



Amnesty International Annual Report 2013 - Kenya

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Head of state and government: **Mwai Kibaki**

Freedom of assembly and expression were attacked. Impunity persisted for both past and current human rights violations, including unlawful killings. Somali refugees and asylum-seekers were targets of xenophobic violence, and faced arbitrary arrest by the police. There were a number of grenade and bomb attacks in border towns in North-Eastern Province and in Nairobi.

Background

The implementation of constitutional reforms continued throughout the year, with Parliament passing more than 27 Bills. However, the Commission for the Implementation of the Constitution (CIC) criticized some of the Bills as not in line with the Constitution. The implementation of some laws that had been passed by Parliament, including the National Police Service Act, was delayed.

The country's security situation was affected by episodes of violence across the country, including in North-Eastern Province, Coastal Province and the cities of Kisumu and Nairobi.

Impunity – post-election violence

No steps were taken to bring people responsible for crimes and human rights violations, including possible crimes against humanity, allegedly committed during the post-election violence of 2007-2008, to justice, despite the government saying several times that investigations were continuing.

In February, the Director of Public Prosecutions established a taskforce to deal with the prosecution of 5,000 pending cases. It was the third time a taskforce had been created to look into the caseload. In August, the taskforce revealed that most of the evidence was not of a sufficient standard for trial.

The UN Human Rights Committee, in its Concluding Observations issued in July following consideration of Kenya's record in implementing the International Covenant on Civil and Political Rights, expressed concern at the lack of investigations and prosecution of those responsible for the violence.

Human rights violations by police

Amnesty International continued to receive reports of a range of human rights violations by the police including excessive use of force, arbitrary arrests and cases of ill-treatment of people in police detention. There were also numerous reports that the police targeted members of particular communities, in particular people of Somali origin, across the country.

Impunity for human rights violations committed by the police continued. The implementation of key laws setting the framework for police reform was seriously delayed. The Independent Policing Oversight Authority (IPOA) began work in June. It was mandated to investigate complaints and disciplinary or criminal offences committed by any member of the National Police Service. However, there were concerns that the budget allocated to IPOA was not sufficient for it to carry out its mandate.

- In October, police arrested Mombasa Republican Council (MRC) leader Omar Mwamnuadzi, as well as more than 40 other people believed to be members of the MRC. During their arrest, two people were killed and several others injured by the police, including Omar Mwamnuadzi who was beaten. The group was charged with a range of offences, including belonging to an unlawful group, incitement and possession of firearms. Their cases were pending at the end of the year.
- In October, police fired rubber bullets into a crowd demonstrating outside a police station about insecurity in Mathare, an informal settlement in Nairobi. Three protesters were arrested and charged with incitement to violence. Seven activists, including an Amnesty International staff member and two volunteers, who had attempted to meet with the police to discuss the protest, were arbitrarily detained, held overnight at Pangani police station in incommunicado detention and beaten. They were charged with incitement to violence, obstructing an officer while on duty and disorderly behaviour. The case was pending at the end of the year.

In November and December, hundreds of ethnic Somali people were arbitrarily or discriminatorily detained by the police and other security forces, particularly in the Eastleigh area of Nairobi, following grenade or other bomb attacks. The attacks were thought to be linked to Al Shabaab, an Islamist armed group operating in Somalia but which has allegedly carried out some operations in Kenya. However, there is also a pattern of discrimination against Somalis in Kenya because of the perceived burden on the country as it hosts a large number of Somali refugees (see Refugees and asylum-seekers sub-section). Over the course of three days in December, up to 300 people were reported to have been arrested, including Somali refugees and asylum-seekers as well as Kenyan Somalis. Most were subsequently released without charge. However, many of those detained alleged that security forces had ill-treated them during arrest or detention and had extorted, or attempted to extort, money from them. The wave of arrests and lack of charges gives rise to serious concerns that the response of the authorities was rooted in discrimination against Somalis.

- In October, Shem Kwegu, an Orange Democratic Movement politician, was killed in Kisumu city by unknown people. His death led to a public demonstration, which turned violent, with stones being thrown at police. In responding to the protest the police used live ammunition and four people were reported to have been fatally shot. A number of people also died when a container in which they took shelter caught fire. Witnesses said that the fire started when police fired tear gas into the container.

Communal violence

Conflict between the Pokomo and Orma communities over water and pasture land intensified in Tana River County. It is believed that some 200 people had been killed in such clashes by the end of the year, and approximately 30,000 displaced.

Despite the deployment of more than 2,000 police officers to the Tana Delta in September, the clashes persisted, raising serious concerns about the security forces' response to the situation and their ability to protect the human rights of people in Tana. Residents claimed that they repeatedly attempted to raise their concerns about the escalating situation with the police and security forces before August, but they were not taken seriously.

The Kenyan authorities created a Commission of Inquiry to investigate these killings and allegations that the police failed to respond appropriately, but it had yet to report by the end of the year.

International justice

In January, Pre-Trial Chamber II of the International Criminal Court (ICC) decided to proceed to trial in cases against William Ruto, Joshua arap Sang, Uhuru Kenyatta and Francis Muthaura for crimes against humanity allegedly committed during post election violence in Kenya in 2007-2008. Uhuru Kenyatta, currently the Deputy Prime Minister, and William Ruto, a former government minister had declared they would be candidates in Kenya's 2013 elections. The Kenyan government appeared to try to undermine the ICC's jurisdiction over the four cases. The East African Legislative Assembly (EALA) passed a resolution in April urging the East African Community Council of Ministers to request the transfer of the ICC cases to the East African Court of Justice (EACJ). However, the East African court does not have jurisdiction over crimes under international law. In July, the ICC announced that the trials would commence in April 2013.

Refugees and asylum-seekers

By the end of 2012 Kenya was hosting in excess of 600,000 refugees and asylum-seekers, the vast majority of whom were from Somalia. Most were living at the Dadaab refugee camps. The process for registration of new arrivals in Dadaab remained suspended, as did the transportation of asylum-seekers from the border to Dadaab – which meant people had to walk about 100km to seek asylum. Police continued to abuse refugees in the Dadaab camps. In May, Kenyan police arbitrarily arrested, detained, and beat refugees after an attack on a police vehicle in the camps. Police were purportedly searching for explosives.

Senior government officials repeatedly threatened to close the Dadaab refugee camps and forcibly return all residents to southern Somalia throughout the year, describing Dadaab as a "security threat" and claiming that areas of southern Somalia were safe. Amnesty International and other human rights groups disputed this (see Somalia entry).

In addition to those living in refugee camps in Kenya, some 55,000 refugees and asylum-seekers were registered with UNHCR in Nairobi and other urban centres.

In December, the Kenyan government announced that all refugees and asylum-seekers in urban areas should be relocated to refugee camps. UNHCR expressed serious concern and called on the government not to implement the policy.

Internally displaced people

The Internally Displaced Persons Act was passed by Parliament in October. The Act requires the government and others to protect people against factors which could cause them to become

displaced, and requires the government to put in place structures to assist those who become internally displaced.

Housing rights – forced evictions

- On 28 January, police forcibly evicted scores of people in Mukuru Kwa N'jenga in the east of Nairobi from their homes. Three people died in the process. One woman was electrocuted by a live power cable that fell during the eviction and another woman was killed by a stray bullet. The third person, a child, was killed during a stampede by anti-eviction demonstrators fleeing from police.
- In August, people from 70 homes were forcibly evicted from Kiamaiko informal settlement in Nairobi, in spite of an ongoing court case to settle ownership of the land.
- Deep Sea community in Nairobi remained at risk of forced eviction to make way for a road development project by the Kenya Road Authority (KURA). While KURA was developing a relocation plan for affected residents, community members said that they had not been adequately consulted about the plan and that it did not accurately reflect the number of people due to be affected by the eviction.

A Private Member's Bill providing guidelines for evictions and prohibiting forced evictions was tabled in Parliament in October. However, the Bill was not debated by the end of the year. In October, the Ministry of Lands appointed a new taskforce to review a similar Bill which the Ministry had drafted in 2011 but which had not been tabled in Parliament.

Death penalty

No executions were carried out in the country, but at least 21 death sentences were imposed throughout the year. The Kenya Defence Forces Act, passed in 2012, allowed for members of Kenya's Defence Forces being sentenced to death for a range of offences, including treachery, spying, aiding the enemy, assisting the enemy with intelligence information and unlawfully advocating for a change of government.

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