



Independent Medico-Legal Unit
A Just World Free From Torture

4th May, 2014

TO ALL NEWS EDITORS

PRESS RELEASE

NATIONAL POLICE SERVICE OR STILL A POLICE FORCE: ALARMING INCREASE IN EXTRA-JUDICIAL EXECUTIONS BY POLICE OFFICERS

- We would like to convey our sincerest condolences to the families of the 2 police officers who lost their lives at Pangani Police Station last month, the three Kenyans who died in the explosions at the Coast last evening, and to all those who have lost their lives in the recent past from violent crime.
- We are well aware that Kenyans are increasingly experiencing violent crime. We therefore cannot under any circumstances underestimate the trauma that our society is living through, due to the increase in cases of violent crime, and the apparent inability of the National Police Service to reduce these incidences and, or successfully prosecute these cases.
- We stand with Kenyans, especially victims of violent crime who are extremely frustrated by the increased number of suspects who continue to roam freely intimidating and threatening victims and witnesses, eliminating witnesses, and in some cases committing new crimes, mainly due to botched investigations and police corruption.
- However the Independent Medico-Legal Unit (IMLU) wishes to express grave concern over increasing incidences of deaths from police use of lethal force in the country. Over the past sixteen months, incidences of torture and extrajudicial executions implicating police officers are on an all- time high. This is especially regrettable at a time when the country is embracing police reforms initiatives including police vetting, revision of Service Standing Orders and review of police training curriculum to transform our police force to a civilian-centered police service.
- While we support the renewed efforts by the Presidency and the Ministry of Interior to adopt a 'tough on crime' policy, we reiterate that all such efforts must be done within the confines of the rule of law. In our considered opinion, 'tough on crime does not connote collective punishment nor extra-judicial executions as we are witnessing across the country. On the contrary, it means among others, more technical and financial support to the intelligence and criminal investigations department and strong partnerships with communities, minimal corruption, criminality and reduced impunity within the rank and file of the police.

- The latest case of extra-judicial executions that illustrates this trend is the case in Nyeri. On the 17th April 2014 five dead bodies (four men and a woman) were found deep in Tagwa Forest in Nyeri. The deceased have since been identified as 20 year old Mohamed Mustafa Kaburu a student, 25 year old Martha Wairimu a vegetable vendor, 28 year old Simon Kingori hawker, 24 year old Kelvin Kihuri a hawker and Yusuf Mwangi. This is a case that could easily pass as just another outcome of violent crime but our preliminary investigations have revealed the following:
- a) On the night of 16th April 2014 at around 10.00 pm the deceased were allegedly picked by four police officers namely:
- Ms. Lydia Wangui Macharia, AP Officer in charge of Ruring'u Administration Police base in Nyeri,
 - Mr. Adiel Nyange OCPD Nyeri town police division
 - Mr. 'Mogaka' attached to Nyeri Central Police Station
 - Mr. 'Muema' or 'Musyoka' Plain clothes Officer attached to Nyeri, Central Police Station

It is alleged that the person in charge of the operation was the AP Officer in charge of Ruring'u Administration Police base in Nyeri, it is alleged that the vehicle used was one of those donated by the Governor of Nyeri to the police

They were reportedly taken to Central police station in Nyeri the same night, but were not recorded in the Daily Occurrence Book as the case should have been. Incidentally the five were found dead the following day and no spent cartridges on the scene.

- b) Post mortem reports on the four bodies show:
- All the four male bodies had gunshot wounds on the head. In two of these, the gunshots were at close range in nature fired from a low velocity firearm (this denotes a shooting distance of not more than 30 centimeters). One of the bodies had a loose contact gunshot wound while the other had hard contact wounds.
 - The female body showed that she died from asphyxia (lack of oxygen) due to hanging. The manner of her death is not clear since hanging does not necessarily denote suicide.
 - There are significant physical injuries to the hands and wrists in two of the bodies which may suggest physical assault of the deceased before they were shot dead.

These findings are consistent with execution style killing, typical of extra judicial execution.

- Police have reportedly denied involvement in the bizarre deaths of the five but preliminary investigations reveal possible culpability and possibility of cover-up by the officers' implicated. The questions on what actually happened between their period of arrest and death must be addressed.
- We are pleased to note that the Independent Policing Oversight Authority (IPOA) has commenced investigations. However we are concerned that the investigations are currently

being compromised by some of the key suspects, who continue to intimidate eye witnesses, their families and close associates. It is therefore our considered opinion that investigations into these deaths cannot be fair, just or impartial if the suspects continue to roam freely, intimidating witnesses at will. They will not succeed when the witnesses have been forced out of their homes. Neither will the investigations succeed when impunity continues to reign in country.

- As such we are calling upon the Inspector General of Police (IGP) and the National Police Service Commission (NPSC) to immediately suspend the four officers to pave way for independent investigations into the deaths.
- We urge the Director of Criminal Investigations to seek a court injunction for the suspects leave jurisdiction of the crime, be barred from going anywhere near the witnesses, their homes and business premises or their places of work to guarantee the safety and security of the witnesses and their families;
- We demand that the local police should completely vacate the investigations to allow for independence and impartiality.
- We urge the National Police Service Commission not to transfer and the Inspector General not to redeploy the suspects until they answer for these deaths. Such transfers or redeployments in the past have compromised investigations and led to transfer of impunity to other areas.
- We appeal to the Witness Protection Agency to immediately take custody of the witnesses to guarantee their safety and security and facilitate investigations.

The situation in Nyeri should not be taken as an isolated case. We have recorded similar cases in Kakamega in the last few months. Indeed, since 17th April we have reports that two other persons were abducted by known police officers in Karatina. The body of one of them was found at Muranga District Hospital Mortuary yesterday with injuries suggesting that he had been tortured before his death.

Summary of Deaths from Police use of Firearms

- Last year we documented a total of 143 cases of persons who died from police use of lethal force under varying circumstances. Of concern to us is that in the first four months of this year we have already documented 90 similar cases compared to only 27 recorded in the same period last year. As such over a period of sixteen months we've had 233 deaths documented. These statistics put into question the commitment of the National Police Service to the respect of the right to life prescribed under Article 26 of the constitution and the assumption of innocence until proven guilty by an impartial judicial process.
- Noteworthy the law allows police officers to use their firearms in instances where their lives or those of other people are in danger. As such we sought to disaggregate the circumstances of the deaths recorded: Out of 233, there were 184 cases of suspected summary executions, 31 cases of deaths under unclear circumstances and only 18 cases of deaths precipitated by use of firearms to protect life.

Finally we to the Inspector General of Police, IPOA, the Internal Affairs Unit and the NPSC to enhance mechanisms of bringing to end indiscriminate executions of people without due process of the law. It is

our considered view that the police cannot be investigators, prosecutors, judges and executioners at the same time.

Signed:



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Peter Kiama
Executive Director
Independent Medico-Legal Unit