' clothes and personal items at the scene. This displayed total lack of concern to matters that were of grave nature and further traumatized and disturbed the residents. Further, KNCHR was informed that the police refused to secure the scenes and even after collecting some of the decomposing bodies, declined to reveal the information to the relatives for postmortem and subsequent burials.



Body remains/ intestines found at the scene

6. Since commencement of the investigations, the KNCHR has faced difficulties from the police who have refused to disclose any information or co-operate with KNCHR. The police continue to deny the factual situation of the killings and have instead opted to politicize and dismiss these grave human rights violations as normal criminal acts.
7. KNCHR is also surprised that rather than showing enthusiasm in following up such investigations as one would expect of a legitimate police force, the Police have dealt with allegations of the grave breaches casually and haphazardly and sadly imputed politics into this. During the ongoing investigations, KNCHR has been met at all layers of the police hierarchy with obfuscation, stone walling, disinterest and outright denial of any knowledge on the killings and dumping of the bodies.
8. The obvious question to ask is, if the police are themselves not responsible, why have they been unwilling or unable to investigate and curb the killings? Instead the police have casually admitted through their Spokesperson Eric Kiraithe to having collected 'only' 13 bodies from Ngong area. Assuming the police were not responsible, which citizen or organized criminal group would have the wherewithal and courage to ferry corpses for dumping on our roads which are mounted with police checks after every few kilometers on a 24 hour basis?

Findings

9. KNCHR visited the City Mortuary in October 2007 and from the Police Register kept at the facility established that since June 2007 to 22nd October, 2007 a total of **454** bodies have been booked in this register as having died from shootings. Most of the bodies were booked as "unknown" though some have been subsequently identified by relatives and claimed for burial and the others remain in the mortuary unidentified.

10. Almost all the deceased are young Kikuyu male adults. Records of the bodies that have already been identified by relatives indicate that the deceased are mainly from Kiambu, Muranga, Nyeri and Nairobi slums such as Mathare, Korogocho, Huruma, Dandora and Kariobangi. Majority of the deceased died from gunshot wounds most of which are concentrated on the head which is corroborated by a number of post mortem reports by the Pathologist Dr. Peter M. Ndegwa an expert in Diagnostic Medicine who is categorical that the cause of death in many of the cases has been execution on account of gun shot wounds at close range.
11. Further, KNCHR found that there were some months when the entries in the register shot skywards. In the months of June and July after the Minister for Internal Security Hon. John Michuki announced a crack down on the proscribed Mungiki sect, the police register at the mortuary indicated that the number of bodies brought in by police rose sharply to 223. This is compared to a figure of 189 recorded in the register for the 5 months from January to May 2007 before the crackdown. For instance on 7th June 2007 following the infamous Kosovo Raid in Mathare, a total of 8 bodies were booked that evening in the city mortuary register all of whom were of young Kikuyu males while on 22nd June 2007, the police register recorded a total of 13 bodies booked by police as having been shot around Nairobi area.
12. Further analysis of this register shows that from August 2007, the rate of bookings in the register considerably declined. This coincided with the period when residents of Suswa and Kiserian reported the dumping of bodies in nearby forests when these bodies were discovered as they had not been taken to the mortuary as had been the practice before.
13. KNCHR is also disturbed by the large number of bodies categorized as having been collected by police after alleged shoot-outs. Can it be mere coincidence that 11 bodies reportedly collected from Yatta; Machakos between 5th August 2007 and 30th September 2007 were all established to be of Kikuyu origin? Clearly, there is more than meets the eye and KNCHR has been informed by some of the family members that the deceased persons were arrested in various locations by Police in Nairobi before inexplicably surfacing up dead miles away in Yatta. Indeed all the witnesses of the Yatta incident concur that none of the deceased was from the area and that deaths by drowning in this area are very rare.
14. There is a striking similarity in the pattern between these incidents; they coincide with the period after the month of June 2007 when the government declared the war on Mungiki and on wanted criminals. It is also noteworthy that this is the same period when a large number of people have disappeared without trace. The fact that no official action has been taken in response, notwithstanding the numerous reports made to the authorities, raises a lot of suspicion. Those who spoke to KNCHR regarding the dumping of bodies in Ngong stated that they reported the matter to the area chief who promised them that he would report the same to the police for action.
15. From the KNCHR visits to 3 mortuaries in the country, a pattern is discernible where bodies have been booked in by police all of which exhibit a regular degree of methodical and meticulous consistency as to the cause of death-shots from the back of their heads at close range- which is attested to by postmortem reports.

From the evidence available, KNCHR states that the executors seem to be highly skilled since no trace of the bullet shells have been left at any of the scenes visited.

16. That on diverse dates between June and October 2007, 27 rotten bodies, some partially mauled by wild animals were brought to the City Mortuary mainly from Ngong or Kajiado area. In Naivasha, a total of 11 bodies were booked in the mortuary register between July and August 2007 all of which were brought by police from Mai Mahiu and Suswa Police Posts and reported to have been dumped in the area by unknown people.
17. Initially, booked as “unknown”, 9 were subsequently identified and 8 taken away for burial. The identified bodies were all of young Kikuyu male adults from Kiambu district. All the bodies had bullet injuries mainly in the head and other body parts. A number of the bodies had been partially devoured by wild animals. Due to the limited capacity of the mortuary, KNCHR learnt that the hospital authorities had written to the area police stopping further inflow of such bodies to the mortuary and since then no more bodies had been taken to the mortuary.

Dumping of Bodies in Ngong / Kiserian

18. KNCHR visited Ngong and Kiserian area and was informed by witnesses that on 8th October 2007 at Kiserian, two of them had spotted a Land Cruiser vehicle with four people around 3.00 p.m. parked along the Magadi – Kiserian road. One witness stated that four people got out of the vehicle and walked down into a small valley next to the road. While still at a distance he heard gunshots from the direction where the four had walked and thereafter three of the four people emerged from the bush went back to the vehicle and drove off towards Kiserian.
19. Another witness told KNCHR that on 10th October 2007, he revisited the scene accompanied by some villagers and found a body of a brown, stout middle aged man. This witness went to the scene yet again the next day but found that the body was missing and he later heard from people that the body had been picked by the police.
20. A resident of Sua Engereyan village, Lodariak sub-location of Kajiado Central told KNCHR that on 5th October 2007 while grazing his cattle, he saw a body of someone lying on the ground at around 5.30 p.m. which had been covered with a white jacket on the face. He reported that he went back the following day accompanied by a neighbour and scrutinized the body further, upon which they found a visible hole on the side of the head which they suspected to be a gun shot wound originating from the back of the head and exiting through the forehead. They reported the matter to a Provincial administration official who in turn reported it to the police at Kiserian Police Station.
21. The same witness stated that on 8th October 2007 while in search for his calves around Loniak area at around 8.00 pm, he heard gunshots from the bush which frightened him and he went straight home. His evidence was that the next day, a boy he met told him that the previous day, he had seen two vehicles from which four people had alighted at the bridge and went down to the river and thereafter he had heard gunshots. Only three of the four people emerged from the bush. This

witness once more went to the scene and saw a dead body lying at the site. On going to the scene the next day, he found that the body had been partially eaten by wild animals with only a leg and ribs left at the scene.



Foot and safari boot of a body recovered at the scene.

22. On 10th October 2007, the same witness told KNCHR he saw a Land cruiser come to their village carrying police officers who said they were looking for a hand cuffed man who had allegedly escaped from their custody and after going to several homes, the officers left. The neighbours reported that later that day around 3.00 pm, they heard gunshots rent the air and when he went where the gunshots were reported, he came across a dead person at the site. It was on this note that he and another witness reported to the Kenya National Commission on Human Rights for assistance.
23. The two witnesses told KNCHR that their community was frightened by the presence of the bodies in the area which had created a feeling of fear and insecurity amongst them. Their biggest worry was that once wild animals had tasted human flesh they could easily turn to their children, a fear which they claimed made the children not go to school.
24. This pattern of events was retold to KNCHR by various witnesses. There is unanimity on the events of 10th of October 2007. The narratives of the police looking for an escaped hand cuffed suspect are especially striking. All concur that the police were in a navy blue Land Cruiser and one witness has given the registration number as **GK W364**. After going to individual homesteads looking for the said suspect, the witnesses reported hearing gunshots and a dead body was found the following day at the bridge. This body they suspect could be that of the hand-cuffed escapee.

25. One witness, a businessman in the area, recollects this incident well. He stated that at around 7.00 p.m, on the material date, he met a hand cuffed man in jeans and a flowered shirt who stopped his vehicle but then ran away in spite of the businessman's attempts to call him back. He stated that he thereafter came upon two police motor vehicles on the highway. The following day, he heard from the public that a body of a man had been found at the bridge though he could not confirm whether or not it that of man he had met earlier.
26. Various other witnesses told KNCHR how in the course of grazing their animals, they had stumbled on dead bodies all bearing gunshot wounds at the back of the head with the bullet exiting in front. While some bodies were collected after reports were made to the authorities, some never were and they were completely devoured by wild animals. Regarding the vehicles that were spotted at the scenes, the statements were consistent in describing Police Land cruisers some of which had the tops painted white.
27. Another witness narrated to KNCHR that sometime in August, 2007 while grazing within the same area, he heard six gunshots and the following day he stumbled on three unknown dead bodies. The hands of the deceased persons appeared bruised by what he believed to be handcuffs and had been smeared with black ink (could it be the indelible ink used by Police to take finger prints?). After two days, the said bodies were collected by the police. He also stated that in this period, it was a common phenomenon to hear gun shots and people screaming.
28. A witness, whose husband disappeared, told KNCHR that she was the wife of a Gikomba trader she last saw at Machakos Country Bus Station sometime in September 2007. Her evidence is that while watching news on 12th October 2007, she was able to identify all the items and clothing her husband had worn on that date, more specifically his green jacket with patches of white and orange which were found by KNCHR officers in Kiserian. She stated that her husband had been twice arrested by the police (the Kwe Kwe squad) in the month of September 2007 for suspicion of being a member of the illegal "Mungiki" sect. Both times, she stated that he had been able to secure his release by availing to the police officer in charge a Kshs.2,000/= and Kshs.10,000/= bribe respectively.
29. An Official with the Provincial Administration confirmed to KNCHR of having received reports of bodies found within his area of jurisdiction. He stated that this trend began in June since which about 21 bodies had been collected by the police. It was his view that there could be many other bodies dumped in the area but not reported to the police and which had ended up being devoured by the hyenas. He told KNCHR that he had raised these issues with his immediate superiors. It was also his evidence that these killings have been the subject of security meetings where police authorities from Kiserian were in attendance and in political meetings chaired by the local Member of Parliament, Honorable George Saitoti. The Official voiced his frustrations to KNCHR that despite having reported the killings and dumping in his sub-location, no action had been taken by any office.
30. The official told KNCHR that he thought the people killed were not residents within his jurisdiction and could not have been from his area. This finding was corroborated by members of the community who stated that the bodies were

normally found with personal effects including money and mobile phones, which were then collected by police when they came to collect the bodies.

Interviews with Government Officials

31. A senior provincial administration Official told KNCHR that since August 2007, he had received complaints from a local councillor concerning the dumping of bodies in the area. His evidence was that the dumping of bodies had been common but had reduced or stopped after high profile media exposures. He confirmed that all the bodies found were of young to middle aged males.
32. KNCHR visited the OCS Kiserian Police Station Mr. Phillip Mwakia on 16th October 2007. He stated curtly that he had no information to disclose. He also stated that he had not received or investigated any matter concerning the killings and dumping of dead bodies around the area. KNCHR was more than convinced from his demeanor that he was privy to information he did not wish to disclose. He referred KNCHR to Ngong Police station. When KNCHR visited the Deputy OCPD, Mr. J.K. Wanjohi, he categorically stated that he knew nothing about the matter and had no information to disclose.
33. The OCPD Ngong Division Hamisi Mabea was interviewed by the KNCHR and he reported that such killings were common incidents that occurred and were routinely investigated by police. Regarding the dumping of bodies, he told KNCHR after a public outcry the matter had been taken over by the Commissioner of Police who in turn had delegated to the Police Spokesman, Mr. Kiraithe and he was therefore not be in a position to disclose any information as this could contradict the Police Commissioner's findings. He instead directed the KNCHR to the office of the Commissioner of Police for further information.

Yatta District Killings and Enforced Disappearance of Persons

34. A number of persons petitioned KNCHR reporting that bodies of their relatives had been found floating on river Athi in Yatta division. KNCHR established that 8 bodies had been collected by police from the river and taken to Machakos mortuary.
35. One petitioner stated that her deceased husband had been a mechanic in a garage based in Eastleigh estate in Nairobi who had left their house on the morning of 14th July 2007 to go to work and never returned. She reported receiving a phone call two days later from her husband's cell phone and was informed by the caller that he was under arrest at Pangani police station, when she went there, she did not trace him and neither did she find any records of her husband in the Occurrence Book. After searching for her husband without success, she learnt from other persons whose relatives had disappeared that there were some unidentified bodies at the Machakos mortuary. She went to the said mortuary on 26th August 2007 and was able to identify the body of her husband which together with others had been collected from the Athi River after they were seen by villagers floating on the water.

36. Another petitioner stated that her husband of 12 years had not returned on 12th September 2007 to their house in Umoja Estate. The petitioner was later called by a relative who informed her that some bodies had been retrieved from Yatta area. She went and positively identified the husband's body. The deceased was buried on 22nd September 2007 at the age of 36 and was said to have had no criminal record.
37. The body of a young businessman resident in Kayole was found in River Athi in Yatta and taken to the mortuary by police from Kithimani police station. His family told KNCHR that on the day he disappeared, he had left his house for his business and did not return. During their search for him, they heard of unclaimed bodies at Machakos Mortuary. They identified his body which had been discovered with five others at river Athi.



The bridge where bodies are alleged to have been dropped into the Athi River – Yatta Machakos

38. So far, KNCHR is following up on 8 petitions alleging the disappearance of persons on diverse dates between June and October 2007. KNCHR has been told that two of the missing persons one of whom was a matatu conductor, were picked up by persons who identified themselves as policemen and taken away in a vehicle registration number KAM 294 R on the day they went missing. Another petitioner alleges that the disappeared person went to collect money from his matatu and never returned. His girlfriend called his cell phone which was allegedly answered by a man claiming to be a policeman at Buru Buru Police Station. Despite visiting that Station and others, she has not been able to trace him and his cell phone has been switched off to date. Yet two more petitioners have

- reported to KNCHR that the missing persons were arrested by persons believed to be officers of the Kwe Kwe Squad. In spite of looking for them in all police stations in Nairobi and in mortuaries, they are yet to trace the two persons.
39. There is a common trend in these disappearances. While almost all report that the missing persons were arrested by persons who identified themselves as policemen, there is no official record of their arrest. A number of them had been arrested previously on suspicion of various crimes but were able to secure their freedom by offering the bribes demanded by Police. The extortion for bribes is a common thread in many of the witness testimonies.
 40. In one instance, KNCHR was told how two missing persons involved in the matatu business were detained at Parklands, Shauri moyo, Nakuru and Thika Police Stations accused of being in possession of a stolen motor vehicle but were released after being coerced to pay the police officer in charge of the investigation Kshs 150,000/- to secure their release. KNCHR was informed that one of these missing persons was again arrested on 18th September by the same policemen on a charge of robbery with violence and taken to Karen and then Shaurimoyo Police Station where he was asked to pay a bribe of Kshs 30,000/- and subsequently released.
 41. The most recent petitions were received on 25th October 2007. It was reported to KNCHR that on the material date at around 2.00 p.m, four people were picked by policemen, tied with ropes by officers believed to be from the Kwe Kwe squad and taken to Shauri Moyo Police Station. Their relatives went to the Station to confirm whether the suspects had been booked at the Occurrence Book but they found they had not and instead found that the police had locked them inside the trunks of two white saloon vehicles registration numbers **KAT 210 H** and **KAX 335X** respectively. The four later went missing and their bodies were found at the city mortuary on 28th October.

Statistical Summary

Source of Figures	Number of Bodies
City Mortuary Police Register on shootings (7 th June -22 nd October 2007)	454
Number of bodies counted and verified by KNCHR (7 th June -19 th October 2007)	229
Machakos Mortuary (Yatta)	8
Naivasha District Mortuary	11
Collected from Ngong/ Kiserian (Police figures)	13
Collected from Ngong/ Kiserian (provincial administration figures)	21
Bodies booked from Ngong /Kiserian (city mortuary)	16
Petitions received at KNCHR of persons who have disappeared since June 2007	8

Does the End Justify the Means?

42. KNCHR acknowledges that incidents of crime especially violent crime associated with the Mungiki have waned in the same period that these killings have occurred. But reported executions of about 500 people that we know about cannot be an acceptable way to fight crime. The Police cannot be the investigator, judge and executioner in the country especially as we have a judiciary set up for this very purpose. At this point, we have no way of knowing just how many of the dead were actually criminals and how many were innocent people targeted either deliberately or accidentally.

Recommendations & Way Forward

43. At this point, KNCHR clarifies that while this is still a preliminary report and further investigations are ongoing, it is however the duty of the police to undertake full investigations as provided for by law. KNCHR continues to receive complaints from families of persons who have disappeared. Some of the petitioners have alleged that their relatives were arrested by police and have not been heard of since the date of arrest. What is most worrying is the anecdotal evidence KNCHR has gathered where on a number of occasions, persons arrested by police have later turned up dead in a mortuary
44. These allegations are especially serious since they point to a category of Crimes against Humanity defined as Enforced Disappearance of Persons, which refers to “the arrest, detention or abduction of persons by, or with the authorization, support or acquiescence of, a State or a political organization, followed by refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons with the intention of removing them from the protection of the law for a prolonged period of time”
45. From the foregoing and on account of the very serious allegations raised and the fact that the bulk of the evidence could point to police complicity, KNCHR recommends that:
- a) The Government should urgently put measures in place to stop further executions and disappearances and assure the citizens of Kenya of their security.
 - b) That the complaints of alleged executions, disappearances and ill-treatment-which if true constitute Crimes against Humanity-be dealt with in a manner which ensures that those who have allegedly suffered have a genuine opportunity to register their complaints for official action without fear or victimization.
 - c) Prompt, impartial and effective investigation of the complaints be undertaken by an international panel of police experts drawn from South Africa, Ghana and Rwanda since the Kenya Police are clearly incapable or unwilling to investigate this matter.
 - d) If investigations establish that State sponsored executions and disappearances have occurred, then those personally responsible be

identified and brought to justice and the victims granted adequate reparations.

- e) KNCHR calls on all Kenyans whose or acquaintances relatives have gone missing since June 2007 to date to come forward for purposes of establishing the number of persons who cannot be accounted for.