

A photograph showing a man from behind, walking on a dirt path. He is wearing a light blue t-shirt and dark, worn-in jeans. He has a prosthetic left leg and is using a metal walking stick. He is holding the hand of a young child in a pink shirt. The background shows a slum with makeshift buildings and some trees under a blue sky with light clouds.

DELAYED JUSTICE

MISSING VOICES
2021 ANNUAL REPORT



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A Testimony:

DEAD VOICES MUST BE ALLOWED TO MAKE THEIR NOISES, TOO!

“

May I say a few words, Your Honor? I am the spirit of Willie Kimani, the blood of Nura Malicha flows in my veins, and the thoughts of poor uncomprehending boys in Mukuru daunt my soul. It is what goes through an addict's brain – static pain. Such is the case for me. The constant desire to breathe. I am aching for breath, because I think that's how Willie's family is feeling. Should I breathe, I know Mama Nura will heave the deep sigh with me. And so will the Mukuru Eight mothers, who lost their sons at three; who now are tired, and need a bit of fresh air, indeed.

Evil is lurking. And it always seems to stalk a poor man. If it does catch you protecting the truth, there shall be no room for mercy. Behold a never-ending thirst for violence. Beating to death, to the point where your future has been reduced to a frozen memory in a picture. Nobody remains spared. Sunrise to sunset, one day to the next, parents, sons, daughters, students, workers, businessmen and so forth, have all fallen prey to a failing judicial system. One that is no different from a cult, to which you must adhere blindly, or feel its wrath.

We now are, without a doubt, in a state of emergency – not only because of Willie and his two counterparts, but because of a looming justice crisis, a social crisis as well as a spiritual one. Yes, spirit. I wish to bring here today the voice and the cry of the nation. A nation that is sick, suffocated; one that needs us all. We must return to the original instructions that we have all been given by the spirit. For in the lodges of this our nation, we are not to overstep the spirit. You are, I am – because we are!

Gathering something of how we have come about to this point brings us to awareness of the possibility to do things differently. The spirit always acknowledges the beginning. The past, on the other hand, is an argument and arguments present the opportunity for change; the necessary tools to dissent, when we must. We cannot destroy our systems without destroying ourselves. We also cannot continue waiting for other people to change things for us. It begins with us, now. Refusing to go back to business as usual, where the system works only for very few people on top, will be the first step towards changing our stance.

I wish to say here that we have been misled into believing in only one judicial model. The need for another vision is therefore much in evidence. A vision that reconciles the right to our lives, justice and equality, in which we prosper, interconnected with one another as humans and a community. The quest for justice is not only a preserve of those to whom it has been denied. It does not only belong to the poor people. Each gesture and every action we take against inequality is valid.

Your Honor, where is your part, you may ask?

You are in a tight place – between a hawk and a buzzard – to reflect on your authority as more than just employment. The oppressor is on you, as the oppressed comes to you. Yet this house, this planet, needs all of us. Without being active citizens ourselves, we will never be able to have a responsible government. This is the spiritual quest we must take.

I am the spirit of Willie Kimani, the blood of Nura Malicha flows in my veins, and the thoughts of poor uncomprehending boys in Mukuru daunt my soul.

I have as much muscle as any man. I can carry and eat as much too, if I can get it. I am as intelligent as any man that is now. I have heard much about us all being equal before the law. As for that, all I can say is, if a poor man has a quarter jerrican and a rich man a half – why can't the poor man have his quarter jerrican full?

Your Honor, you need not be afraid to give us our rights for fear we will take too much; for we can never take more than our jerrican will hold. We would like to be here in the same way that you are, as there is no other house for all of us. If it's no justice for Willie, for Nura and the Mukuru Eight, it's no justice for you, too!

By: Kanyi Wyban

”



INTRODUCTION

MISSING VOICES



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 (EDs) and held several campaigns to disseminate our research while pushing the general public to report incidents of police misconduct. These activities are done in partnership with stakeholders with the mission to get justice for victims and survivors and promote police accountability.

In 2021, Missing Voices documented 219 cases of police killings and enforced disappearances. Originally there were 36 cases of enforced disappearances; four of these were found dead more than 24 hours after disappearing in police custody, two were returned and 30 remain missing. Inclusive with the four found dead, Missing Voices documented 187 cases of police killings. These 219 cases of police killings and enforced disappearances resulted from 161 separate incidents.

For the last three years, during which Missing Voices has actively tracked the data, police have killed more than 500 people. In 2019, Missing Voice documented 145 cases of police killings. 168 people were killed or disappeared in police custody in 2020. Out of this, 158 were killed by police, while 10 were cases of enforced disappearances.

Since 2019, Missing Voices has released an annual report on police killings and enforced disappearances. The theme for the 2020 report was brutal pandemic. The report explored how, despite the pandemic, police killings did not stop. The police killed many people while enforcing strict COVID-19 regulations, including a curfew. This year's report will examine various themes but will focus on delayed justice and how it affects justice and those seeking it.

BACKGROUND

Despite adequate evidence, authorities, when confronted with human rights reports or media accounts, continue to either deny or dismiss the existence of what appears to be a government policy on enforced disappearances and police killings. The UN Special Rapporteur on Extrajudicial, Summary, Arbitrary Executions in 2009 stated, "Killings by police in Kenya are systematic, widespread and carefully planned. They are committed at will and with utter impunity." The standard police and authorities response is that a few bad apples are giving the police service a bad name. Suppose the police have killed almost 500 people over the last three years; too few, too many. It speaks to a systemic rather than individual problem.

The criminal justice system is slow in dispensing justice, but a gap in law or its application has a significant bearing on the case's outcome. For instance, poor implementation of the victim and witness protection Acts prevents them from testifying out of fear of being targeted. The Witness Protection Act envisages that a witness will need protection once the trial commences formally upon the Director of Public Prosecution's determination that the person is a witness and thus needs protection. But in cases where a state agency is involved in a crime, for instance, a police killing, the witness requires protection before the case starts. It has also been noted that there exists a gap where police officers falsely charge a victim of police misconduct and the Witness Protection Agency cannot protect a suspect. A case in point is Josephat Mwenda who, despite needing witness protection, was unable to receive it because he was already facing a criminal charge in court.

The failure to operationalize the National Coroners Service Act and the Prevention of Torture Act undermines the building of evidence that reaches the prosecutorial threshold. The coroner under the Act will investigate reportable deaths to determine the identities of the deceased persons, the times and dates of their deaths, and the manner and cause of their deaths. Currently, deaths are being investigated by the police. Suppose the police are the accused, in the absence of a second opinion from a competent authority. Thus, police investigating themselves undermines fair trial outcomes. The operationalization of the Coroners Service Act would have provided for a coroner to investigate reportable deaths to determine the identities of the deceased persons. The times and dates of their deaths. And the manner and cause of their deaths.

The net result of the lack of institutions in place, despite the passage of the laws, poor implementation of the authorities' mandate combined, makes addressing police killings extremely difficult; hence justice is denied. Cases take long before they are brought to the courts, and the courts take even longer to determine them. In some cases, matters remain in court for almost a decade because of delaying tactics deployed by the defense. In turn, this impacts the case; witnesses' memory fades- they forget the central facts of the case; family, victims, and witnesses receive threats, thus hindering healing within the community.

LAWS GOVERNING EXTRAJUDICIAL EXECUTIONS AND ENFORCED DISAPPEARANCES

Extrajudicial killing or execution (EJE) refers to the deliberate killing of individuals outside of any legal framework. These executions include deaths resulting from torture or ill-treatment in prison or detention; deaths resulting from enforced disappearances, and excessive force by law enforcement officials.

The International Convention for the Protection of All Persons from Enforced Disappearance defines enforced disappearance as 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 a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which places such a person outside the protection of the law." Kenya has signed but not ratified the Convention.

In Kenya, no law expressly speaks to enforced disappearances, and in the absence of an explicit law, one infers from both the constitution and enabling legislation.

Enforced disappearance touches on fundamental rights across the Bill of Rights. Article 29 speaks to the freedom and security of the person. Article 29 (b) outlaws detainment without trial and provides an exception during a state of emergency governed within the dictates of Article 58 and International law, including, the International Covenant on Civil and Political Rights (ICCPR).

Article 39 of Kenya's constitution guarantees every citizen freedom of movement within the confines of the law. Every right under these Articles is in jeopardy; when someone is deprived of this liberty-this is tied to enforced disappearances. Arrested and accused persons, addressed in Article 48 collectively and Articles 49 and 50, respectively, are most vulnerable to enforced disappearances. However, what informs Enforced Disappearance in Kenya and is most relatable to our jurisprudence are the provisions of Articles 25 (d) & 51(2) on 'habeas corpus'.

Kenya also has other legal provisions and agencies that work in fulfilling the constitutional mandates of the right to life, safety, and security.

The Prevention of Torture Act, 2016 prevents, prohibits, and punish acts of torture and cruel, inhuman, or degrading treatment or punishment; reparations to victims of torture and cruel, inhuman, or degrading treatment or punishment;

The Witness Protection Act, which provides for the protection of witnesses in criminal cases and other proceedings;

The Penal Code, which establishes a code of criminal law;

The Persons Deprived of Liberty Act, 2014 allows the rights of persons deprived of liberty;

The National Coroners Service Act, 2017 provides for investigation of reportable deaths; and

The Victim Protection Act, 2014 protects victims of crime and abuse of power and provides them with better information and support services to provide for reparation and compensation to victims.

The National Police Service (NPS) was established under Article 244 of the Constitution and the National Police Service Act. The main objectives and nine functions of the NPS are to strive for the highest professionalism and discipline among its members; comply with constitutional standards of human rights and fundamental freedom; and foster and promote relationships with the broader society. Further, Article 245 of the Constitution establishes the office of the Inspector General (IG) who exercises independent command over the NPS. It performs many other functions prescribed by national legislation. In exercising the separate order, the IG is responsible for ensuring that his officers commit to protecting all Kenyans' right to life by adhering to the Constitution and other pieces of national legislation. Specifically, under the Sixth Schedule to the NPS Act, 2011, Part A, Para 12 on Conditions as to the Use of Force and Part B, Para 8 on Conditions as to the Use of Firearms, the IG is responsible for making regulations to guide on the use of force and firearms.



DELAYED JUSTICE

Court delays weaken cases because most witnesses recall the incident from memory; the longer the cases take, the more witnesses forget the critical aspects of the case—location, time, and the exact sequence of the incident. The defense could use the discrepancy in witnesses' recollection to undermine the case. Further, since many police officers serve within the same community, families, and witnesses in the case are insecure and vulnerable to threats and even inducements.

The longer the case drags in court, the harder the healing processes for victims and survivors whose wounds are continuously reopened with every court date. Many of the victims and survivors of police killings and enforced disappearances are people from modest economic backgrounds; the constant court adjournments and postponements can deplete their already limited resources.

All these combined, defeat the cause of justice, and its net result is that victims' families, survivors of police killings, and enforced disappearances, grow cynical of criminal justice. Delayed justice equals justice denied.

A case illustrating delayed justice is the Mavoko 3 case. June 23, 2022, will be the sixth anniversary of the disappearance and murder of International Justice Mission (IJM) lawyer Willie Kimani, IJM's client Josephat Mwenda, and trusted taxi driver Joseph Muiruri. Their badly mutilated bodies were found a week after they were arrested and murdered at River Athi in Ol Donyo Sabuk.

The progress of the Mavoko 3 case has been incredibly slow despite it being a high-profile case with tons of media coverage. Since its commencement in November 2016, 44 prosecution witnesses have testified, but the defense has employed numerous tactics to delay the case. Besides the delays because COVID 19 pandemic, this case has been postponed and adjourned at least 15 times because of the defense's machinations. These adjournments breed uncertainty at best, and foreboding at worst.

What is the fate of lesser-known cases? What does justice for ordinary Kenyans look like?

Missing Voices spoke to Effa Kwendo, Stella Marris, and Halima Malicha - three mothers from Eastlands who lost their sons to police killings and are in the process of seeking judicial justice. All of their cases were taken back to the inquest stage because of "lack of evidence", despite the fact that they had witness statements, post-mortem reports and the police officers were identified. All of the accused officers continued operating in the same communities and used unlawful tactics to throw out or weaken the cases. They threatened witnesses and intimidated families - in Stella's case, one of the witnesses was killed. None of the mothers could articulate why their cases were taken back to the inquest stage and seeking answers from officials proved fruitless.

REFLECTION

OUR CHILDREN WERE BETRAYED BY VILLAGE ELDERS

Story told by: Stella Marris Ndinya

Translator: Lena Grace Anyuolo

Photographer: Ibrahim Rashid Otieno

My name is Stella Marris Ndinya. I live in Mukuru Kwa Rueben. On April 19th, 2016, I lost my first born son, Francis Kioko. He was in high school, in form three.



Village elders who were members of Nyumba Kumi instigated his murder by telling the police they suspected a group of youths were taking part in criminal activity. My son was killed with seven of his group members at a garbage collection meeting. They were all told to lie down on the ground in an open field before the police opened fire, shooting them one after the other.

“It's only through a just legal process where the police officer(s) responsible are sentenced and put in prison for murder will we have hope as a community. Otherwise the killing of innocent children by the police will continue with impunity

My second born son who was in form one escaped death by a whisker. He had run back home to prepare my lunch at the instruction of his elder brother. As he ran home he heard gunshots from the direction he was coming from and called for their father who was at home.

My husband ran to the field, and found Kioko still alive. He pleaded with the cops to spare our son's life but his pleas fell on deaf ears. He couldn't save our son.

Our journey to get justice has been met with frustrations at every corner.

At the mortuary, the police tried to tamper with the post mortem report. They postponed it three times and later wrote incorrect dates of death on the post mortem sheet. We were taunted by the police who told us that because we are poor, we would not get justice.

The village elder who betrayed our children lived with us in the community. He would monitor everything that we were doing and leak information to the police. This also frustrated our efforts at gathering evidence to take the case to court.

One witness to the murder, a young man called John, who had climbed on top of a biogas toilet when the killings took place, was constantly threatened by the police. The police told him that they didn't have to shoot him in order to kill him, there were many other ways. We reported the threats to the Independent Policing Oversight Authority (IPOA) with the demands that John be put on Witness Protection. We were told to wait. The second time John met the police, they beat him up so badly that Independent Medico-Legal Unit (IMLU) had to take him to hospital.

Two weeks after John was discharged, he was killed. We found his body in a field with his phone and some money that his mother had sent him from Saudi Arabia, still inside his pocket. We reported the killing to IPOA yet nothing happened. This scared off the other witnesses because they feared for their lives.

IPOA and IMLU gathered the evidence which was presented at Milimani Law Court and a case was opened.

For four years, we made countless trips to and from the law courts. In December 2020, a date for the judgement hearing was set. But this was just the beginning of yet another tedious route to justice.

To date, I don't understand what happened because, instead of a judgement, the case was referred to Makadara Law Courts and we were afraid to attend the proceedings because it was time for the accused police to give their testimony.

I am bereft and I have lived in fear since the incident. I was threatened by the police who killed my son and I had to flee from Mukuru Kwa Rueben to Kikuyu. I struggled to find work in Kikuyu. Eventually, I had to come back to Mukuru. I would have starved to death in Kikuyu for lack of work.



Sometimes I would receive pictures of myself taken secretly while I was in court. Other times I would be stopped by the police and searched. The police wanted to steal vital documents related to my son's case. I was told by the police officer who killed my son that I would also end up dead. I told him that if death was the price I had to pay so no child is wrongfully executed, then let it be so.

Another time, the police officers who killed my son came to the compound where I lived looking for me. Luckily I wasn't home, and my neighbours protected me by denying that they knew me.

When I reported these incidents of threats and intimidation to IPOA, I was told to go to the police station and get an OB number – an official police record – then come back to IPOA and file my complaint. I was dumbstruck. How would I report to the same officers who were threatening me?

In the media, our children were portrayed as thieves. It was broadcast that the police had killed eight notorious gangsters in Mukuru. This coverage ostracized us, the parents of the deceased, from the community because no one wanted to be associated with thieves. We know this is far from the truth because they were attending a garbage collection meeting when they were murdered on a false accusation by Nyumba Kumi village elders. How could they be mistaken for thieves?

I am deeply affected. My son is too. He has trouble staying in school. I have made it my life's mission to seek justice for my son and his friends. They were innocent children who did not deserve to die.

It's only through a just legal process where the police officer(s) responsible are sentenced and put in prison for murder will we have hope as a community. Otherwise the killing of innocent children by the police will continue with impunity.



MISSING VOICES DATA

METHODOLOGY

Primary Approach

Missing Voices relies on monitors spread across Kenya to document cases of police killings and enforced disappearances; 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

Missing Voices collects data from open sources, including media outlets and human rights groups, to complement primary data collection. 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. The cases included in the annual report are verified and, therefore, as accurate as possible.

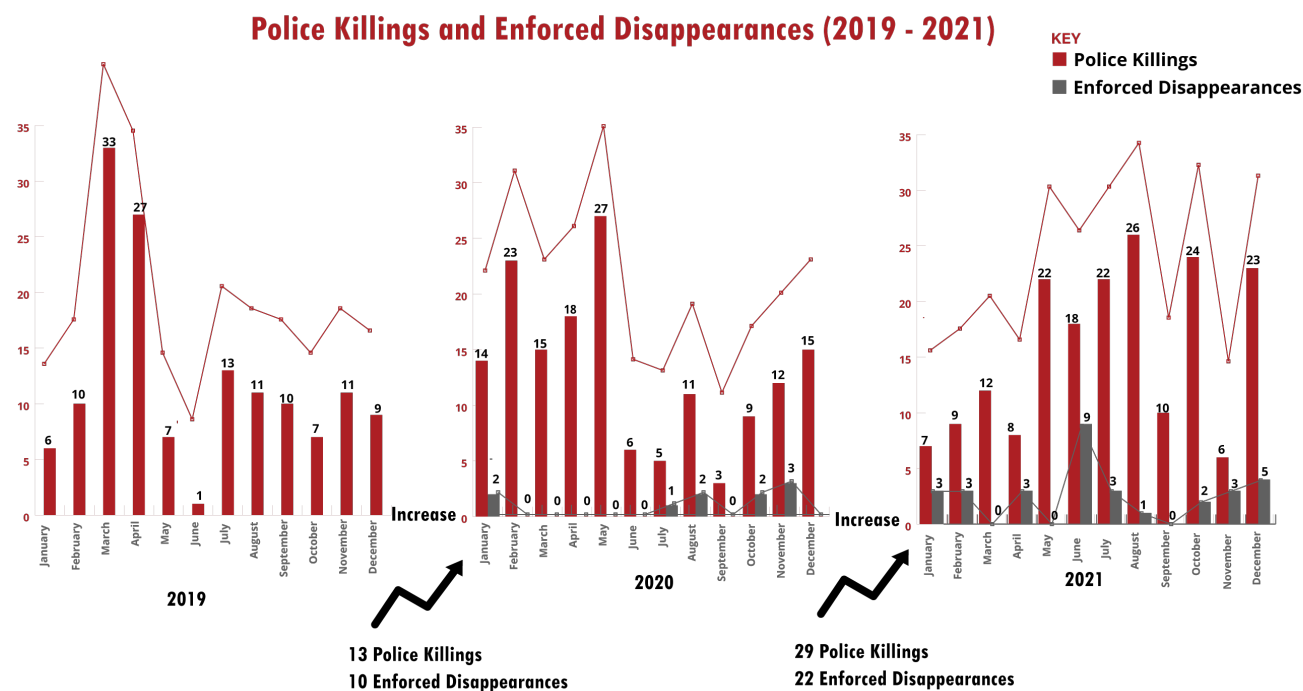
Challenges

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

- 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.
- Human Rights Defenders (HRDs) face innumerable threats from security agencies when they pursue cases of police killings and enforced disappearances.
- Independent Policing Oversight Authority has a backlog of cases, leading to delays, the progress of investigations are not communicated; as a result, families give up on following up the cases with the IPOA.
- Witnesses are unwilling to come forward to report cases because of lack of protection services for witnesses and general mistrust in the Criminal Justice System.
- There is no law in Kenya that criminalizes enforced disappearances, making it challenging for families to hold accused officers accountable.
- Police killings and enforced disappearances are evolving and new groups have become targets. For instance, while in the past people living in informal urban areas were the primary targets, increasingly, groups like boda boda riders are becoming a new target. Missing Voices has to pivot in documenting this emerging trend.
- Police are using mobs and informers to kill suspected criminals. Police instigate mobs to kill individuals and thereafter 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.
- Most cases of death reported by police have no names and are taken to the morgues as unknowns, which makes it difficult to follow up with the families.
- Due to exposure to these cases, the monitors experience psychological distress that affects their personal lives.

KEY FINDINGS

Documented Police Killings and Enforced Disappearances

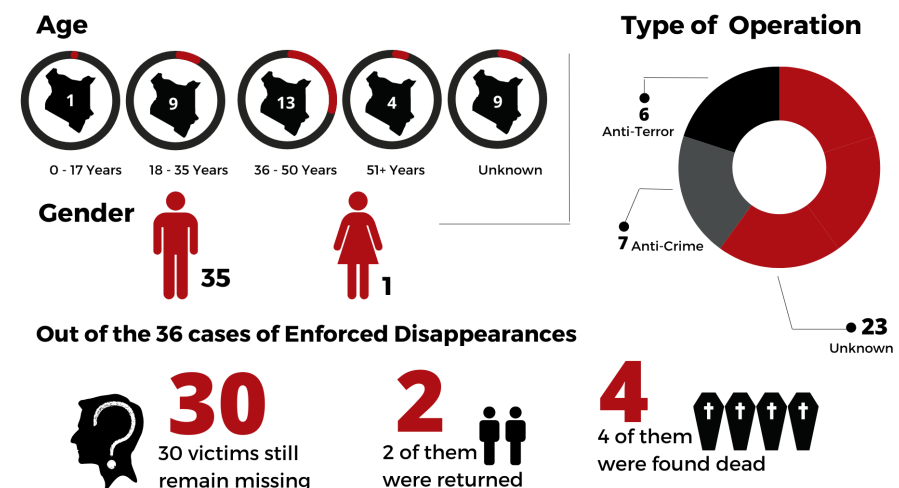
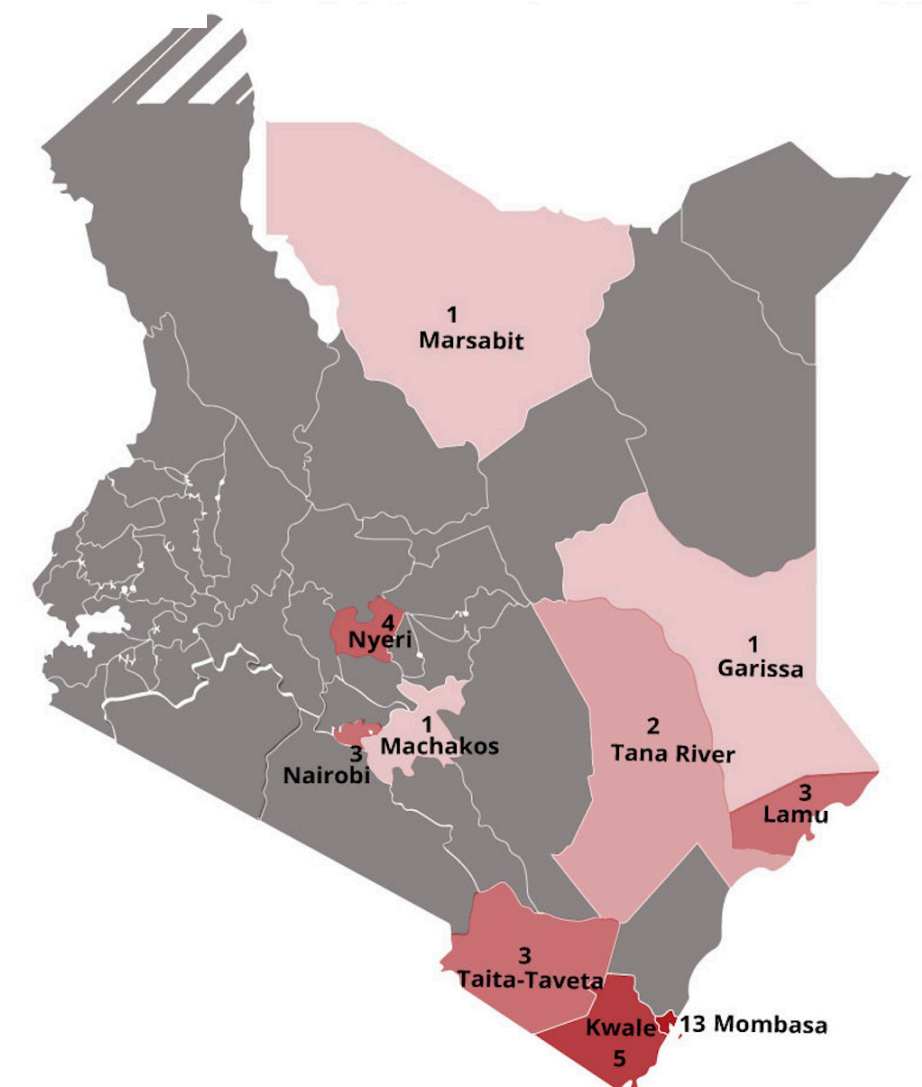
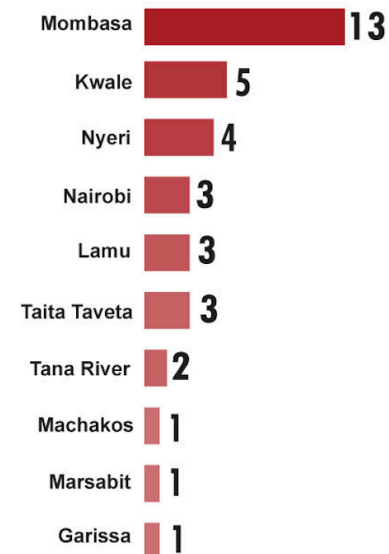


In 2019, Missing Voices documented 145 cases of police killings. 158 people were killed by police in 2020 and 10 disappeared in police custody. In 2021, Missing Voices documented the highest amount of police killings and enforced disappearances since the Coalition began.

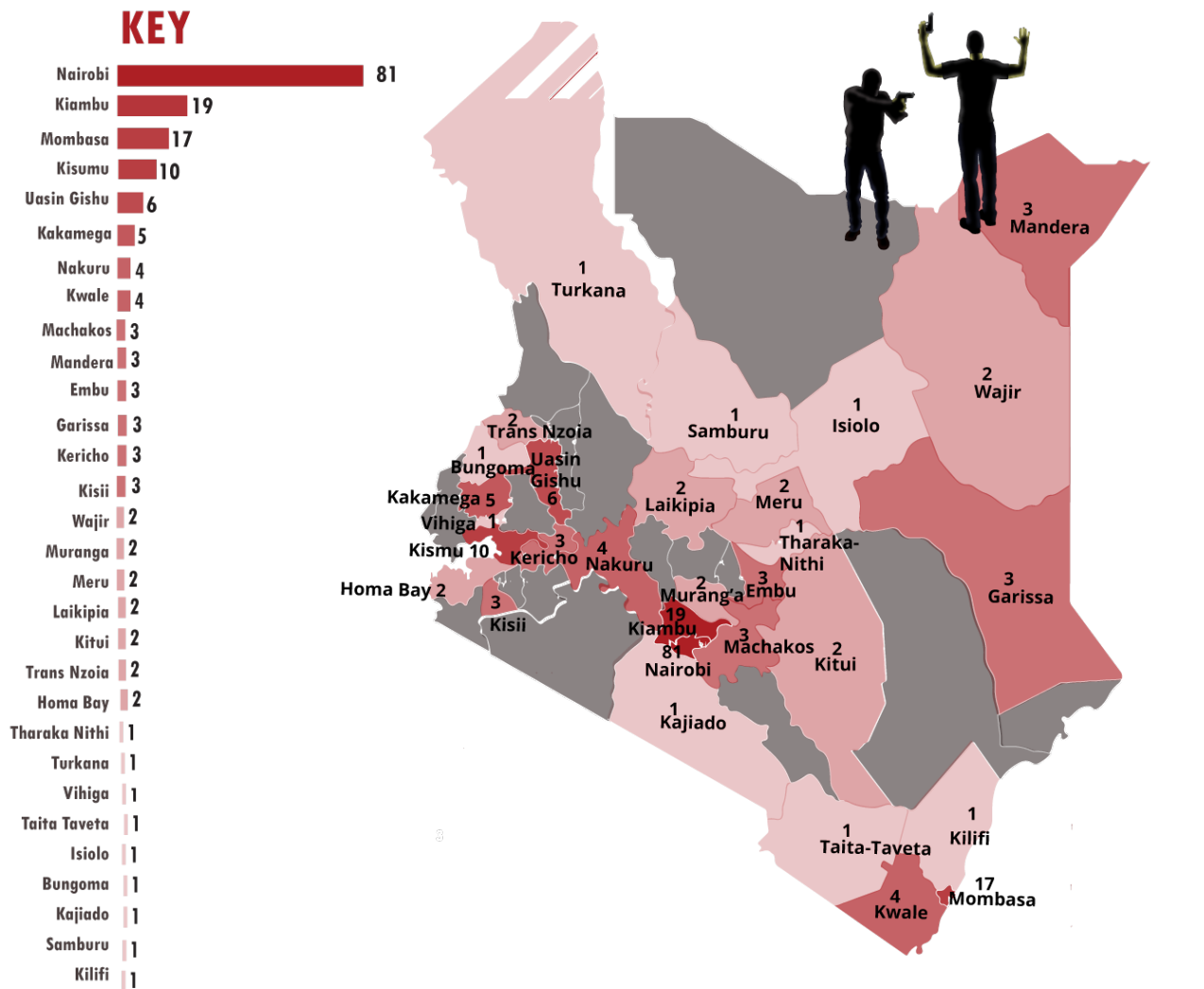
In 2021, Missing Voices documented 219 cases of police killings and enforced disappearances as a result of 161 separate incidents. 36 were cases of EDs and four were found dead more than 24 hours after disappearing in police custody. Along with these four, Missing Voices documented 187 cases of police killings.

Demographics Impacted by Enforced Disappearances

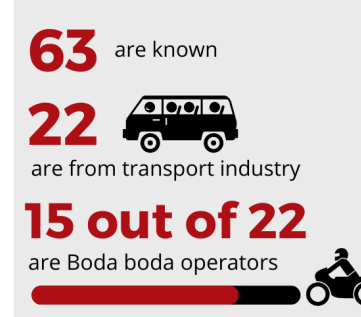
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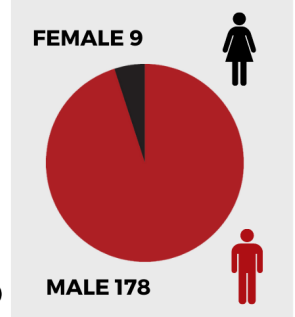
Demographics Impacted by Police Killings



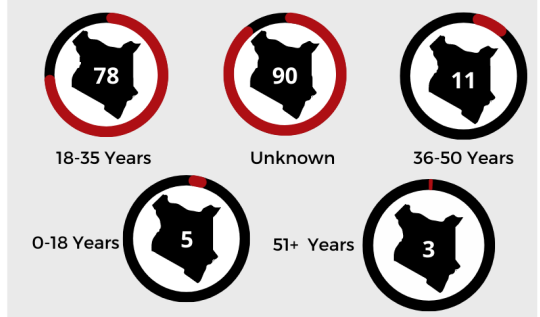
OCCUPATION



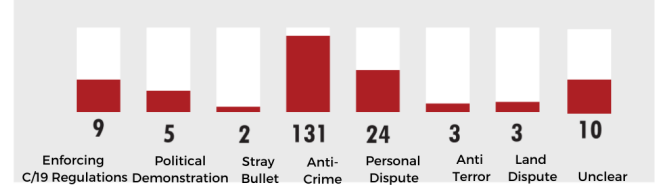
GENDER



AGE GROUP



TYPE OF OPERATION



MANNER OF DEATH



The emerging trend shows boda bodas vulnerable to police killings

In 2021, Missing Voices' data shows those most vulnerable to police killings are males from informal settlements between the ages 18-35 - with boda boda riders being the most at-risk occupation.

Police killings that target our members have always created a rift between boda boda riders and police officers, but we have tried to solve the matter amicably. We urge our police officers to behave and take riders as human beings. Police officers should not see money anytime they see them.



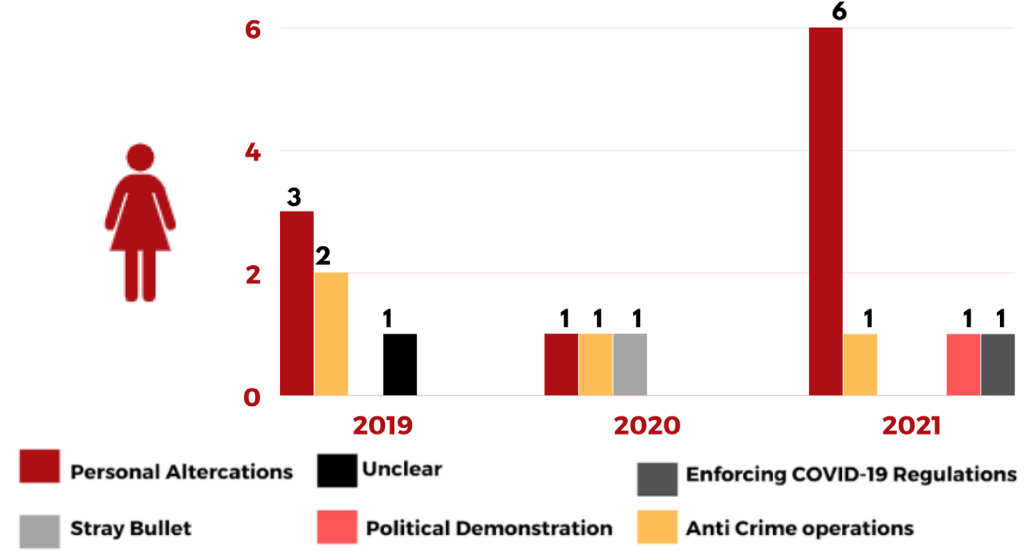
Kevin Mubadi, Boda boda Safety Association of Kenya National Executive Chairman

Police just arrest you whether you are compliant or not. Right now with the current nationwide ban on boda bodas I am indoors. You are fined Ksh 35,000 if you are arraigned. My family is surviving on porridge.

James Okari, a boda boda rider in Nairobi's Central Business District for the last three years.

Although females are not as susceptible to being killed by police, Missing Voices noted an increase in female victims in 2021 in comparison to 2019 and 2020. Whereas males are most likely to be killed during "anti-crime" operations, the majority of females are killed during 'personal-alterations' resulting in gender-based violence attacks.

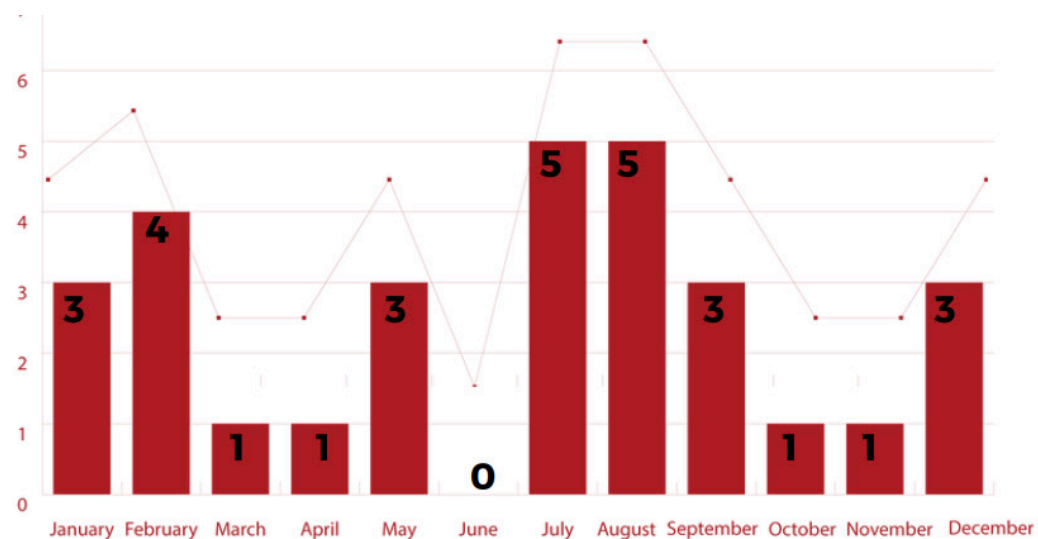
Police Killings Targeting Women



Pangani Police Station

Pangani Police Station leads with the highest number of police killings in Kenya.

Missing Voices documented 30 cases of police killings that are reportedly associated with Pangani Police Station. In 2021, every month, with the exception of June, officers from Pangani are accused of murder.



“In Mathare, Pangani police are largely known as the enemy of the people. How can they police us when they are killing our young men, beating our women, and taking our hard-earned money from us? They’ve caused serious harm to our community. Our people are living in fear because of their brutality and violence.”

**Wanjira,
Mathare Social Justice Center**

In April 2017, a video went viral that showed police officer Ahmed Rashid from Pangani Police Station shooting and killing two unarmed men in broad daylight in Eastleigh. The same year, Ahmed Rashid and another police officer from Pangani Police Station picked up Christopher Maina from his work station, walked with him, and executed him during the day in Mlango Kubwa. One of the witnesses was killed shortly after giving a statement to IPOA.

Most recently, on March 18, 2022, another video spread widely showing officers from Pangani Police Station executing two individuals who were lying on the ground and did not pose immediate threat to the officers. The police report stated the deceased were suspected criminals who were fatally injured during a shoot-out with the officers. Contrastingly, the video shows no sign of a shoot-out; instead, 32 years old Galgalo Bariso (a boda boda rider) and his passenger, Sharim Kimoa, are lying on the ground for a while before one of the officers shoots them.

A post-mortem report revealed that Bariso was killed as a result of multiple gunshot wounds in the head, chest and abdomen. The officer shot Bariso 14 times. According to his mother, Galgalo had gone to buy juice for his seven months expectant wife and never returned home.

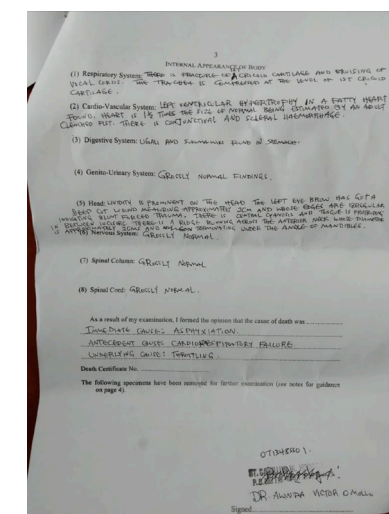
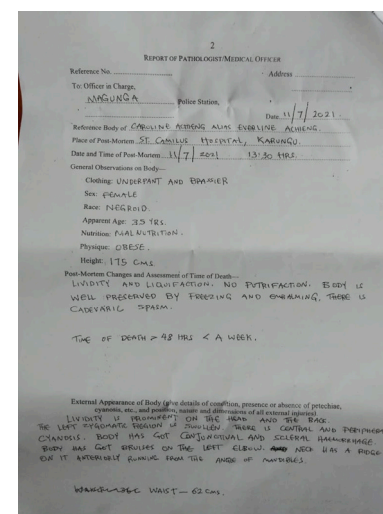
Inconsistencies in Police Reports

In most cases, police justified their killings by tagging their victims ‘criminals’, killed during ‘anti-crime’ operations. However, after investigating some cases, Missing Voices found evidence highlighting discrepancies within the police reports.

CASE # 1: Caroline Achieng

35-year-old Caroline Achieng died on July 7, 2021, during a police operation at Lak Nyiero trading center; they were enforcing curfew measures. When she collapsed and died, Homa Bay County Police Commander Anthony Njeru stated, Caroline was ordered to carry a crate of beer and walk towards the patrol officers. "She was asked to carry the beer as an exhibit. She, however, collapsed and was later pronounced dead," said Njeru.

After an investigation, Missing Voices found discrepancies between the police statement and evidence. According to an eyewitness, police hit the deceased with a rungu while enforcing COVID-19 curfew regulations.



The postmortem report disputed the police account, as pathologist Dr. Awind Victor Omollo said Caroline died after being strangled.

CASE # 2:

Bombolulu 5

A police operation on the morning of March 27, 2021, in Bombolulu, Mombasa, left five men dead. Nyali sub-county police commander Dr. Daniel Masaba confirmed the killings stating the deceased were suspected robbers and the officers were acting on a tip-off.

Masaba stated the men were "suspicious, lived in a single room without furniture, and were armed... they did not follow orders to surrender and started shooting at police. Our officers returned with heavy fire that killed the five instantly."

Muslims for Human Rights (MUHURI), an organization within the Missing Voices Coalition, conducted investigations and disputed the police account of the deaths. MUHURI got confirmation that police arrested 65-year-old Benedicto Mugure and 43-year-old Michael Njoroge on March 17, 2021 - 10 days before their death. Police failed to release them, and they were untraceable at all police stations in Mombasa. On March 27, 2021, police fixed them and Bakari Hassan Mwangandi, Salim Tsuma Ndegwa in an abandoned house in Bombolulu and executed them at dawn. Investigators only found bullet marks on one wall in the room, disputing the police account that there was a shootout.

Personal-Altercations

Missing Voices documented 21 cases of police killings that were instigated because of personal arguments between the police officers and the victims.



5 of the killings were gender-based violence and 4 of the victims were in relationships with their killers.



6 of the victims were police officers - fellow colleagues.



The 21 cases were the result of 13 separate incidents, and in 3 of them, the alleged perpetrator committed suicide.

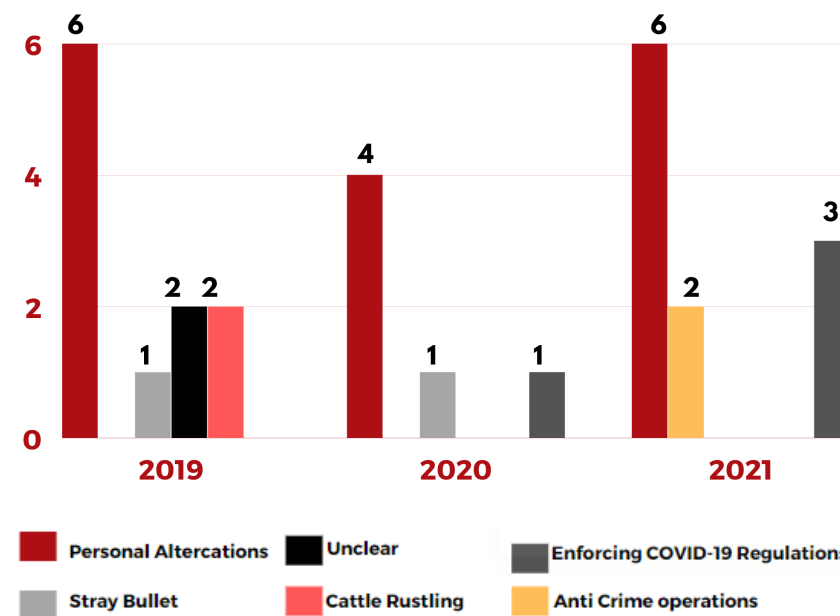
Case #1: Benson Imbatu kills 6 people and commits suicide

It is reported that Police Constable Benson Imbatu from Kabete Police Station got into a domestic dispute with his wife, Carol, on the morning of December 12, 2021. This allegedly resulted in Benson fatally shooting his wife. Neighbors and Boda Boda riders around the area rushed to the house, and Benson went on a killing spree. He killed 6 people - including his wife - and injured two. Benson proceeded to commit suicide. Officials state Benson Imbatu was living with a mental health disability. The community in the area demanded answers from the State why Benson was on active duty while suffering from a mental health disability.

Case # 2: Corporal Joseph Muthunga kills Senior Sergeant Ayub Polo

According to The Star newspaper, Senior Sergeant Ayub Polo was shot dead on December 25, 2021, by his colleague, Corporal Joseph Muthunga, in Nakuru county, Naivasha sub-county, at Kedong Camp during a Christmas party. Polo was allegedly concerned that Muthunga was drinking alcohol while on duty. It is reported, Muthunga responded by killing his boss on the spot using his official G-3 rifle. Muthunga has since been arraigned.

Documented Arrests



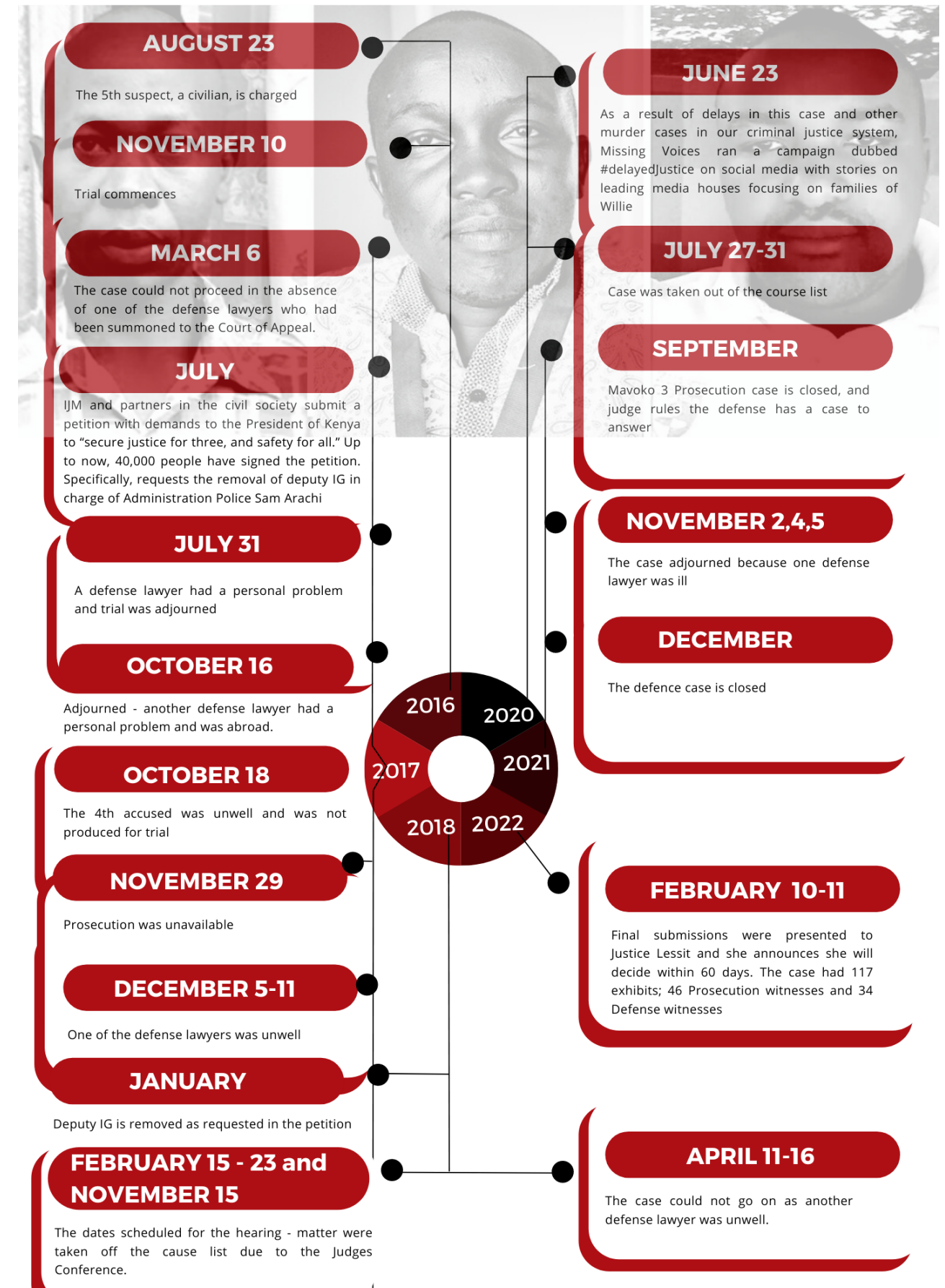
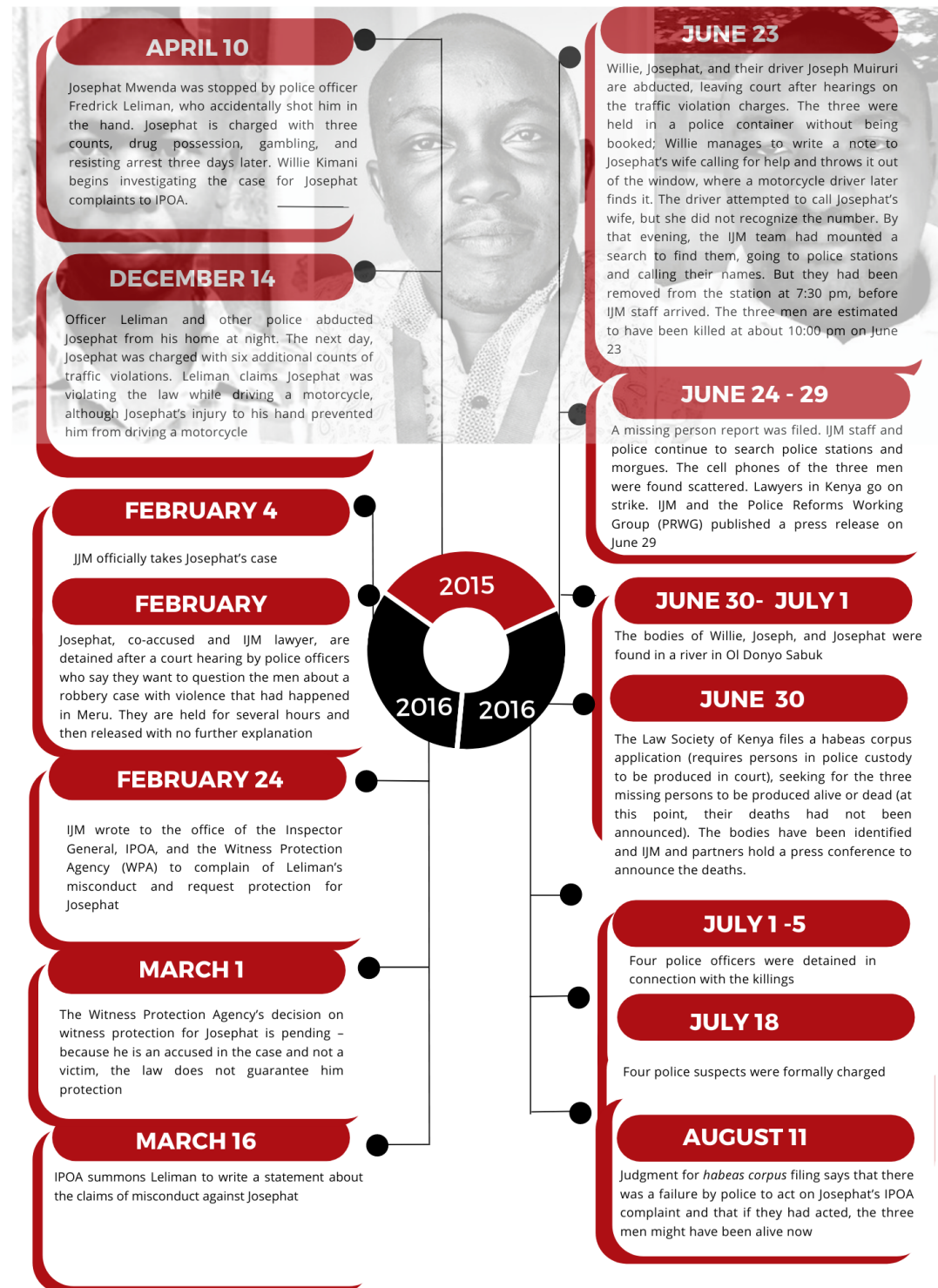
In 2021, out of the 187 cases of police killings, 11 resulted in police officers being arrested. 55% of the arrests happened after police killed because of a personal altercation, whereas these types of incidents only accounted for 12% of the police killings in 2021. This is in direct contrast to anti-crime operations, which made up 70% of the police killings but only 18% of the arrests.

Missing Voices data during 2019 - 2021 shows police officers have a higher chance of being immediately arrested if the killing is a result of a personal altercation in comparison to other types of operations.

N.b. This is Missing Voices documentation of arrests that happened within a year's time frame of the violation itself. It is possible the number of arrests increased after investigations.

Court Processes

MAVOKO 3



CARILTON MAINA AND EVAN NJOROGE

DECEMBER 21

Carilton Maina, a 23 year old University of Leeds student was fatally shot by police at Line Saba Kibera. Maina had returned to Kenya to see his family for Christmas

APRIL 15

Police Constable Emmanuel Ambunya Oyombe of KNH Police Post was arrested in connection with the killing.

APRIL 16

Police Constable Emmanuel Ambunya Oyombe was arraigned on April 16, 2020, at Milimani High court before Justice Ngenye Macharia to face trial. He didn't plead to murder charges. He was detained at Kilimani Police Station

APRIL 23

The accused was freed on Sh 600, 000 cash bail

APRIL - MARCH

The case has not gone to a full hearing. There have been at least three adjournments on the grounds that the defense isn't ready or other technicalities

APRIL

The case is expected in court.

FEBRUARY 27

Evans Njoroge, a Meru University Student leader, was killed during a peaceful protest over a rise in university fees at Kabebe Village in Tigania West. The police officer followed Njoroge to a banana plantation, a kilometer and a half from the main road, and shot him at close range. The 23 year old was a fourth-year student pursuing a degree in Mathematics and Computer Science.

JULY 13, 2018 - MARCH 2022

The case has been adjourned four times and the prosecution has twenty witnesses testifying. Chief government Pathologist and the Investigating Officer (IO) are the only prosecution witnesses remaining before the accused can be on defense.

MAY 2022

The hearing should resume after it was adjourned in February 2022

JULY 13

Administration Police officer Leakey Maina was arrested and later charged with the murder of Evans Njoroge. Leakey is out on bond.

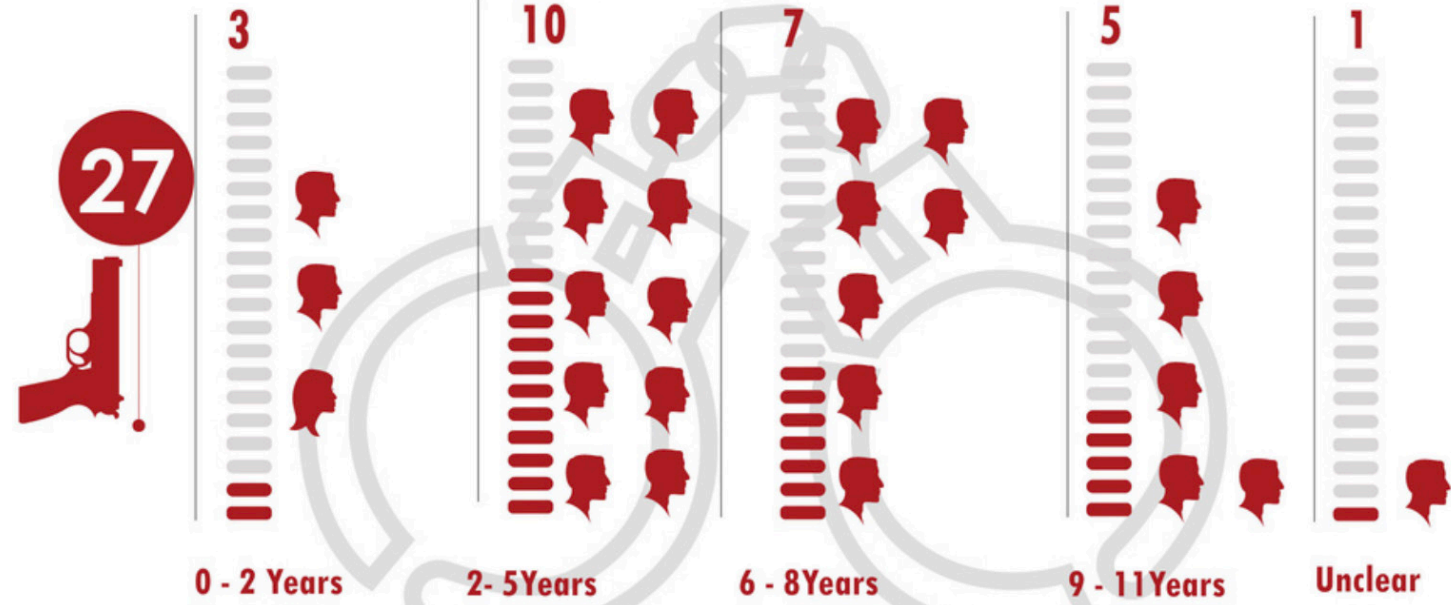


Convictions

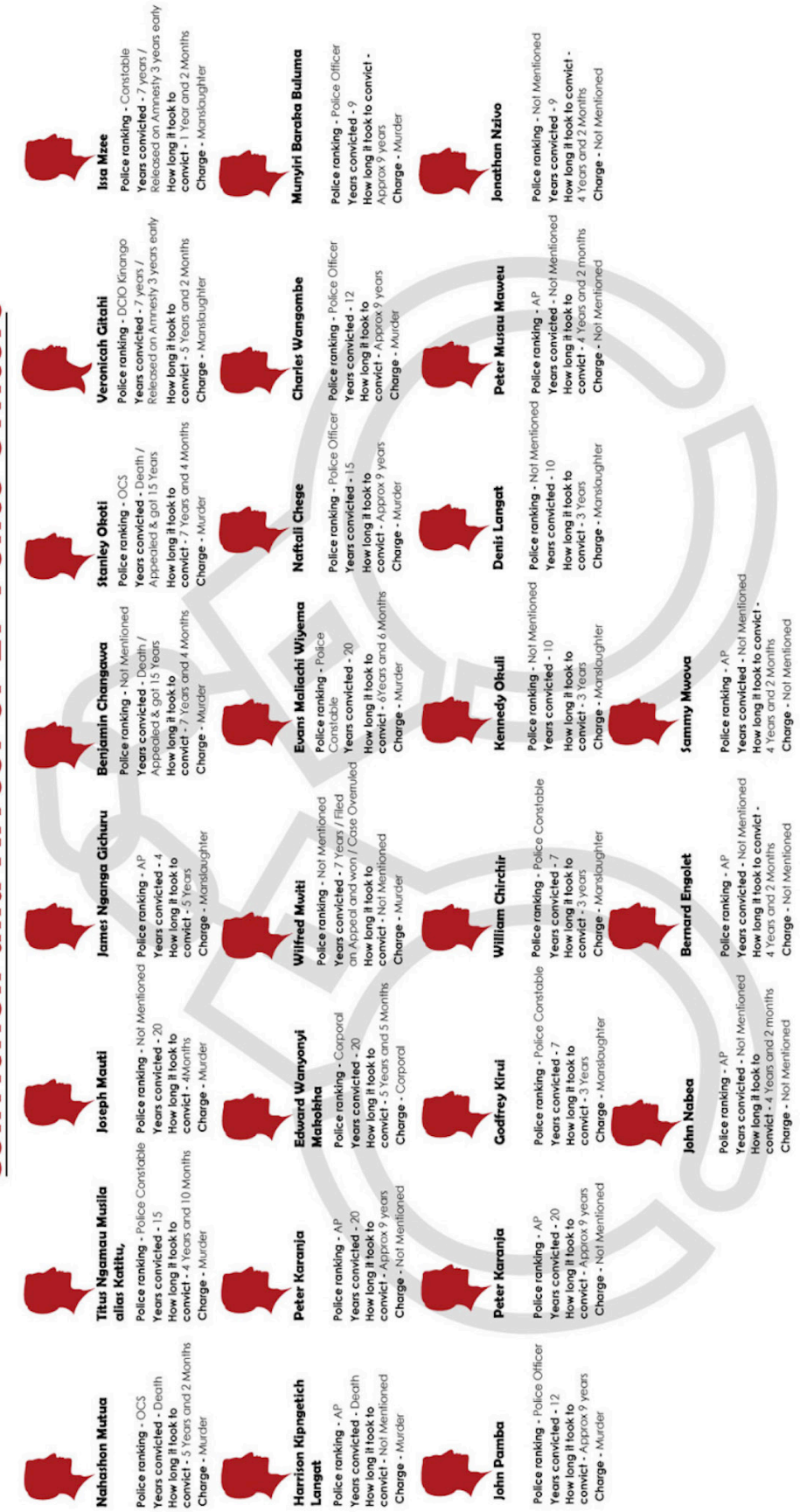
Missing Voices has documented cases of 27 officers being convicted and sentenced to murder or manslaughter. The first conviction happened in 2016. On average, these cases took 5 years to reach conviction. Some cases were almost a decade before they were determined.

Conviction and Arrest of 27 Police Officers

According to the years it took to convict



Conviction and Arrest of 27 Police Officers



REFLECTION

BACK TO SQUARE ONE

Story told by Mama Nura Malicha
Translated by: Lena Grace Anyuolo
Photographer: Ibrahim Rashid Otieno

The road to justice for the merciless killing of my son has been snail-slow, bumpy and simply never ending. My son, Nura Malicha, worked as a casual labourer at the slaughter house in Kiamaiiko, Nairobi. On February 21, 2015 - the day he met his death - Nura was bursting with life as usual. He woke up and left for work very early in the morning.

At around 8:30 AM, I was in the house when a woman came to my house. She looked shaken and for some time, could not speak. I welcomed her in and inquired what the matter was. Without mincing her words, but very frantic, she said my son had been shot.

The words were cold, they sent a shiver through my spine, numbed me. I still hear her words, today, six years later.

“*The wheels of justice have been very slow. I know if I was a rich woman, if I wasn't a poor old woman, my son Nura would have gotten justice by now.*”

What had my son done?

I followed the woman, running all the way to the slaughterhouse. I found Nura lying in a pool of blood with his teeth falling out of his mouth. First we took him to a local hospital, by then he was still alive but struggling to stay conscious. The local hospital refused to admit him for treatment because law doesn't allow them to treat gunshot wounds. So we rushed to Kenyatta National Hospital but we were too late. He was already dead.

The post mortem report showed that he had been shot multiple times using police bullets. Nura was unarmed, and harmless. He was a good child who earned an honest wage working at the goat slaughterhouse.

From the time he was killed, it took a year to get the case to its first mention in court. The wheels of justice have been very slow. I know if I was a rich woman, if I wasn't a poor old woman, my son Nura would have gotten justice by now.

After five years of prolonged delays and regular adjournments, we got to what we thought was the finish line. The date for judgement was finally set on June 23, 2021.

Then, for reasons I can't explain, the case started over. Now we are back to square one gathering evidence afresh.

The Director of Public Prosecutions took our case file back to IPOA. We followed up last week and were told that Humphrey, the official at IPOA who was in charge of our case, went on a trip. Another official told us that Humphrey had been transferred. We don't know who is telling us the truth.

The police officer responsible, David Kibet Rono, was not convicted but transferred from Huruma police station where he had continued to work for five years after he killed my son.

Two key witnesses to the killing have fled from Nairobi. They were intimidated and afraid of the consequences of giving their testimony for the second time.

We have been neglected by the judicial system. It was clear that David Kibet Rono killed my son. All the evidence plus the witness testimonies confirmed this. If he



was found guilty of murder, why was he transferred to a different police station, and not sentenced?

The police officer who killed Nura threatened me many times. One time, he came to my place of work where I used to sell roasted groundnuts, and spat on the ground to mock me. He told me that he will get away with what he did.

This case has financially strained our family. Often, I've had to walk to Milimani law courts for hearings because I did not have enough bus fare. Sometimes we are late and find the case already started but because we were absent, it was adjourned to a later time in the day. We have been hungry at the courthouse, beaten down by the sun, or waiting in the biting cold but still, no justice for Nura.

The grass will not grow on Nura's grave site. My heart is broken in sorrow. When I talk about my Nura like this, it is difficult for me to sleep at night. He was my all. He was hardly twenty years old and had never harmed anyone or caused anyone to talk ill of him. It pains me to reminisce. For how long will this back and forth with the judicial system continue? I feel like I am being taken for a ride. I cannot keep talking about this. I want justice for my son.





CAMPAIGNS AND ADVOCACY EFFORTS

Since its inception, Missing Voices has engaged the public through the media to raise awareness about the level of police killings and enforced disappearances, with a view of the criminal justice system to deliver justice to the victims' families through successful prosecution in the court of law. Witness protection is a crucial component of this process. In addition to media engagement, Missing Voices has undertaken various campaigns to incite members of the public to report cases of police brutality and held dialogues with stakeholders to advocate for police accountability. The data we document is analyzed and submitted to the Office of the High Commissioner for Human Rights and used to prepare a quarterly 'Prevention and Integrated Analysis report' that is internally developed by UN agencies for prevention and early warning in Kenya.

'BRUTAL PANDEMIC' ANNUAL REPORT LAUNCH

On March 24, 2021, to mark the International Day for the Right to Truth Concerning Gross Human Rights Violations and for the Dignity of Victims, Missing Voices gathered in Mombasa County to release our 2020 Annual Report titled **"The Brutal Pandemic"**. The report verified 157 cases of police killings and 10 cases of enforced disappearances in 2020. 24 of the police killings were a result of officers enforcing COVID-19 regulations.

Survivors and victims of police killings and EDs shared their stories. AmaniKhamis Kambirwa, the first born to the late Juma Khamis Kambirwa Mwadungudu whosuccumbed after being beaten by police officers as he returned from taking a pregnant woman to Likoni hospital on a boda boda said their lives as a family has never been the same again.

“My father, now deceased, was well known to be helpful not only to his humble family but to the community. Police murdering him leaving has left us in acute poverty. We have been pleading for justice for a whole year now,” **Amani Khamis Kambirwa**

During the launch, a presser was read out calling the Kenyan authorities to be accountable to the families of victims as well as speed up investigations.



“March 30 marks one year since police killed Yassin Moyo, a 13-year-old boy whose death was the hallmark of violent policing, Moyo's case has not yet gone to full trial, and it could be attributed to the closure of the law courts as part of Covid-19 restrictions. However even outside Covid-19 cases are hardly resolved on time,” **Renee Ngamau, Former Amnesty International Kenya Chairperson**



Later in the evening, the team gathered near the Kenya Ferry to commemorate the Kenyans who were brutally injured and killed while enforcing restrictive measures for the COVID-19 pandemic in 2020. Where Missing Voices gave out 500 copies of the Annual Report to members of the public. The report was also distributed to stakeholders, survivors and victims and human rights defenders.

#WakoWapi Campaign



MISSING VOICES PRESENTS

International Day of Victims of Enforced Disappearances

PROGRAM

From January 1, 2021 - July 31, 2021, Missing Voices documented 13 cases of enforced disappearances where 5 of the victims ended up dead and 8 still remain missing.

What Needs to be Done in Order to Stop the Prevalence of Enforced Disappearances? What Does Justice for Victims and Survivors Look Like? Join the #WakoWapi? conversation as we #EngageTheIG

10:00AM - 1:00PM
Twitter Chat on Enforced Disappearances in Kenya

7:00PM - 8:00PM
Twitter Space Conversation with Yvonne Okwara- Media Personality and James Smart- Media Personality

8:30PM - 9:00PM
Alex Mathenge and Missing Voices Live Chat @alexmathenge_

@MissingVoicesKE Missing Voices @MissingVoicesKE




International Day of Victims of Enforced Disappearances

WE DEMAND;

- During arrests officers to be in police uniforms with marked cars
- An official registration for people who have allegedly been disappeared
- Implementation of a national law that criminalizes enforced disappearances
- Mortuaries to have record of unknown bodies that are buried & post mortems to be conducted within 3 days
- Kenya to ratify the International Convention of Enforced Disappearances
- Reparations given to families of victims and survivors of enforced disappearances




On the International Day for Victims of Enforced Disappearances, Missing Voices conducted a social media online campaign with partners raising concerns about the rising trends of enforced disappearances and the challenges in addressing the issue.

- Two articles were published in the Star and two in the Standard.
- '[Finding Onyii](#)' was produced by Missing Voices to raise awareness of Sylvester Onyango's case. Sylvester, also known as Onyii, disappeared after being arrested in 2015 and his whereabouts still remain unknown.
- Missing Voices held a Twitter space conversation moderated by Yvonne Okwara and James Smart. 600 + people joined the Twitter space conversation. Included in the conversation were stakeholders, human rights defenders and survivors and victims.
- This activity was followed by a Facebook Live with Alex Mathenge and Missing Voices where 2K + joined.

In September, the month right after the #WakoWapi campaign, Missing Voices noted a decrease in cases of police killings and enforced disappearances.

Taimur Kariuki Hussein's Release

During #WakoWapi campaign, Missing Voices advocated for the State to produce the bodies of victims of enforced disappearances - one of them being Taimur Kariuki Hussein. Taimur's sister, who had been very vocal about the disappearance of her brother, joined the Twitter Space conversation to speak of Taimur's case and demand the release of her brother.

WHERE IS HE???

On 11th June 2021, **Taimur Kariuki Hussein** was arrested by ATPU officers near Lamu. They claim to have been following him for a while. They also claim that he resisted arrest and proceeded to beat him before they arrested him. He wasn't given access to a phone until Monday 14th June, 2021 after he was arraigned in court. They dropped the charges on Friday 18th June and asked for him to be transferred to Nairobi ATPU for further investigation. He disappeared until Monday 21st June, 2021 when he was taken to Kahawa Law Courts. The officers asked for more time and were given until Monday, 28th June, 2021

On Monday, they dropped all charges and ATPU were ordered to release him unconditionally. He was to go back to ATPU for a final exit interview before release. His lawyer advised him that his sister and mother would meet him there as he was being released. His mother showed up only to be told that he was let go 30minutes ago. They held his phones and told him to go back for them on Friday 2nd July, 2021.

Why?

He never called his mother after his release despite having called her at every opportunity he got. His family filed for an application to get the ATPU to produce him dead or alive or at the very least produce CCTV footage of his release. All this was done via the High Court and all official channels followed only for ATPU to come back and claim that footage is wiped out every 24hrs. We do not believe this. There is something happening.

WHERE IS HE???

Taimur's sister took her brother's case to social media and demanded answers from the State.

On November 18, 2021, Muslims for Human Rights (MUHURI), a Missing Voices partner, along with other institutions filed a Freedom of Information Act request (FOIA) to obtain information for the Requesters and the public on 15 cases of deaths and enforced disappearances reportedly carried out by U. S and backed Kenyan police and paramilitary forces targeting persons under the guise of a "war on terror". Taimur was included in the FOIA.

A few weeks after the FOIA was filed, Taimur was released along with another individual, who prefers to remain anonymous.



MISSING VOICES REPORT TO THE SENATE COMMITTEE ON JUSTICE, LEGAL AFFAIRS AND HUMAN RIGHTS

October 7, 2020, the Clerk to the Senate, Mr. JM Nyegenye, requested members of the Missing Voices Coalition to submit updated reports on documented extrajudicial executions to the Justice, Legal Affairs, and Human Rights Committee on documented cases of extrajudicial killings and enforced disappearances in Kenya.

HRD RESERCH ON EMERGING TRENDS OF POLICE KILLINGS AND ENFORCED DISAPPEARANCES

Missing Voices supported the Right to Life Committee - a pillar of the Social Justice Working Group - to implement a participatory action research on the new trends of police killings and enforced disappearances. The research covered Ruaraka, Githurai, Kiamaiko, Kamukunji, Kayole, Mukuru, Kariobangi, Korogocho, Dandora, Makadara, Mathare, Kiambiu and Kibera. The following emerging trends were identified;

- Police are using mobs and informers to kill suspected criminals. Police insinuate mobs to kill individuals and thereafter 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.
- Enforced disappearances are becoming rampant in informal settlements, plain clothed police officers with unmarked cars arrest the victims and later many of them are found dead with signs of torture.
- The research highlighted the connection between police and crime as officers were found working with criminal groups and hiring their guns out to these groups for a profit.

After the training, 34 HRDs from all across Nairobi were trained by the International Justice Mission on documenting and reporting the new emerging trends.

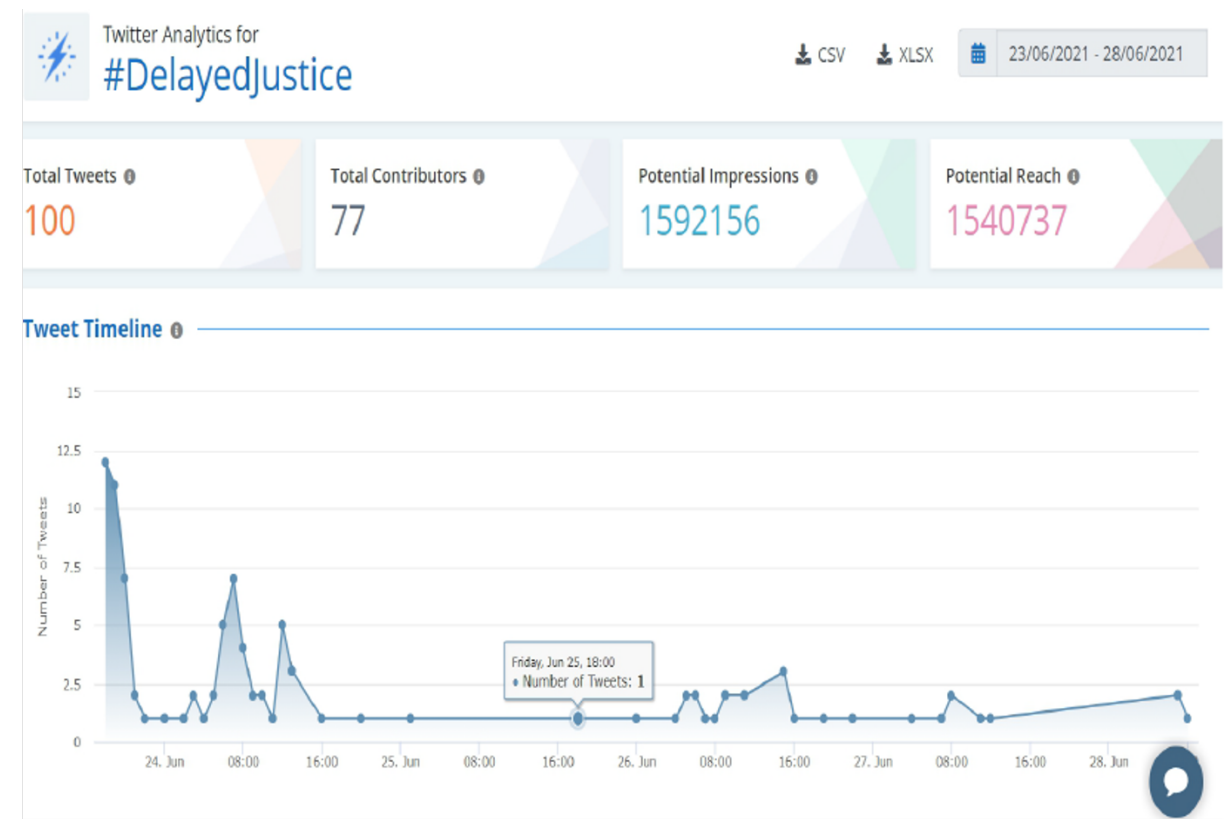
COMMEMORATION OF WILLIE, JOSEPH AND JOSEPHAT

June 23, 2021 marked five years since the abductions and murders of IJM Kenya lawyer Willie Kimani, client Josephat Mwenda and Joseph Muiruri. Despite the high profile nature of the case the trial continued to face delays.

As a result of the delays in this case and other murder cases in our criminal justice system, Missing Voices ran a campaign dubbed #DelayedJustice on social media with stories on leading media houses focusing on Willie's family and how the delays on the case affected them. We joined family and friends of Willie, Joseph and Josephat in commemorating their deaths and in calling for the conclusion of the case, and many others that were pending in court.

The campaign focused on 10 murder cases that had taken over five years in court.

After the campaigns, the new Chief Justice Martha Koome called for fast-tracking of old cases to clear backlog in the judiciary and conclude cases within three years. The Mavoko 3 cases picked speed after the Chief Justice asked Justice Jessie Lessit to hear the case until completion before taking her promotion at the Court of Appeal.



LAUNCH OF “THEY WERE US: STORIES OF VICTIMS AND SURVIVORS OF POLICE BRUTALITY IN KENYA.”

On Sunday 24th October, 2021, Missing Voices supported the Mothers of Victims and Survivors Network (MVSN) in launching 'They Were Us', a book which chronicles sixteen stories of eighteen families impacted by police violence in Nairobi and their transformation from victims to defenders of human rights, through startlingly candid interviews and lean, eloquent narrations. The book launch, held a few meters from State House, was tailored to hold the state accountable on violent policing in poor communities, share testimonies from the perspectives of victims' mothers and call people to action. Approximately 200 people attended the event.



A panel discussion was held with 4 representatives from MVSN, a representative from IPOA and a counselor. The panel shed light on the powerful work the MVSN's engage in as they fight for change to uproot systemic oppression and replace it with an environment that promotes state accountability, community healing and equal opportunities for all.

While making remarks, one of the panelists Lameck Otenino, who survived a stray bullet from a military officer's firearm in 2017, clarified that one does not necessarily need to be a mother of a victim – or even a mother, or a victim – to care. That we all must push this issue to the front of conversations so that policy-makers, middle and upper classes across the country can truly understand that all citizens must be treated equally.



The MVSN demanded;

1. Police officers to be operating in marked cars and uniforms indicating their force number and name tags.
2. Police terms are limited to a maximum of three years in each station.
3. Immediate investigation into the Pangani-7-'killer cops' who operate in Mathare and immediate arrest of all known killer police officers until investigations are complete.
4. The implementation of the 2017 Coroner's Service Act, so an independent coroner will investigate any cases of suspected police killings.
5. Increased capacity of the Witness Protection Agency as it is able to effectively protect vulnerable witnesses and human rights defenders from intimidation, harassment, threats or elimination.
6. State to issue reparations for victims and survivors of police brutality.
7. Media highlights all cases of police killings and enforced disappearances irrespective of the socio-economic background of the victim.

Members of the public who attended 'They Were Us' booklet launch offered solidarity and support to the MVSN network; many contributed to the MVSN economic empowerment program and 34 signed up to be volunteers, pledging assistance by offering different skill sets such as legal advice, communication, documentation and media support. In November, the month after 'They Were Us' booklet launch, Missing Voices noted a significant decrease in cases of police killings and enforced disappearances.

JOURNALIST TRAINING & CLOSED MEETING WITH DIRECTORS OF MISSING VOICES AND SECURITY STAKEHOLDERS

60 journalists from local, national, and international media houses were trained on how to report human rights violations. The training covered cyber security, crime scene forensics, operations at the Office of the Director of Public Prosecution, Internal Affairs Unit (AIU) and gaps in laws for enforced disappearances.

Director of Public Prosecutions, the Inspector General of Police, the Independent Police Oversight Authority, Internal Affairs Unit also attended the training. After the training, Missing Voices' directors met with the Director of IPOA, IAU, and, Mombasa Regional Police Commander and the National Police Commander. The meeting was aimed at building consensus and collaborations to avoid duplication and competition but promote cooperation in handling cases.

OUR VOICES ARE IRRESISTIBLE PROJECT

Toni Cade Bambara once said, "the role of the artist is to make the revolution irresistible". For generations, creatives in Kenya have been at the forefront of championing human rights by using their skills to anchor truths, incite citizens, and create safe spaces for dialogues.

Missing Voices and Music in Africa partnered to implement the Our Voices Are Irresistible project aimed to unite and empower 21 artists (artists + activists) from diverse backgrounds in Nairobi, selected for their influential leadership abilities, passion for social justice and technical artistry skills.

These artists underwent a 3-day capacity building workshop where they were trained by notable Kenyan creatives who provided them with tangible skills to maneuver and excel in the creative industry while using art as a means to create social change. The project also entailed a mentorship program where activists were mentored by music icon Julius Owino (alias Juliani).



Photo by Bill Euguene



During these workshops the artists learnt ways to minimize the risk of State repercussions whilst infusing social justice messages into their art. They discovered new modes of generating income in the contemporary digital era and COVID-19 pandemic and delved into a linguistic session showcasing the power invested in word play. The artists also engaged with tools to promote artists' intellectual property rights, mental health and marketing and branding campaigns.

On December 10, the International Day for Human Rights, Missing Voices held a concert at Alliance Française. The artists energetically entertained, educated and incited the audience to become actors of change. Missing Voices social media analytics showed us that the first 500 #IrresistibleVoices tweets reached approximately 1.7million people.

The day of the concert, before the show began, we reached maximum capacity at the venue. We reached our target audience having prevalent civil society members present, such as the Senior Human Rights Advisor to the UN Resident Coordinator in Kenya, international officials like representatives from the French Embassy and youths from diverse backgrounds in Nairobi. The diverse group proved arts' capacity to transcend through classes, ethnicities and countries.

Through this project, Missing Voices was able to bring together 5 artists (who participated in the workshop) and create a song called 'Uwaga'.



Uwaga will be launched in June 2022. It was created by activists Juliani, Victoria Mugure (alias Muguruness), Samuel Waweru (alias Anthem Republiq), Kevin Ngong (alias Flawless Konya), and Alvin Kinyanjui (alias Abudabi Tembekali). The song's hook "Si Hivo Uwaga" (it should never be like that) paints a picture of how corruption, police killings, and arbitrary arrests have been normalized, particularly among people living in urban informal settlements.

Sample verses from the song:

Sovereign power belongs to the people lakini si hivo Uwaga (it's not like that)

- Abudabi Tembekali

This verse pays tribute to article 1 of the Kenyan Constitution, which stipulates that all sovereign power belongs to the people of Kenya. However, it argues that this is not the case as power has been unduly usurped by the National Police Service and politicians at the expense of the citizens.

Unadhani si wanyonge kwasababu tuko silent... (You think we are weak because we are silent)

- Flawless Konya

This verse paints the reality of the belief by law enforcement and elected leaders that the citizenry is weak because it's silent.

una uwezo, usizoe kunyanyaswa.. tuna power tukiungana sisi sote (you have the power...don't normalize harassment...we have power when we rise together)

- Juliani

This verse urges the people to summon their sovereign power, speak out collectively, and to shun the normalization of evils in society.

Hii inchi sio mlima , mbona uchumi inapanda?... (This country isn't a mountain, why is the cost of living rising?)

- Anthem Republiq

This verse exclaims against the rising cost of living in Kenya.

e)...We protest for better days, for better ways to restore the human race to better places

- Mugureness

This verse explains that the reason for activism is to better human life.

CRIMINALIZING ENFORCED DISAPPEARANCES; WHICH WAY FOR KENYA?

On December 10th, 2021, during the commemoration of the Human Rights Day, the coalition convened a panel discussion themed "Criminalizing Enforced Disappearance; Which Way for Kenya?" The panel consisted of representatives from the Office of Director of Public Prosecutions, Independent Policing Oversight Authority, Internal Affairs Unit, African Commission on Human and People's Rights, Mothers of Victims and Survivors' Network, and representatives of the Missing Voices coalition. It was moderated by media personality James Smart.



The panel explored how there is no specific legislative framework criminalizing enforced disappearances in Kenya, most cases on enforced disappearance and police killings are crippled due to lack of evidence. The Witness Protection Agency needs more funding to guarantee the relocation of witnesses and their families for the success of cases, and investigative agencies are crippled due to the poor funding of the Witness Protection Agency.

MISSING VOICES MEDIA MENTIONS

“ At least 834 people have been killed by the police or were reported missing since 2007 — 166 of the last year — according to Missing Voices, a group of organizations that document police killings. The Independent Medico-Legal Unit, a nongovernmental organization based in the Kenyan capital, Nairobi, has documented 26 deaths and 49 cases of maltreatment connected with Covid enforcement. ”

New York Times,

“ The wielding of the badge as a license for brutality is nothing new. At least 778 people have been killed or “disappeared” by police in Kenya since 2007, according to Missing Voices, a group that tracks official and other reports of extrajudicial killings. 166 of those were last year. The number of police convicted in these killings is in the single digits, according to Kenya’s Independent Policing Oversight Authority.”

Washington Post,

“ Twenty years after Makara almost lost his own life, cases of police brutality are still rife in Kenya. In 2020, the Kenyan police killed 157 people, up from 144 the previous year, according to Missing Voices, a group of organizations investigating unlawful killings in Kenya. ”

The Guardian

“ The Missing Voices coalition, consisting of 16 civil rights groups whose mission is to end disappearances and killings in Kenya, met Sunday with mothers of victims and other survivors of police abuse in Nairobi. The coalition said it documented 119 police killings and 23 enforced disappearances between January and September 2021. Police deny the accusations. ”

Voice of America

“

While Missing Voices, a consortium of human rights NGOs documented at least 170 extrajudicially murdered by police in 2021 and 32 people disappeared while in police custody. The government's own police accountability body, IPOA, acknowledges that the real numbers are likely much higher.

”

Vice News

“

The Missing Voices data indicates that 167 People have been killed by the police or disappeared in 2020. Out of this 157 were as a result of police killings and 10 disappeared in police custody. Of all cases identified only 28 have been charged with a crime for these cases.

”

The Star Newspaper

“

Thirty-four and counting. This is the number of people, mostly suspected terrorists, their sympathisers and criminals, who have gone missing in the last six months, human rights groups say.

Their disappearances and probable deaths have been linked to security agencies. According to Missing Voices Kenya, 105 people have been killed by the police or disappeared this year.

The site, run by a group of organizations seeking to shed light on extrajudicial killings in Kenya, recorded seven alleged police killings in separate incidents in January.

”

Daily Nation

“

Missing Voices data reveals 157 Kenyans were unlawfully killed in 2020. Given the US population is seven times bigger than Kenya, it is worth pointing out that many more people are killed per capita by Kenya's police than in the USA.

”

The Standard Newspaper

REFLECTION

LIGHTNING STRUCK TWICE

Story told by Effa Kwendo
Translated by: Lena Grace Anyuolo
Photographer: Ibrahim Rashid Otieno

On 12th February 2018, my life changed. It began like any other day. My husband was away on a trip. I spent the day active, busying myself with what needed to be done.



At about 6:30 pm I received a phone call from my son's neighbour. He told me that he had some news to share but he wouldn't relay the news over the phone because I was at home alone.

I found out the following day that my last born son, Robert was dead. I struggled to believe the news. To me, it wasn't possible that he could have passed away. Had I not spoken to him just a few hours earlier?

Robert was 26 years old and training to be a driver and a mechanic. On that day, he didn't go to work. I was told that Robert, whom we called Boss, had received multiple phone calls from his ex-girlfriend asking them to meet and talk. They had ended their relationship three years ago so it seemed odd that she wanted to meet. She had something urgent that was bothering her and wanted to share with him.

“

Why was he killed? If a person is suspected of an offence the procedures to follow are clear. The offending party is arrested, evidence is gathered and presented to court where their case is heard.

”

My son left the house in the evening even before he could finish his meal. According to his neighbour, he was dressed in a pair of shorts, a vest, and flip-flops and so he assumed that he wouldn't be gone for long. He didn't even carry his phone.

His neighbour received a call through Boss's phone from one of their friends. He said that Boss had been killed by the police at Bee Center. When his neighbour rushed to the scene, he confirmed that it was indeed Boss who was lying dead from gunshot wounds engulfed by a large crowd of people.

Robert is survived by his wife and two children. We started the court process soon after his burial. The process reached court but was thrown out because of lack of witnesses. The case was referred back to IPOA to carry out investigations and find witnesses. I found it unbelievable because no official approached me to ask whether or not there were witnesses to the killing.

In December 2021, I was called back by IPOA. I was told that they would be reopening my case. This time IPOA asked me if I had any witnesses who would be willing to come forward. The case is now in court.

Two of my children have been victims of police executions. The second one, Maxim, was a minor. He was my grandson. He was killed by the police in April 2018. He had completed his primary school education and was waiting to begin his first year of high school.

At 6 pm, I sent him to go and collect his cousin so that I could send both of them to Masimba to deliver my chama contributions. It didn't take long before the sound of gunshots ripped the air. I went outside to find a crowd of people gathering.

I saw Maxim's cousin running very fast towards me. Panic stricken, I stopped him and asked what had happened to cause the commotion. He told me that he'd just seen Maxim being shot dead by police.

I am constantly facing threats and intimidation from the police who even have the audacity to show up at my house. They regularly arrest my other living sons and bundle them into unmarked vehicles, drive them around the neighbourhood while asking them endless irrelevant questions.

During the launch of the Mothers of Victims and Survivors Network's book, *They Were Us*, I gave a presentation on the panel. Three days later, the police raided my house. In another incident, the police came to my shop and ransacked it. Afterwards they forced us to give them money. I am not at peace because I am afraid of what the police might do to me. I know what they are capable of.

The community stood with me in my quest for justice for Boss. I have never heard them speak ill of my son. I'm financially stretched beyond my limit, charged with the responsibility of my son's widow and my grandchildren. On top of that, I have to seek funds to attend court proceedings, or make trips to IPOA when I am needed there. I cannot choose one obligation over the other. Both of them require my attention.

Psychologically, I am in so much pain because we have faced an irreplaceable loss. Robert's death is something that we cannot change. I will be at ease when we get justice for Robert's death. He was innocent. That is certain. Why was he killed? If a person is suspected of an offence the procedures to follow are clear. The offending party is arrested; evidence is gathered and presented to court where their case is heard.

The police who killed Robert and Maxim are still in the community harassing me and other residents.

What we want as families of the bereaved who have lost our sons to police bullets is justice, and for the law to be enforced. If a person has committed an offence, they should be arrested not killed. Additionally, for the youth and police to enter into a dialogue so that both sides can communicate their expectations in order to live in harmony with one another because these killings by the police have to stop.





RECOMMENDATIONS

To The National Assembly

Amend the National Police Service Act and the Independent Policing Oversight Authority Act to grant 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, IPOA is responsible for investigating crimes committed by the police. The mandate overlap between the DCI and IPOA investigating police 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 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

Ensure that documentation in the occurrence book indicates all persons in police custody to facilitate rapid investigations of enforced disappearances.

Ensure those police officers wear the uniform, have their identification badges, and drive police vehicles to be easily identifiable by the public.

Provide adequate medical cover, including psychosocial and mental health support to officers and families of the police officers.

The Office of the Director of Public Prosecution

Expedite cases on police killings 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 in collaboration 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

Ratify the International Convention for the Protection of All Persons from Enforced Disappearance.

Operationalize the National Coroners Service 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 DIRECTORS' STATEMENTS

“ Article 7 of the Universal Declaration of Human Rights states: “All are equal before the law and are entitled without any discrimination to equal protection of the law”. Peace Brigades International and partner HRDs urge for full realization of this important principle and for prompt action by the judiciary to avoid any risks linked to delays within the justice system.

Alberto Fait

Country Coordinator, Peace Brigades International Kenya

“ Lack of accountability for serious abuses by police and other security forces has been a concern in Kenya for many years. Despite well documented reports by human rights groups and government institutions like Kenya National Commission on Human Rights, Kenyan authorities have done little to address this long standing concern. Police are now regularly implicated in execution style killings and disappearance of individuals, including people who may have done no wrong. This can not continue any longer. Kenyan authorities have a responsibility to ensure thorough, timely and credible investigations into all past and current cases of extrajudicial killings and enforced disappearances and to ensure justice for all the victims and their families.

Otsieno Namwaya

Director, Human Right Watch East Africa, Africa Division

“ Protection International Africa calls for the restoration of the independence, integrity and impartiality of the Judiciary. This independence should be established for the benefit of the citizens who are the intended beneficiaries of fair, timely and impartial administration of justice consistent with the rule of law. The IPOA and ODPP should expedite the evidence gathering process and charging of the perpetrators of extrajudicial killings and enforced disappearances.

Susan Muriungi

Africa Regional Director, Protection International Africa

“ It is only when the government commits to genuinely reform the Policing institution into an accountable, legitimate, and effective National Police Service that upholds the rule of law and protects citizens, that we shall see an end to enforced disappearances and extrajudicial killings in Kenya.

Agatha Ndonga

Head of Office - Kenya/Senior expert, Programs, International Centre for Transitional Justice

“ No one is immune from police violence, let's stand up and fight for our Rights.

Wilfred Olal

Convener, Social Justice Working Group

“ In line with Articles 26, 28, and 29 of the Kenyan Constitution, International Commission of Jurists Kenya commits to pursuing justice for the victims and families of extrajudicial executions and enforced disappearances. We are appealing to the Kenyan government to ratify the International Convention for the Protection of All Persons from Enforced Disappearance and expedite investigations and prosecution on EJE and EDs in line with its state obligations to allow closure and healing for the families.

Elsy Sainna

Director, The Kenyan Section of the International Commission of Jurist

“ The issue of police killings seems to be a systemic problem. This means that it cuts across the entire expanse of society and policing in particular. It is marked by a culture of unprofessionalism and failure to abide by the rule of law.

From our experience working for years in helping the government in police reforms, we have noted that there are gaps in our justice system that have left many in the public to accept police killings as a means of ending crimes. One of the issues delaying cases of police misconducts in court is a clogged Judiciary. More serious cases are crowded out by multiple traffic and petty offences. There is need for decriminalization. The few serious cases that proceed in court take too long.

Benson Shamala

Country Director, International Justice Mission

“Delays in hearing and determining cases where police officers are suspected of unlawful killing miscarries justice. It emotionally torments both victims and the accused. Only expedited hearings and a swift determination can bring closure to families.

Irūngū Houghton

Executive Director, Amnesty International Kenya

“Data and case statistics are critical tools to monitor and analyse trends, and advocate for accountability and targeted actions to prevent future violations. The Missing Voices coalition plays this critical role in coordinating data and analysis from human rights defenders and civil society in Kenya.

Partnerships – within civil society, with communities and with duty bearers – are also critical to address human rights challenges and seek justice for victims and their families.

Li Fung

Senior Human Rights Adviser, Office of the UN Resident Coordinator in Kenya

“Extrajudicial killings and enforced disappearances disrupt and tear the very fabric of the society. Communities that are directly affected mistrust the government and view it with a lot of suspicion. Often, it is communities whose collective psychology is already harmed as a result of government interventions that degrade humanity and have no regard for human rights and development who are affected. Instead of killing and forcefully disappearing our brothers, sons, fathers, friends, cousins, neighbors and relatives, the government of Kenya should meet the obligations of the social contract that it has with the people and meet its socio-economic responsibility for all.

Marie Ramtu

Executive Director, Muslims for Human Rights

“In under six years, a pattern is emerging on how water bodies and forests across the country are crime scenes for victims of enforced disappearances and extrajudicial killings from Oldonyo Sabuk to Tana River to Yala and Tsavo. Sadly voices of families of victims that trace the victims last moments at the hands of law enforcement officers are consistently stifled or punctured. The state and top echelons of the NPS deny that there exist a state sanctioned policy on EJE. But they have failed to do more than denying.

Kamau Ngugi

Executive Director, Defenders Coalition

“The Kenyan police have continued to use excessive lethal force that has culminated into the unlawful deaths of many innocent youth. In the last two years, the Missing Voices Coalition has documented over 300 cases of unlawful deaths that has been directly attributed to the police. Most of the victims are yet to receive justice and most of the perpetrators of these heinous acts are yet to be held to account.

These actions by the police constitute a clear breach of the constitutional provisions enshrined under Article 238 (b) of the Constitution of Kenya that are to the effect that National Security shall be pursued in compliance with the law and with utmost respect for the rule of law, democracy, human rights and fundamental freedoms.

There is an urgent need to not only institute a Commission of inquiry into the rising cases of unlawful killings but also bring officers involved in the killings to justice.

Davis Malombe

Executive Director, Kenya Human Rights Commission

“Justice delayed is justice denied” is a popular mantra and common experience in cases seeking police accountability. Speedy and fair trials assist families of victims and survivors to have closure and begin their journey to healing. We at Kituo cha Sheria-Legal Advice Centre, call upon the Government to fully implement articles 48 and 50(2)(e) of the Constitution of Kenya on access to justice and right to a trial beginning and concluding without unreasonable delay. We challenge the Government to set a timeline for the fair hearing and determination of cases. We urge the Government to appoint more judicial officers at all levels of the court structure for quick hearing and determination of cases. We also call for the full implementation of laws enacted to enhance police accountability e.g. the Prevention of Torture Act, the National Coroners Act etc. The full application of these laws will strengthen existing institutions such as IPOA and ODPP and promote access to justice.

Dr. Annette Mbogoh

Executive Director, Legal Advice Centre- Kituo Cha Sheria



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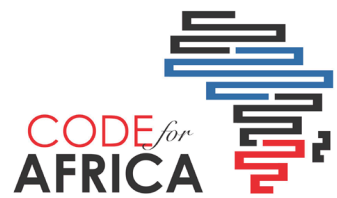
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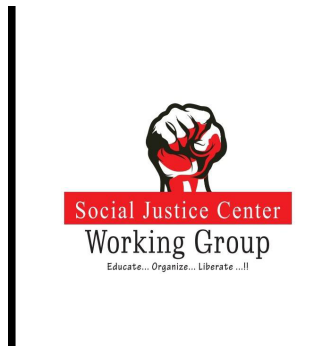
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MISSING VOICES ORGANIZATIONS



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