

**BASELINE SURVEY ON
THE PREVALENCE OF TORTURE, CRUEL
AND INHUMAN TREATMENT OR
PUNISHMENT IN THE INFORMAL SETTLEMENTS**



This project is funded by
The European Union



**LEGAL
RESOURCES
FOUNDATION**
Haki Itawale

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2020



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Mr. Eric Mukoya
Executive Director

Legal Resources Foundtion Trust

ABBREVIATIONS AND ACRONYM

ACHPR	African Charter on Human and Peoples' Rights
APTU	Anti - Terror Police Unit
AG	Attorney General
CAT	Committee against Torture
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CIPEV	Commission of Inquiry into the Post - Election Violence
COVID-19	Corona Virus Disease 2019
CRPD	Convention on the Rights of Persons with Disabilities
CSO	Civil Society Organization
DCI	Directorate of Criminal Investigations
DPP	Director of Public Prosecution
EJE	Extra-Judicial Executions
FGD	Focus Group Discussion
FIDA Kenya	Federation of Women Lawyers in Kenya
GBV	Gender-Based Violence
GSU	General Service Unit
IAU	Internal Affairs Unit
ICC	International Criminal Court
ICCPR	International Covenant on Civil and Political Rights
HR	Human Rights
ICESR	International Covenant on Economic, Social and Cultural Rights
ICPPED	International Convention for the Protection of All Persons from Enforced Disappearance
IMLU	Independent Medico-Legal Unit
IPOA	Independent Policing Oversight Authority
KANU	Kenya African National Union
KDF	Kenya Defense Forces
KFS	Kenya Forest Service
KII	Key Informant Interview
KDF	Kenya Defense Forces
KWS	Kenya Wildlife Services
KNBS	Kenya National Bureau of Statistics
KNCHR	Kenya National Commission on Human Rights

LRF	Legal Resources Foundation
MTP	Mid Term Plan
NCTC	National Counter Terrorism Center
NIS	National Intelligence Service
NGO	Non – Governmental Organization
NPS	National Police Service
NPSC	National Police Service Commission
OCHA	United Nations Office for the Coordination of Humanitarian Affairs
ODK	Open Data Kit
ODPP	Office of the Director of Public Prosecutions
OP – CAT	Optional Protocol to the Convention against Torture
OP-CRPD	Optional Protocol to the Convention on the Rights of Persons with Disabilities
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNCAT	United Nations Convention on Torture

EXECUTIVE SUMMARY

The objective of this torture survey was to identify and profile the prevalence of torture, cruel and inhumane treatment or punishment within the informal settlements in Nairobi, Nakuru, and Garissa. This torture survey adopted a descriptive research design. The choice of descriptive survey design enabled us to collect both qualitative and quantitative data. The population and sample size were not computed based on a scientifically determined formula. This was due to constraints in time and financial resources able to cover scientific sample over the large population of Nairobi slums (Fuata Nyayo, Mathare North, Mathare South, Mukuru Kwa Njenga, Mukuru Kwa Reuben, and Kibera); Nakuru slums (Gilani, Kaptembwa, and Kwa Rhoda) and Garissa Slums Bulla Caadan, Bulla Hagar, Bula Taqwa, Bulla Yarey, and Garissa Ndogo). Instead, a rationalized sample size of 150 per region was adopted, making a total sample size of 450. However, the actual sample undertaken during the study was 477(153 from Garissa, 154 from Nakuru, and 170 from Nairobi). A total of (14) Key Informant Interviews (KIIs) were conducted. Focus Group Discussions (FGDs) were not conducted due to the Ministry of Health COVID-19 restrictions. A simple random sampling technique was used to select households in the selected regions. For KIIs, purposive sampling was used. Survey data was collected using the Smart Mobile Phone application

SUMMARY OF KEY FINDINGS

Torture Prevalence: Survey findings show that the torture prevalence within informal settlements is very high (80%). Police brutality is matted mostly on slum dwellers as compared to other urban, peri-urban, and rural dwellers. Comparatively, the national torture prevalence survey conducted in 2016 by Independent Medical Legal Unit (IMLU) indicated a 30.3% torture prevalence among those surveyed. The torture finding for the slum regions is significant as it highlights slums as hotspots for police brutality, extra-judicial killings, and ill-treatment. When compared prevalence per region, 49% of Garissa respondents had either suffered from torture or knew someone who had. In Nairobi, (95%) of respondents from the slums had either suffered or knew someone who had suffered from torture; while in Nakuru, (94%) of respondents had either suffered from torture or knew someone who had suffered from torture.

The main reasons for torture and inhumane: The survey findings show that the main reasons for inhumane treatment as (22%) punishment for a crime committed; (20%) torture to obtain a confession or reveal information; (15%) for extremism and counter-terrorism reasons; (8%) for political affiliation /views; (5%) for illegal business operations, paid revenge/retaliation, and drunk and disorderly respectively; (4%) for failure to pay rent, (1%) for no apparent reason.

The main perpetrators: The main perpetrators of torture and inhumane treatment in informal settlements are privately funded militias as indicated by (60%) study respondents. In most instances, the private militias are usually funded by a local politician and supported and protected by the local police who allow them to run havoc over the slum dwellers when enforcing local slum security, security fee collections, disciplining alleged crime offenders, and also used for revenge missions. This was followed by (34%) regular police, (17%) prison warders, (16%) of prison warders; (15%) Army officers; (14%) Administration Police; (11%) private security guards; (10%) Kenya Forest Officers; (9%) special branch; (5%) inmates in police cells; (3%) traffic police and local county officers.

Injury as a result of Torture or Inhuman Treatment: Majority (43%) of study respondents indicated victims of torture had body bruises as a result of torture they had suffered, (17%) indicated other injuries like post torture trauma, loss of eyes, and miscarriage; (14%) had broken arm /legs while others had chronic body pains respectively; (5%) indicated they lost vital body parts; (4%) had developed chronic illnesses; and (3%) had physical disabilities.

Reporting Torture: Majority (61%) of respondents from all the informal sectors under the study did not report torture incidences they had suffered; (28%) of victims do not report because they believe that no action will be taken against the perpetrators, (26%) indicated they fear of perpetrators make them not to report; (18%) indicated they do not trust the police or authorities; (14%) threats from perpetrators; (9%) indicated they do not know where to report, and (5%) do not report for other personal reasons.

Factors that precipitate torture and inhuman treatment: The findings show that ignorance of human rights by perpetrators was the leading factor with (21%), followed by lack of awareness of fundamental human rights that prohibit torture. Similarly, 15% of respondents noted that torture is precipitated by blatant disregard to human rights by perpetrators, 12% indicated the prevalence of

poverty in informal settlements, 9% indicated slum related factors such as lack of clean water, toilets, food contributed to the prevalence of torture, 7% indicated corruption, inadequate laws to prohibit and protect against torture.

CHANGING FACE OF TORTURE AND INHUMAN TREATMENT

President Moi's Regime (1978-2001): Torture during the Moi era was mainly targeted at political opponents. After the 1982 failed coup, Moi became ruthless and would direct the allocation of a huge budget to Criminal Investigations Department to facilitate them in collecting information about those seemingly opposed to his regime, by arresting them, detention without trial, torture, and extra-judicial executions. Torture in the Moi era was more brutal since civil society had little say if anything. Torture manifestation was very evident, and this was done deliberately to scare off opponents.

President Kibaki's Regime (2002-2012): During Kibaki's era, torture was present but not very evident. Policies and Rule of law established during this time helped to reduce arbitral arrest, detention without trial, torture, and extra-judicial executions of political opponents. This is because of many Civil society organizations had become more active and could expressly talk against any Human Rights (HR) abuses, which in turn, helped alleviate acts of torture. However, during Kibaki's regime, the face of torture and brutality was mostly manifested in the extra-judicial executions of outlawed Mungiki groups.

President Uhuru's Regime (2012-2020): Under Uhuru's government, torture and acts of torture have taken a new face, mainly through enforced disappearances. The enforced disappearances of particularly youths associated with the Islamic religion has become so common in the fight against violent extremism. Although HR organizations have become more proactive, this has not prevented the government from acts of torture. One thing that has helped reduce torture in Uhuru's era though is the law that requires suspects to be produced in court within 24hrs. To a large extent, this constitutional provision has helped minimize torture.

INHUMANE TREATMENT UNDER COVID-19 ENVIRONMENT

The curfew declared by H.E. Uhuru Kenyatta, the President of the Republic of Kenya on March 25, 2020, as a mechanism to contain the spread of COVID-19 infections came into force on March 27, 2020, with the curfew extending from

7 p.m. to 5 a.m. daily. A subsequent review of curfew hours including COVID-19 regulations has seen several amendments on the same. The enforcement of the curfew and the regulations resulted in incidences of arbitral arrest before curfew hours, the use of lethal and brutal force by police, and harassment was reported. In Mombasa for instance, police officers were filmed using brutal force beating people waiting for a passenger ferry including journalists who were covering the events. IPOA preliminary monitoring of the curfew enforcement had revealed that 15 people had died due to police brutality, and thirty-one (31) incidents of serious injuries had been reported due to the use of excessive force by the police. Situational report by IMLU in April 2020 covering Kakamega, Busia, Nairobi, Mombasa, Kilifi Nakuru, and Homabay counties, 25 cases of torture, ill-treatment, and extra-judicial executions (EJEs) were reported. Out of the 25 cases, 6 were deaths 19 were injuries from police beatings. Haki Africa in Mombasa in their report “State of Human Rights at the Coast During the Covid-19-Pandemic (March-May 2020)” shows that out of the twenty (20) people who had been killed as a result of direct enforcement of the COVID-19 pandemic, four (4) were directly linked to police brutality.

CHALLENGES OF PREVENTION OF TORTURE IN KENYA INFORMAL SETTLEMENT

Lack of Law of Enforced Disappearances: Kenya has not established any legislation on enforced disappearances, nor enacted the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED). Police and military enforcement of counter-terrorism measures most often adopted these tactics, where people were detained and often disappeared without a trace, and in some cases, were found killed.

Inquest related to Death by Torture: The inquest related to the death of missing persons believed to have been tortured is stipulated in the Criminal Procedure Code Act No. 11 of 1993. Relying on police to investigate themselves has a low probability or no chance of yielding fair justice. Expecting police involved in torture related death to collect data and information that incriminates their colleagues is an unrealistic, mostly unattainable expectation, which often, if not always, has defeated access to justice.

Limitations of the IPOA Act: IPOA does not have a mandate/mechanism to compel National Police Service (NPS) to implement disciplinary actions to errant police officers found culpable of misconduct. In most cases, the recommendations made by IPOA to NPS are hardly implemented. Secondly, the Lack of protection of whistleblowers in the Police Service makes it difficult for police to provide witness statements or report cases within their ranks. The issue of non-cooperation by NPS in the investigation processes where IPOA is investigating police misconduct greatly impedes the effectiveness of the authority.

Inadequate Training and Awareness of Prevention of Torture Act: Despite the enactment of the Prevention of Torture Act, the police prosecutors and magistrates still rely on the Penal Code and the Criminal Procedure Code to prosecute offenses such as murder and grievous harm, committed by police officers. In effect, this limits the impact and effectiveness of the Prevention of Torture Act. Prosecutors' familiarity with the Penal Code, Children's Act of 2001, and the National Police Service Act explains their preference for these Acts as opposed to the Torture Act. Therefore, not adopting and prosecuting police perpetrators under this Act erodes /diminishes the gains made by the Prevention of Torture Act.

Operationalization of National Coroner's Act, 2017: Kenya has already enacted the National Coroners Service Act, 2017. However, the Act is yet to be operationalized. Particularly, there has been lack of commitment to establishment the national coroner's offices, and subsequent county level offices, which diminished forensic investigations and documentation capacity essential for inquests torture cases.

Torture and Extra-Judicial Killings Take Too Long to Resolve: Speedy resolution, prosecution, and conviction of torture cases take too long to resolve. Police investigations are most often scuttled or frustrated by police protecting their colleagues. This kind of obstruction makes it difficult for ODPP to successfully gather requisite evidence required for successful prosecution and conviction, which in turn, makes torture, and extra-judicial cases to take for years without resolution.

RECOMMENDATION

The following recommendations are extracted from the discussion of this survey:

- 1 Human Rights stakeholders including civil society organizations, private sector associations, and international agencies should initiate advocacy interventions aimed at the operationalization of the Prevention of Torture Act and the National Coroners Service Act.
- 2 Prevention of Torture Act establishes a victim's compensation fund, which parliament has not provided budgetary allocation. There is a need for advocacy targeting parliament for establishment of victim's compensation fund in Mid Term Plan (MTP)-III.
- 3 Adequate funding for IPOA to establish forensic data documentation before the establishment of the coroner's office to support all 47 counties in documenting cases of torture that happen at the county and local community levels.
- 4 There is a need to holistically look at the Acts that guide other enforcement agencies like the KDF, NCTC, NIS with a view to seal loopholes that are exploited to perpetuate inhumane /ill-treatment to citizens under their custody.
- 5 There is a need to de-link police from investigating themselves in cases where they are the perpetrators of inhumane treatment. Independent bodies other than IPOA and ODPP should do this. The bureaucracy within IPOA and ODPP has contributed to the slow pace at which some of the high-profile case of police brutality.
- 6 There is a need to relook at the Criminal Procedure Code Act No. 11 of 1993, which empowers the magistrates to sanction inquests under Section 386, in cases where police find a dead body, to prevent the destruction of evidence in cases where police are the perpetrators.
- 7 The Law on Enforced Disappearances has not been established in Kenya. In the meantime, there is a need to lobby for ratification of the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED). This will help to hold authorities (police and military) accountable for enforced disappearances.
- 8 There is need for adequate funding of IPOA, ODPP, and Kenya National Human Rights Commission is required. This will enable these agencies to enhance effectiveness in investigations into police misconduct by including promoting public awareness on documenting and reporting police misconduct and torture.

- 9 There is a need for LRF to collaborate with HR stakeholders and organizations in training police and prosecutors on the Awareness of Prevention of Torture Act. Since 2017 when the law was enacted, there has been no single prosecution that relied on the Act.
- 10 NPS Internal Affairs Unit (IAU) should not be relied on as a single source of the internal investigation into police misconduct. Junior officers within the NPS cannot investigate their seniors implicated in police misconduct, or those who have violated the code of service. In this regard, an independent unit should be established that is not a government agency to enhance objectivity, transparency and accountability.



1. INTRODUCTION

1.1 Project Background

Legal Resources Foundation Trust is a non-profit national human rights organization that promotes access to justice through human rights education, research, practice advocacy, and policy dialogues. LRF engages diverse stakeholders in governance, justice, law, and order sectors by developing, disseminating, replicating resources, and strategies towards justice, equity, and resilience. The Constitution of Kenya 2010 pursuant to article 25(a) identifies among other rights, freedom from torture and cruel inhumane and degrading treatment or punishment as an unlimited right. Accordingly, and in a bid to give the afore-described article life, Kenya enacted the Prevention of Torture Act in 2017 besides criminalizing torture and ill-treatment committed by law enforcement officers in the National Police Service Act 2011. Besides, Kenya ratified the United Nations Convention on Torture (UNCAT) on 21st February 1997 and has since submitted two reports to the Committee Against Torture (CAT) to demonstrate adherence to the international obligations.

While making concluding observations to Kenya's report submitted in 2013, CAT expressed concerns about the persistent allegations of extrajudicial killings, enforced disappearances, and excessive use of force by Police Officers during 'special operations', as well as by the low rate of investigations and prosecutions of such acts. The Committee was particularly concerned by reports of a case of a young man who died after he was shot by Police Officers in Nairobi, in April 2013, following the theft of a mobile phone. The committee further expressed concerns by the continued absence of a support framework to facilitate compensation to victims of torture and ill-treatment or their families. According to a torture prevalence report commissioned by Independent Medical Legal Unit (IMLU) in 2011, 50% of respondents opined that poverty is a predisposing factor that makes people vulnerable to torture. Other factors cited included but not limited to weak enforcement and lack of awareness of fundamental rights. On the strength of the enactment of the Prevention of Torture Act 2017, and the

continued reports of torture emanating from the mainstream and social media, LRF purposed to conduct a baseline survey on the prevalence of Torture and Cruel and Inhumane Treatment or Punishment within the informal settlements in Nairobi, Nakuru, and Garissa.

1.2 Survey Objective

The survey was premised on the need to identify and profile the prevalence of torture, cruel and inhumane treatment or punishment within the informal settlements in Nairobi, Nakuru, and Garissa.

1.3 Scope

This Baseline Survey on the Prevalence of torture, cruel inhuman treatment or punishment in the Informal Settlements was conducted in Nairobi, Nakuru, and Garissa with the desk literature review assuming a national outlook. Essentially data was collected from communities living in and around informal settlements, security sector personnel, human rights defenders among others.

2. LITERATURE REVIEW

2.1 Introduction

This chapter presents the definition of torture, the manifestation of torture in Kenya during President Daniel Moi's regime (1978-2001); President Mwai Kibaki's regime (2002-2012); and President Uhuru Kenyatta's regime (2013 – present 2020). The literature on statutory legal frameworks on torture in the Kenyan context is presented, followed by international and regional conventions and treaties; review of current court cases on torture in Kenya.

2.2 Definition of Torture

The UN Convention Against Torture defines torture as “any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising from, inherent in or incidental to lawful sanctions”.¹ On the other hand, Article 7(2) (e) of the 1998 International Criminal Court (ICC) Statute defines torture, when a crime against humanity, as “the intentional infliction of severe pain or suffering, whether physical or mental, upon a person in the custody or under the control of the accused; except that torture shall not include pain or suffering arising only from, inherent in or incidental to, lawful sanctions”.² Kenya Prevention of Torture Act No 12 of 2017, defines torture “to means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person: (a) for the purposes of obtaining information or a confession from him or her or any other person; punishing him or her for an act he or she or any other person has committed, is suspected of having

¹ Article 1 of the 1984 Convention against Torture.

² <https://www.icc-cpi.int/resource-library/documents/rs-eng.pdf>

committed or is planning to commit; or intimidating or coercing him or her or any other person to do, or to refrain from doing, anything; or (b) for any reason based on discrimination of any kind.³

International sources of law on torture, cruel, inhumane, or degrading treatment have been accepted by most of the nations of the world. Worldwide agreements reflecting the international prohibition of torture and ill-treatment include the Universal Declaration of Human Rights (UDHR)⁴; the Geneva Conventions⁵; the International Covenant on Civil and Political Rights⁶; and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment⁷. In addition to these worldwide agreements, there are regional agreements, adopted by countries in the Americas, Europe, and Africa, which prohibit torture and other forms of ill-treatment. International criminal law outlined in the Rome Statute of the International Criminal Court and cases from international criminal tribunals, such as those established for Rwanda and the former Yugoslavia, provide additional standards.” Finally, principles of jus cogens, or customary international law, reflect the absolute prohibition in international law against torture and cruel, inhuman, or degrading treatment or punishment.” These agreements provide a legal framework for defining torture and other prohibited forms of ill-treatment.

2.3 Manifestation of Torture in Kenya over Different Government Regimes

This section presents the changing face of torture when examined over three Kenyan government regimes: President Moi regime, President Kibaki regime, and President Uhuru’s regime. Equally, the section examines whether perpetrators of torture and inhumane treatment have changed their modus operandi over the different administrations.

³ Prevention of Torture Act No 12 of 2017, Part II (4)(a)
<http://kenyalaw.org/kl/fileadmin/pdfdownloads/Acts/PreventionofTortureAct2017.pdf>

⁴ Universal Declaration of Human Rights, G.A. Res. 217A (III), U.N. Doc A/810, at 71 (Dec. 10, 1948) [hereinafter Universal Declaration], available at <http://wwwl.umn.edu/humanrts/instree/bludhr.htm>.

⁵ The “Geneva Conventions” include four conventions. See Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, Aug. 12, 1949.

⁶ International Covenant on Civil and Political Rights, Dec. 16, 1966, 999 U.N.T.S. 171 (entered into force Mar. 23, 1976) [hereinafter ICCPRI], available at <http://wwwl.umn.edu/humanrts/instree/b3cepr.htm>.

⁷ Convention Against Torture, supra note 3.

The Moi Regime

Detentions and political trials, torture, arbitrary arrests, and police brutality reminiscent of the colonial era were common during Moi's tenure (1978-2001). During this period human rights generally as alien and Euro-centric conceptions inconsistent with African values and culture. As such, pro-democracy and human rights advocates in Kenya were perceived by the government security agencies as unpatriotic, disloyal, and ungrateful⁸. In 1980, the Kenyan government was involved in what has come to be known as the Garissa Gubai massacre 1980. At least 3,000 Somalis in Garissa District in the north-eastern province died. In what is now known as Mandera County, security forces killed and raped women. This was known as the 1982 Malka Mari massacre, where those killed included 336 disabled people.⁹ In Wajir County, formerly in the north-eastern province, the Wagalla massacre remains a traumatic experience the region experienced. On the 10th of February 1984, more than 5000 ethnic Somali's were butchered by Kenyan security forces under the Moi regime. The men had been rounded up and driven to the Wagalla Military airstrip where they were forced to strip and lay naked on the hot tarmac. They were tortured and any that attempted to run away were shot.¹⁰ In 2008, Kenya set up The Truth, Justice, and Reconciliation Commission of Kenya to address post-election violence. Ron Slye, one of the commissioners stated that the Wagalla massacre represented the worst human rights violation in Kenya.¹¹

One of the grave human rights violations that characterized Moi's regime was detention without trial, which was coupled with unpredicted torture of political opponents. A number of the champions of multiparty politics including Raila Odinga, Gitobu Imanyara, John Khaminwa, Mohammed Ibrahim, Kenneth Matiba and Charles Rubia--among others, were detained under inhuman conditions and without trial between 1989 and 1991. Human rights lawyers, Gibson Kamau Kuria and Kiraitu Murungi fled to the United States to avoid being jailed¹² Nyayo House and Nyati House were at the heart of the Moi regime's torture network. The two buildings were the true embodiment of arbitrary arrests, detentions, and disappearances. Nyayo House had twelve strong rooms in the

⁸ See, Adar, K. G., "Human Rights and Academic Freedom in Kenya's Public Universities: The Case of The Universities Academic Staff Union". *Human Rights Quarterly*. 21(1) (February 1999): 187

⁹ <https://thisisafrica.me/politics-and-society/kenya-massacres-under-pres-daniel-arap-moi/>

¹⁰ Ibid.

¹¹ Ibid.

¹² Mutua, Makau wa., *A long Road to Uhuru: Human Rights and Political Participation in Kenya*. Montreal: International Centre for Human Rights and Democratic development, March 1993.

basement that were turned into pitch-black holding cells and concrete slabs blocked elevator access to all but five floors.¹³ The rooms were dark with water-logged cells, where political opponents were held and tortured with little food or drinking water.¹⁴ Under President Moi's leadership, thousands of political activists, academics, students, and artists were arrested, tortured and detained without trial, and in other cases charged on trumped-up charges. Similarly, high-profile assassinations/killings linked to politics that occurred during Moi's reign remains unresolved to date. For example, on February 13, 1990, Kenyans were thrown into shock by the shooting of Foreign Affairs and International Relations Minister Robert Ouko. His mutilated remains were found by a herd's boy at the foot of Got Alila near Muhoroni, just 2.8km from his Koru farm. He had been shot; his body had been partially burnt.¹⁵ Another high-profile murder was Father John Kaiser. Kaiser was a harsh critic of the Moi administration, accusing it of fueling the 1991-92 ethnic violence in the Rift Valley. In 1998, Kaiser testified before the Akiwumi Commission where he accused Moi and other senior government officials of being responsible for the ethnic violence. In August 23, 2000, Father Kaiser was found lying by the roadside with a gunshot wound on the head. On August 1, 2007, magistrate Maureen Odero ruled that Fr Kaiser was murdered.¹⁶

The use of militia to instigate violence on behalf of KANU and the government began with the 1991-1993 ethnic clashes. To attack opposition groups, "Kalenjin warriors" donned traditional attire and used arrows from South Korea transported by helicopters.¹⁷ Political violence also occurred in 1997 and 1998 in the Rift Valley Province, particularly in Trans Nzoia and Nakuru Districts. As in the 1992 ethnic clashes, the conflict was between pro-KANU supporters and ethnic communities that were deemed sympathetic to the opposition. According to human rights groups, the fact that the Provincial Administrators, the GSU, and the police were involved in the conflicts again implicated the state. An investigative report into the Likoni-Kwale violence of August 1997, produced by the Kenya Human Rights Commission, for instance, established that the causes of the violence were essentially the

¹³ <https://www.theelephant.info/ideas/2017/08/17/nyayo-house-unravelling-the-architecture-and-aesthetics-of-torture/>

¹⁴ Kenya Torture Chamber Focuses Attention on Abuses of Moi Government.

¹⁵ <https://www.the-star.co.ke/news/2020-02-04-unsolved-moi-era-murders-that-officials-called-suicide/>

¹⁶ Ibid.

¹⁷ Sicherman Carol. "Kenya" in *Race & Class*. (April-June 1998, Vol. 57 (no. 4): p 63.

politicization of the socio-economic situation in the region by local politicians.¹⁸ The report implied the involvement of the government in that Mombasa KANU politicians, Rashid Sajad and Karisa Maitha, had paid a visit to an armed militia training camp in Shimba Hills. They reassured young men recruited from Uganda, Rwanda (mainly Hutus), and Ukunda (Coast Province) that the government was not only behind but also supported the expulsion of “up-country” people from the area.¹⁹

“Torture during the Moi era was mainly targeted at political opponents. After the failed coup in 1982, Moi became ruthless and would direct the allocation of huge budget to Criminal Investigation Department (CID) to facilitate them in collecting information about his opponents, arresting, detaining, torturing and even executing them. Torture in the Moi era was more brutal since civil society had little say if anything. Torture manifestation was very evident and this was done deliberately to scare off opponents...”

~ **Executive Director, Chemchemi ya Ukweli**

Mwai Kibaki Regime

Since 2002, under the Mwai Kibaki regime, the trend in politically motivated human rights violations that were experienced under Moi’s regime diminished. However, other serious human rights abuses persisted, a great many at the hands of security forces, particularly the police. On 5/11/07, the KNCHR released a preliminary report indicating that the Kenya Police could have been complicit in extra-judicial executions of close to 500 people between June and October 2007 and the bodies deposited in various mortuaries in the country.²⁰ According to the KNHRC report, some of those who suffered extrajudicial killings were left in the wild, and others dumped in various locations such as forests, desolate farms, rivers, and dams. The report further alleged a change in trends on extra-judicial killings in Kenya. Initially, the police mainly used firearms to execute the suspects. However, they subsequently changed their modus operandi and resorted to other methods such as strangulation, drowning, mutilation, and bludgeoning.²¹ The change of strategy was to make members of the public believe that rival Mungiki gangs were responsible for the killings. Post-mortem reports had revealed that the cause of death for the majority of the victims was blunt trauma, strangulation, drowning, or mutilation using sharp objects as illustrated by post-mortem reports.

¹⁸ Amnesty International, Kenya Annual Report for 1997, (Amnesty International, 1998).

¹⁹ Ibid.

²⁰ The Cry of Blood: Report on Extra-Judicial Killings and Disappearances, KNCHR, September 2008.

²¹ Ibid, Pg.5.

A study conducted by IMLU in 2011 during Kibaki's regime revealed that 23% of the national survey respondents reported having been tortured or suffered some form of ill-treatment from police and those in authority. The most human rights repression period under the Kibaki regime happened following the contested 2007 elections, where it was alleged that Orange Democratic Movement candidate, Raila Odinga had won, but alleged election fraud had ruled in Kibaki's favor. Protests ensued following the contested elections, where police used brutal force on Raila supporters. In 2007, following the post-election violence, there were 1,133 recorded death, 405 of the deaths were caused by gunshot wounds and according to the reports, police were responsible for those deaths.²² During the protests, local human rights workers in one area of Kibera slum recorded nine people shot dead by police and 19 injured between December 27 and January 10.²³ In Mathare, residents reported dead and bodies dumped in the Nairobi river.²⁴ The Independent Medical and Legal Unit (IMLU) reported around 50 bodies in Nairobi mortuaries in the first half of January, dead from gunshot wounds, most likely killed by the police.²⁵ During the same period of 2007-2008 post-election violence, in Kisumu, Nyanza General Provincial Hospital, 44 people brought to the morgue between December 28 and January 11, had died from gunshot wounds. As of January 14, 59 inpatients in Nyanza Hospital had gunshot wounds and 138 outpatients had been treated for gunshot wounds.²⁶ The police acknowledged that all of those shot were likely shot by the police.

“During Kibaki’s era, torture was present but it was not so evident. This is because he tried to institute good policies and rule of law. Secondly, the civil society organizations became active and could expressly speak against any human rights abuses, which helped to alleviated acts of torture from the government. However, there was blatant acts of torture against militant groups particularly the Mungiki particularly towards the end of his tenure...”

~ Executive Director, Chemchemi ya Ukweli

²² The International center for Transitional Justice, “the Kenya Commission of Inquiry into Post-Election violence”<https://www.ictj.org/sites/default/files/ICTJ-Kenya-Dialogue-Inquiry-2008-English.pdf>. Also, the Commission of Inquiry into the Post-Election Violence (CIPEV), known also as the Waki commission, documented widespread allegations of attacks, including killings and rapes committed by police especially in the opposition areas.

²³ Human Rights Watch interview with human rights activists (names withheld), Nairobi, January 14, 2008, list on file with Human Rights Watch.

²⁴ Ibid.

²⁵ Human Rights Watch interview with IMLU officers, Nairobi, January 9, 2008.

²⁶ Ibid.

Uhuru Kenyatta Regime

Forced disappearances and extra-judicial executions have marked Uhuru's regime. According to Human Rights Watch (July 2016) Report "Deaths and Disappearances: Abuses in Counterterrorism Operations in Nairobi and Northeastern Kenya," documents 34 instances in multi-agency security operations in which the military was actively involved in raiding homes and compounds to arrest people who were allegedly suspected of links with the armed Islamist group, Al-Shabab. But years later, suspects have not been charged with any crimes and families cannot locate them. In each case, although families reported the disappearance to the police and sought help from various authorities, the authorities failed to inform them of the detainees' whereabouts or to properly investigate allegations of abuse.²⁷ Similarly, Kenya and global human rights organizations have documented more than 300 cases of individuals who have gone missing while in the hands of security agencies since 2009, some of whom have later been found killed.²⁸

In 2016, a human rights lawyer and two other men were subjected to enforced disappearance and later executed by police. The bodies of Willie Kimani, who worked for International Justice Mission, his client Josphat Mwendwa and their taxi driver Joseph Muiruri, were found dumped in a river about 73 kilometers northwest of Nairobi in July 2016.²⁹ Many of the enforced disappearances took place in the context of operations against perceived members or sympathizers of the Somalia-based Islamist militant group, Al-Shabaab as noted by National Coalition of Human Rights Reporters.

"While indeed Kenya faces a real security threat from Al-Shabaab, it must not resort to unlawful responses that amount to crimes under international law and violate human rights... It should instead insist on strict respect for human rights and due process at all times, including in its security operations. This must begin with ensuring criminal accountability for both individual police officers and their superiors who knew or should have known of the enforced disappearances and killings and failed to take all necessary measures to prevent or repress them"

~ Executive Director, National Coalition of Human Rights Defenders

²⁷ <https://www.hrw.org/report/2016/07/20/deaths-and-disappearances/abuses-counterterrorism-operations-nairobi-and>

²⁸ <https://www.amnesty.org/en/latest/news/2016/08/kenya-set-up-judicial-inquiry-into-hundreds-of-enforced-disappearancesand-killings/>

²⁹ <https://www.amnesty.org/en/latest/news/2016/08/kenya-set-up-judicial-inquiry-into-hundreds-of-enforced-disappearancesand-killings/>

“Enforced disappearance is a crime under international law. Kenya must take concrete steps towards ratifying the Convention without making any reservation so as to ensure that impunity does not prevail for this cruel human rights violation,”

~ Director, Amnesty International Kenya

“Enforced disappearances have become a widespread practice, and a dark stain on the fabric of law enforcement in Kenya that can only be sustainably addressed by bringing to account those suspected of responsibility through fair trials...But fair trials cannot take place without prompt, impartial and effective investigations into the myriad cases of disappearances and executions.”

**~ Executive Director, Independent Medico-Legal Unit (IMLU),
as cited in HRW Report**

A report by KNHRC, “The Error of Fighting Terror with Terror” in 2015 highlighted (120) cases of egregious human rights violations that include twenty-five (25) extrajudicial killings and eighty-one (81) enforced disappearances.³⁰ Kenyan and international human rights organizations documented a range of rights abuses by the security forces in military and law enforcement operations between 2016 and 2017 across the country. For instance, Human Rights Watch found in June 2017, police and the military were implicated in beating and killing herders and their livestock from the Pokot community.³¹ Similarly, in Mathare and other informal settlements in Nairobi such as Dandora, Kayole, Huruma, Eastleigh, Kibera, and Kariobangi, police were accused of extrajudicial killings of youth linked to opposition political parties. The cases have not been investigated³². In May 2017, a report by Mathare Social Justice Center, a community based human rights organization report titled: “Who is Next? found that between 2013 and 2016 alone, police had killed at least 57 young men and women in Mathare and 803 nationally in the three years.³³

During and after the August and October 2017 elections, Kenyan police and other security agencies used excessive force against protesters, primarily in opposition strongholds. The protests erupted following allegations by Raila

³⁰ Preliminary Report of KNCHR Investigations on Human Rights Abuses in the Ongoing Crackdown against Terrorism.

³¹ <https://www.hrw.org/world-report/2018/country-chapters/kenya>

³² Ibid.

³³ https://drive.google.com/file/d/0B2NZry_SioNhWEFyQWNuVVBjV2M/view

Odinga that the August 2017 elections had been rigged. Police also carried out violent house to house operations, beating or shooting primarily male residents, even though they also beat female residents for failing to produce the males suspected of participating in demonstrations. At least 67 people were shot or beaten to death by police nationwide, and hundreds more were injured during these operations. There were troubling reports of rape and sexual harassment during police operations in Kisumu and Nairobi. The Independent Policing Oversight Authority (IPOA) is still investigating some of the cases of killings.³⁴ In early August, a technology manager with the electoral commission, Chris Msando, was abducted and his body was found two days later on the outskirts of Nairobi.³⁵ A torture prevalence survey report conducted by Independent Medico-Legal Unit (IMLU) in 2016 indicated that 30.3% of national respondents to the survey reported having been victims of torture or inhuman /ill-treatment by those in authority.

“Under Kenyatta’s regime, acts that constitute torture have taken the face of fighting extremism. Disappearances of particularly youths associated with Islamic religion has become so common all in the name of fighting violent extremism. Although human rights organizations have become more proactive, this has not prevented the government from acts of torture, and it’s even more blatant than during Kibaki era where youth belonging to Mungiki were executed. The provisions of the Kenya constitution 2010, has helped a great deal in reducing terror under Uhuru’s government, by requiring suspects to be produced before court within 24hrs. This has to some extent helped alleviate torture...”

~ Executive Director, Chemchemi ya Ukweli

2.4 National and County Level Legal Framework on Torture

2.4.1 The Constitution

The Constitution of Kenya 2010, particularly Chapter 4 (The Bill of Rights) stipulates fundamental freedoms and rights that cannot be limited under any circumstances: (a) freedom from torture and cruel, inhuman, or degrading treatment or punishment; (b) freedom from slavery or servitude; (c) the right to a fair trial; and (d) the right to an order of habeas corpus (a recourse in the law that ensures a person under arrest is brought before a judge or court to determine if he is being held lawfully).

³⁴ Ibid.

³⁵ <https://www.hrw.org/world-report/2018/country-chapters/kenya>

2.4.2 Statutory Frameworks on Human Rights and Inhuman Treatment

Kenya has a raft of statutory frameworks that guide legal interpretation and application of the law on cases of gross human rights violations such as torture and inhuman treatment. This includes The Constitution of Kenya 2010; Prevention of Torture Act No 12 of 2017; National Coroners Act No 18 of 2017; National Police Service Act No 11(a) of 2011, The Prevention of Terrorism Act No. 30 of 2012; IPOA Act No.35 of 2011; Victim Protection Act No 17, 2014; Witness Protection Act No 16 of 2006; and the Penal Code Cap 63. A summary of these statutory frameworks is highlighted in Table 1 as follows.

Table 1: Summary of Statutory Frameworks

Statute/Law	Summary on Provisions for Human Rights and Dignities	Gaps
The Constitution of Kenya 2010	<p>Chapter 4: The Bill of Rights</p> <p>The following rights and fundamental freedoms shall not be limited under any circumstances: (a) freedom from torture and cruel, inhuman, or degrading treatment or punishment; (b) freedom from slavery or servitude; (c) the right to a fair trial; and (d) the right to an order of habeas corpus (A recourse in the law that ensures a person under arrest is brought before a judge or court to determine if he is being held lawfully).</p>	The Constitution of Kenya neither defines torture nor does it provide a framework for the reparation of victims of torture.
Prevention of Torture Act No 12 of 2017	<p>This Act implements Kenya's obligations under the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, which it ratified on 21 February 1997, as well as provides for the prevention, prohibition, and punishment of such acts as well as reparations to victims. Articles 4 to 8 of this act define and criminalize torture and the offense of cruel, inhuman, and degrading treatment or punishment, as well as aiding and abetting the aforementioned and using information obtained through torture.</p>	<p>It does not include pain or suffering due to lawful sanctions.</p> <p>Does not consider torture occasioned by officers, not on official duty.</p> <p>Does not consider overt and covert forms of torture sanctioned by officers but executed by militia's.</p>

Statute/Law	Summary on Provisions for Human Rights and Dignities	Gaps
<p>National Coroners Act No 18 of 2017</p>	<p>Under Section 29 of the Act, the coroner for purposes of investigations is given powers to collect forensic evidence and to preserve it as may be necessary. All inquests, and for this case, those related to torture /murder occasioned by those in authority fall under the jurisdiction of the Coroner as stipulated in section 5. Section 30 (4) notes that “for purposes of criminal investigation and subsequent prosecution of an offense under any written law, the coroner shall submit an interim report to the National Police Service and the Director of Public Prosecutions or any other relevant Authority within twenty-four hours of notification of a death under this Act’. Within seven days, the coroner should submit the final report to the DPP and the National Police Service. The coroner’s report can be relied on as primary evidence on the cause of the investigated death.</p>	<p>The national Coroner’s office has not been established, nor funded for effective forensic documentation, both at the national and County levels.</p> <p>Operationalization of the Act is yet to happen 3 years after passage of the Act.</p> <p>Lack of the establishment of the Coroners offices has diminished national investigative and forensic documentation capacity which is essential for inquests related to torture cases.</p>
<p>National Police Service Act No 11(a) of 2011</p>	<p>The Act provided for the establishment of the services of the Internal Affairs Units (IAU) equipped to conduct investigations into police misconduct fairly and effectively and report directly to the Inspector-General. The IAU is empowered to act on the recommendations of the Independent Policing Oversight Authority, including compensation to victims of police misconduct; and The Act also provides for Service Standing Orders that guide police conduct.</p>	<p>The IAU has not been able to effectively conduct investigations into police misconduct that lead to interdiction or conviction for perpetrators under the Prevention of Torture Act.</p>
<p>The Prevention of Terrorism Act No. 30 of 2012</p>	<p>The State has an obligation to protect its citizens from internal and external threats, and it must maintain the delicate balance between protecting the fundamental rights of citizens and protecting them from terrorists by providing national security.</p>	<p>In most instances, the state has used the Act to justify torture of perceived extremists as a mechanism to extract information; has held members of extremists’ groups incommunicado; while others have disappeared /killed while in police/military custody.</p>

Statute/Law	Summary on Provisions for Human Rights and Dignities	Gaps
IPOA Act No.35 of 2011	<p>IPOA is mandated to investigate complaints of police misconduct including all deaths and serious injuries caused in police custody, or as a result of police actions (caused by the police). The IPOA also monitors the operations of the police that affect the public, patterns of police misconduct and oversees the handling of complaints by the National Police Service Internal Affairs Unit. Based on its investigations and monitoring, it can make recommendations to improve the police or hold particular police officers accountable.</p> <p>One of the challenges IPOA has faced is the limited budgetary allocation that is not sufficient to execute its mandate fully.</p>	<p>In most instances, police who are found culpable of misconduct are usually transferred from the duty station where they committed misconduct to another new station. Regular engagements with NPS top leadership and other relevant institutions do not seem to have a well-established framework for ensuring enforcement and compliance with disciplinary protocols.</p>
Victim Protection Act No 17,2014	<p>Victim Protection Act recognizes the right to protection, including special protection for vulnerable victims. A victim has a right to (a) be free from intimidation, harassment, fear, tampering, bribery, corruption, and abuse; (b) have their safety and that of their family considered in determining the conditions of bail and release of the offender, and (c) have their property protected.</p>	<p>The Act came into force in late 2014, there is insufficient information on how it has been applied in practice nor the annual budgetary allocations that go to fund, and how many people have able to access fund for purposes of protection.</p>
Witness Protection Act No 16 of 2006	<p>The Witness Protection Act does not specifically provide for victims of torture and other ill-treatment but provides for the protection of witnesses “if they are witnesses of the state or its collaborators (e.g. international bodies) in criminal proceedings.</p>	<p>The deficiency in protecting victims of torture and other ill-treatment has been catered for in the Victims Protection Act of 2014.</p>
Penal Code Cap 63	<p>Article 241 of the Penal Code provides that “any person authorized by law or by the consent of the person injured by him to use force is criminally responsible for any excess, according to the nature and quality of the act which constitutes the excess”.</p>	<p>The penal Code does not articulate what the “excesses” constitute, nor stipulate specific acts of torture by those in authority. However, this has been remedied in the Prevention of Torture Act.</p>

Statute/Law	Summary on Provisions for Human Rights and Dignities	Gaps
Basic Education Act No.14 of 2013	Section 4(p). (Under the guiding principles), stipulates the elimination of gender discrimination, corporal punishment or any form of cruel and inhuman treatment or torture.	Elimination of gender discrimination, corporal punishment or any form of cruel and inhuman treatment or torture in place but monitoring mechanisms to ensure compliance need to be enhanced.
Kenya Defense Forces Act No. 25 of 2012	Section 270 of the Act prohibits torture or cruel treatment (1) A member of the Defence Forces shall not subject any person to torture, cruel, inhuman or degrading treatment. (2) A member of the Defence Forces who subjects a person to torture commits an offence and is liable on conviction to a fine not exceeding ten million shillings or imprisonment for a term not exceeding twenty-five years or both.	Members of the Defense Forces have been accused of torture and inhumane treatment when dealing with terrorism related cases in Kwale, Mt. Elgon, Garissa regions. However, no action has been taken, which raises question on effectiveness of this section of the Act.

As noted in the Table summary, The Victim Protection Act of 2014 provides for the rehabilitation of victims of human rights violations. A Victim Protection Trust Fund was to be established under the Act and resourced from the State budget and donations. However, the fund has not been operationalized. Secondly, a Protection Board created under the Act has been established with a mandate to take measures to rehabilitate victims of torture, yet, there is no substantive evidence towards such rehabilitation and compensation measure, save from few anecdotal cases such as the 947 million compensation awarded to the late Kenneth Matiba³⁶, that is yet to be fully honored by the state.

2.5 Regional and International Legal Instruments

Kenya has signed and adopted various International Treaties that uphold human rights. However, the implementation of these International Treaties has not been adequate. This is because Kenya has not ratified the Optional Protocols to the International Covenant on Civil and Political Rights (ICCPR); International Covenant on Economic, Social and Cultural Rights (ICESR); Convention on the Elimination of All Forms of Discrimination against Women

³⁶ Kenneth Stanley Njindo Matiba v Attorney General [2017] eKLR, Petition 94 of 2014.

(CEDAW); and Optional Protocol to the Convention on the Rights of Persons with Disabilities (CRPD) which recognize the competence of established supervising Committees to hear individual complaints against state parties. The status and validity of International Treaties and their application as Kenyan law are recognized under article 2(6) of the Constitution of Kenya 2010. In this regard, torture victims and survivors can seek protection and socio-economic remedies by laying claim on article 2(6) of the Constitution of Kenya 2010 for International Treaties and Conventions. The summary of other Treaties and Conventions is summarized in Table 2.

Table 2: Regional and International Legal Instruments

Treaty /Convention	Status	Date
The International Covenant on Civil and Political Rights (ICCPR) is a multilateral treaty adopted by United Nations General Assembly Resolution 2200A (XXI) on 16 December 1966, and in force from 23 March 1976 under Article 49 of the covenant. The law recognizes that rights derive from the inherent dignity of the human person; that human beings are free to enjoy civil and political freedom and freedom from fear and want including economic, social, and cultural rights ³⁷	Accession	23.03.1976
The Universal Declaration of Human Rights (UDHR) is an international document adopted by the United Nations General Assembly that enshrines the rights and freedoms of all human beings under UNGA Resolution 217 on 10 December 1948. The Declaration consists of 30 articles detailing an individual's "basic rights and fundamental freedoms" and affirming their universal character as inherent, inalienable, and applicable to all human beings. The UDHR commits nations to recognize all humans as being "born free and equal in dignity and rights" regardless of "nationality, place of residence, gender, national or ethnic origin, color, religion, language, or any other status" ³⁸	Ratified	July 31 st , 1990
First Optional Protocol to the International Covenant on Civil and Political Rights is an international treaty establishing an individual complaint mechanism for the International Covenant on Civil and Political Rights (ICCPR). It was adopted by the UN General Assembly on 16 December 1966 and entered into force on 23 March 19 ³⁹	Not Signed nor Ratified	
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT) is an international human rights treaty, under the review of the United Nations, that aims to prevent torture and other acts of cruel, inhuman, or degrading treatment or punishment around the world. Convention was adopted by the United Nations General Assembly on 10 December 1984	Accession	21 Feb 1997

Treaty /Convention	Status	Date
African [Banjul] Charter on Human and Peoples' Rights is an international human rights instrument that is intended to promote and protect human rights and basic freedoms in the African continent. It was adopted on November 2, 1987, in Addis Ababa, Ethiopia	Accession	23 Jan 1992
The International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED) is an international human rights instrument of the United Nations and intended to prevent forced disappearance defined in international law, crimes against humanity. The text was adopted by the United Nations General Assembly on 20 December 2006 and opened for signature on 6 February 2007. It entered into force on 23 December 2010 ⁴⁰	Not Signed nor Ratified	Signed on 6 February 2007

One of the challenges with the enforcement of the international treaties and conventions is that in some cases, Kenya has ratified these conventions, but has deliberately declined to put mechanisms for implementation. In other cases, the treaties and conventions are signed but not ratified, which impedes implementation. For instance, The International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED), which Kenya has signed but not ratified is a good example. The ICPPED defines an 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 the liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law.”⁴¹ Signing a treaty creates an obligation to refrain, in good faith, from acts that would defeat the purpose of the treaty. Kenya’s ruling class has over the years, refused to acknowledge arresting or detaining people who have gone missing, or investigate their whereabouts, which in essence, defeats the obligation of the state to the convention.

³⁷ Kenya Law. Available at: <http://kenyalaw.org/treaties/treaties/159/International-Covenant-on-Civil-and-Political-Rights>

³⁸ <https://www.ohchr.org/EN/UDHR/Pages/UDHRIndex.aspx>

³⁹ “UN Treaty Collection, Status of the First Optional Protocol to the ICCPR”. UN OHCHR. Retrieved 14 October 2011. <https://indicators.ohchr.org/>

⁴⁰ https://treaties.un.org/doc/Publication/CTC/Ch_IV_16.pdf

⁴¹ UN General Assembly, Declaration on the Protection of all Persons from Enforced Disappearance, 18 December 1992, A/RES/47/133. <http://www.ohchr.org/EN/HRBodies/CED/Pages/ConventionCED.aspx>. Signing a treaty creates an obligation to refrain, in good faith, from acts that would defeat the object and the purpose of the treaty. See Vienna Conventions on the Law of Treaties, art. 18. See also, Section 33 of the Criminal Procedure Code, read along with article 49 of the Constitution, require police to take those arrested without an arrest warrant to court within 24 hours.

2.6 Active Torture Cases before Courts

This study sought to document the current torture cases that are active before courts. In Kenya, several NGOs that do programming around human rights, document cases of police misconduct and torture. Cases documented in this report are limited to those reported and filed with IPOA for investigation and legal action. Specifically, these cases filed by IPOA by December 2019, highlighting (75) case files were before courts, out of which, (31) of these case files were at advanced court hearing stage, 29 at a fresh hearing, 12 were still under investigations by the NPS, 1 each at plea taking, judgment and defense hearing stages respectively⁴².

Table 3: Summary of Active Torture Cases before the Courts

S. No	Court Case No.	Description	Jurisdiction
Advanced court hearing stage – Pending expert witnesses and the investigating officers to testify before the prosecution case closes			
	HCCR No. 80/2015 Rep Vs Narok County Ranger	Offense: Murder c/sec 203 as read with section 204 of the Penal Code. Complainant(s)/ deceased(s): Sikona Ole Muntet. Accused: Narok County ranger Julius Tapolis Dikiir	NAIROBI Milimani Law Courts
	C.M.CR.C 1398 Of 2015 Rep Vs County ranger Moses Kuyoini and Sergeant Samuel Kishoyian	Offense/charges: Attempted murder contrary to section 220(a) of the Penal Code. Grievous Harm c/sec 234 and unlawful wounding of persons of the Penal Code. Unlawful wounding of the person contrary to section 237(a) of the Penal Code Complainant(s)/deceased(s): James Kimpila Ntempei, Allan Mengati, Jackson Saruni Kool Phillip Kisio, the Accused person(s): Narok County rangers: Moses Kuyoini & Samuel Kishoyian	NAIROBI Milimani Law Courts
	HCCR 101 /2015 Rep Vs Patrick Thurania	Offense/charges: Murder c/sec 203 as read with section 204 of the Penal Code. Complainant(s)/ deceased(s): Egerton. University students, Dennis Ongwae, Felix Ngaywa Accused person(s): Patrick Thurania	NAIROBI Milimani Law courts

⁴² IPOA (2019) Performance Report, July-December, Pg. 18.

S. No	Court Case No.	Description	Jurisdiction
	INQ 10/2016	Offense/charges: INQUEST Complainant(s)/deceased(s): Deceased-Fredrick Mburu Accused person(s): killing caused by Poisoning while in Police Custody.	NAIROBI Chief Magistrates Court Milimani
	NQ 1/2017	Offense/charges: INQUEST Complainant(s)/deceased(s): Deceased-Kennedy Wamalwa, James Wanjala Justus Okuatch, Shaban Ramadhan Accused person(s): Killings were caused by police shooting in Busia	BUSIA Busia Chief Magistrates Court
	HCCR 5 of 2015 Nakuru	Offense/charges: Murder c/sec 203 as read with Section 204 of the Penal Code Complainant(s)/deceased(s): Caren Chepkoech Accused person(s): SILAS Murimi, Reuben Maina, and Wycliffe Wangila Sikuku	NAKURU Nakuru High Court
	CF 2114 OF 2016	Offense/charges: Manslaughter Complainant(s)/deceased(s): Mwang'ombe Maganjo Accused person(s): APC Samuel Chege and APC Jackson Letinina	NYAHURURU Nyahururu Law Courts
	HCCR 36 of 2016	Offense/charges: Murder c/sec 203 as read with Section 204 of the Penal Code Complainant(s)/deceased(s): Moses Wanyoike Accused person(s): PC Evans Maliach Wiyema	NAIVASHA Naivasha High Court
	HCCR No. 14/2015 Rep Vs Police	Offense/charges: Murder c/sec 203 as read with section 204 of the Penal Code. Complainant(s) (Deceased): Family Deceased: Patrick Kanyi Accused person(s): PC Chibungu Sanga	NYERI
	Inquest No. 15/2016	Offense/charges: N/A Complainant(s)/deceased(s): Erastus Abok Accused person(s): Public Inquest	NAIROBI Milimani Law Courts
	HCCR 16/2016 Rep vs Dennis Odhiambo	Offense/charges: Murder c/sec 233 as read with section 234 of the Penal Code. Complainant(s)/deceased(s): Emily Naliaka Accused person(s): Dennis Odhiambo (Bungoma Police Station)	BUNGOMA Bungoma High Court
	Inquest No. 3/2017	Offense/charges: Inquest Deceased-Saida Hussein Accused person(s): Public Inquest	ISIOLO Isiolo Law Courts

S. No	Court Case No.	Description	Jurisdiction
	Inquest No. 1/2016	Offense/charges: N/A Complainant(s)/deceased(s): Mwangi Accused person(s): Public Inquest	NAIROBI Milimani Law Courts
	CR 961/119/2018	Offense/charges: Rape Victim-Sarah Atyang Accused person; Police Constable James Kinyua	Busia
	Inquest No. 14/2017	Offense/charges: Inquest Deceased: Minor Stephanie Moraa Accused person: Death by police officers during demonstrations in Mathare Area, Nairobi	Nairobi Milimani Courts
	Inquest No. 12 /2017.	Offense/charges: Inquest Deceased-Nura Malicha Accused person; Public Inquest	NAIROBI Milimani Law Courts
	Inquest No. 15/2017	Offense/charges: Inquest Deceased-Leonard Mramba Accused person; Allegations of cruel and inhumane treatment by officers stationed at Nyali Police Station resulting in the death of Leonard Mramba	MOMBASA Mombasa Law Courts
	HCCR 57/2016	Offense/charges: Murder Deceased-Willie Kimani Accused person; Fredrick Leliman, Leonard Mwangi	NAIROBI Milimani High Court
	SO. 19/2018 Rep Vs Anthony Ongere Moseti	Offense/charges: Rape c/sec 3(1) as read with section 393) of the sexual offenses Act No.3 of 2006. Complainant(s)/deceased(s): Violet Oseko Accused person(s): PC Anthony Ongere Moseti	NAIROBI Milimani Law Courts
	SO. 2/2018	Offense/charges: defilement c/sec 3(1) as read with section 393) of the sexual offences Act No.3 of 2006. Complainant(s)/deceased(s): JNK Accused person(s): PC Paul Rotich	KIAMBU Kiambu Law Courts
	Inquest no. 6 of 2017	Offense/charges: Inquest Complainant(s) (Deceased): Family Deceased: Silas Leboo	Milimani Law Courts
	CR.C NO 3 Of 2016 Rep Vs Isaac Sirengo Siatani	Offense/charges: Murder c/sec 203 as read with Section 204 of the Penal Code Complainant(s)/deceased(s): Edward Kipchumba Accused person(s): C.I Isaac Sirengo Siatani	Nandi Eldoret Law Courts

S. No	Court Case No.	Description	Jurisdiction
	HCCR 20/2016 Rep Vs Hillary Nyatodo Oyugi.	Offense/charges: Murder c/sec 203 as read with section 204 of the Penal Code. Complainant(s) (Relative): Veronica Njeri. Deceased: Julius Karanja Mwangi Accused person(s): PC Hillary Nyatodo Oyugi	MURANGA Muranga Law Courts
	HCCR 24/2017	Offense/charges: Murder c/sec 203 as read with section 204 of the Penal Code Deceased-Paul Kipngeno Bett Accused person; Amos Okoth	NAIROBI Milimani Law Courts
	HCCR 9/2018	Offense/charges: Murder c/sec 203 as read with section 204 of the Penal Code. Complainant(s) (Relative): Kulmiye Ali Adan. Deceased: Yusuf Ali Adan Accused person(s): Cpl. Adan Boru	Garissa High Court
	CR.C 563 Of 2018 Rep Vs Cpl. Adan Boru	Offense/charges: Grievous Harm c/sec 234 of the Penal Code Complainant(s)/deceased(s): Yusuf Ali Adan Accused person(s): Cpl. Adan Boru	Garissa High Court
	CR 6/2019 Rep Vs Martin Maina	Offense/charges: Grievous Harm c/sec 234 of the Penal Code Complainant(s)/deceased(s): Simon Chokera Accused person(s): Martin Maina	Machakos Law courts
	H.C.C.R 59/2018	Offense/charges: Murder c/s 203 as read with 204 Complainant(s)/deceased(s): Evans Njoroge (Meru University Student leader) Accused person(s): APC Leakey Maina	Meru High Court
	H.C.C.R 39/2019	Offense: Murder c/s 203 as read with 204 Complainant(s)/deceased(s): Erick Mwendwa Accused person(s): CPI Salesa Galgalo and Sub-Chief Kennedy Karuwa	Meru High Court
	INQUEST 7/2016	Complainant(s)/deceased(s): Deceased- Eric Ouma Ndia, Joseph Ongoro Child Injured- Benedict Otieno David Okongo Accused person(s): killings by the NPS after the verdict of the Supreme Court on Presidential elections in March 2013 in Kisumu County	KISUMU Kisumu Law Courts
		Fresh Hearings	

S. No	Court Case No.	Description	Jurisdiction
	CR.C 721 of 2016	Offense/charges: Grievous Harm c/sec 234 of the Penal Code Complainant(s)/deceased(s): Anthony Mwangi Muthoni Accused person(s): CI George Anyonje Ndirire	MURANG'A Muranga Law Courts
	Court Case No: TCR 134 OF 2016 Case derailed by the disappearance of the officer hence there is a warrant of arrest	Offense/charges: Causing death by dangerous driving c/sec 46 of the Traffic Act and a further charge of reckless driving c/sec 47 of the Traffic Act. Complainant(s)/deceased(s): Deceased-Mohammed Ibrahim Injured-Alfred Odhiambo Accused person(s): PC Patrick Sigilai	WAJIR Wajir Law Courts
	CMCC 426/2018	Offense/charges: Causing Grievous harm Complainant(s)/deceased(s): Julius Mutuku Kioko Accused person(s): APC George Kinuthia Njuguna	MACHAKOS Kangundo Law courts
	INQ1of 2018	Offense/charge: Inquest Complainant/Deceased: Jason Ndindiri Chui Accused person: (Public Inquest)	KIAMBU Kiambu Law Courts
	INQ 278/2018	Offense/charges: Grievous harm Complainant/Deceased: Ann Wanjiru Ndira Accused person: PC Kipkorir Tanui	KIAMBU Limuru Law Courts
	Inquest No. 4/2018	Offense/charge: Inquest Complainant(s) (Deceased): Family Deceased: Francis Mainyura	KISII Kisii Law Courts
	CF NO. 1928/2018 Rep VS George Gucha Onyango	Offense/charges: Manslaughter c/s 202 as read with 205 of the Penal Code, matter to proceed to court Complainant(s) (Deceased): Asha Kwekwe Abdalla Accused person(s): George Gucha Onyango	MOMBASA Mombasa Law Courts
	HCCR NO 34/2018	Offense/charges: Murder c/c 203 as read with 204 of the penal code Complainant(s) (Deceased): Family Deceased: Alexander Monson Accused person(s); Naftali Chege. Charles Munyiri, Ismael Baraka, and John Pamba	MOMBASA Mombasa High Court
	CF 93/2019	Offense/charges: Grievous harm C/s 234 of the Penal code. Complainant(s) (Deceased): James Peter Ngigi Accused person(s); John Mutheka	MURANGA Murang'a High Court

S. No	Court Case No.	Description	Jurisdiction
	HCCR 9 OF 2018	Offense/charges: Murder C/s 204 of the Penal code. Complainant(s) (Deceased): Yusuf Adan Ali Accused person(s); Adan Boru Galicha	GARISSA Garissa High Court
	CR 1825 /2019	Offense/charges: Grievous harm Complainant/Deceased: Edward Mathenge Accused person: PC Rufus Muriithi	Makadara
	INQ 2 /2019	Offense/charges: Inquest Complainant(s)/deceased(s): Said Jillo Accused Person: (Public Inquest)	Tana River Hola law courts
	CMCC 39/2019 Petition 16/2019	Offense/charges: Murder c/s 203 as read with 204 Complainant(s)/deceased(s): Erick Mwendwa Accused person(s): Salesa Galgalo	Meru
	INQ 2/2019	Offense/charges: Inquest Complainant(s)/deceased(s): Mangi Kerao Accused Person: (Public Inquest)	KILIFI Malindi law courts
	HCCR NO 73/2016	Offense/charges: Murder c/sec 203 as read with section 204 of the Penal Code. Complainant(s)/deceased(s): REP THRU Michael Asenga Luka Accused: PC Michael Masai and PC Mark Nyongo	ELDORET, High Court Petition at Eldoret High Court.
	HCCR 52/2018	Offense/charges: Murder Deceased-Francis Wekesa Karakacha Accused person; PC David Ochieng	KAKAMEGA Kakamega High Court
	CMCC 2842/2018	Offense/charges: Murder Deceased-Francis Wekesa Karakacha Accused person; PC David Ochieng	NAKURU Molo Law Courts
	CR 686/2019	Offense/charges: Murder c/s 203 as read with 204 Complainant(s)/deceased(s): Abdi Ali Dirsame Accused person(s): Julius Cheruiyot	KAJIADO Ngong Law Courts
	HCCR 3/2019	Offense/charges: Murder c/sec 203 as read with section 204 of the Penal Code. Complainant/deceased: Abdia Omar Adan Accused: Dennis Lagat & Kennedy Okuli	GARRISA Garrisa High Court

S. No	Court Case No.	Description	Jurisdiction
	CMCC 594/2019	Offense/charges: Assault Complainant(s)/deceased(s): REP THRU Michael Asenga Luka Accused person(s): John Njagi	EMBU Embu Law Courts
	HCCR 2/2019	Offense/charges: Murder c/sec 203 as read with section 204 of the Penal Code. Complainant(s)/deceased(s): Accused person(s): Simeon Oyoo	MALINDI Malindi High court
	CMCC 555/2019	Offense/charges: Causing grievous harm Complainant(s): Moses Kariuki Gatungo Accused person(s): APC Geoffrey Mwangi	KIAMBU Kikuyu Law Courts
	CMCC 493/2019	Offense/charges: Assault Complainant(s): John Muchama Accused person(s): CPL Martin Chege	KAJIADO Ngong Law Courts
	INQ/15/2019	Offense/charges: Inquest Complainant/Deceased: Benson Waweru Accused person: Public Inquest	Uasin Gishu County Eldoret law courts
	HCCR No. 31 of 2016	Offense/charges: Murder c/c 203 as read with 204 of the penal code Complainant(s) (Deceased): Family Deceased: Odhiambo Ouma Herbert Accused person(s); Silas Waswa Wasalwa & George Odhiambo Omune	KAKAMEGA Kakamega High Court
	HCCR 26/2016	Offense/charges: Murder Deceased- Ngadi Malia Accused person; Gilbert Maina & 3 Others	KITUI Kitui High Court
	Rep Vs S/SGT JAMES RANGE	Offense/charges: Murder c/sec 203 as read with section 204 of the Penal Code. Complainant(s)/deceased(s): REP Thru Jared Omwansu Omune Accused: S/SGT James Range	KISII Kisii High Court
	Rep Vs Laban Njogu Maina	Offense/charges: DEFILEMENT c/sec of the Penal Code. Complainant(s)/deceased(s): Minor/Deceased Accused: Laban Njogu Maina	MURANGA Muranga Law Courts
	Inquest	Offense/charges: Inquest Complainant(s)/deceased(s): Benson Waweru Accused: Public Inquest	ELDORET Eldoret Law Courts

S. No	Court Case No.	Description	Jurisdiction
	Inquest 18/2014	Offense/charges: Police Inquest Deceased-Khamis Yusuf Accused person; was assaulted by AP officers from Kakamkuywa	BUNGOMA Kimilili law courts
	Inquest 1/2019	Offense/charges: Inquest Complainant(s)/deceased(s): Wilson Tunya Accused person: Public Inquest	VIHIGA Vihiga Law Courts
	HCCR 2/2019	Offense/charges: Murder Complainant/deceased: George Namalwa Wekesa Accused person: PC Francis Iyaya	BUNGOMA Bungoma High Court
	HCCR 26/2016	Offense/charges: Murder Deceased-Ngadi Malia Accused person; Gilbert Maina & 3 Others	KITUI Kitui High Court
	Inquest No. 1/2016 Plea Taking the stage	Offense/charges: INQUEST Complainant(s)/deceased(s): Ibrahim Gutu Accused person(s): Benson Mulinge, Michael Rotich & Osoi Sakimba	HOLA Hola Law Courts
	CR 1167/2015 Defense Hearing stage	Offense/charges: Attempted murder contrary to section 220(a) of the Penal Code. Grievous Harm c/sec 234 and unlawful wounding of persons of the Penal Code. Unlawful wounding of the person contrary to section 237(a) of the Penal Code Complainant(s)/deceased(s): Ibrahim Shid Hassan Accused person(s): Edward Wanyonyi Makokha	GARRISA Garissa Law Courts

3. SITUATIONAL ANALYSIS UNDER COVID-19 ENVIRONMENT

3.1 Introduction

The first case of COVID-19 was reported on March 13, 2020. By November 11, 2020, when this report was done, Kenya had reported 64,588 cases, out of which 43,095 had recovered, and 1,154 death had been recorded. This chapter examines cases of the inhumane treatment that has been meted on citizens by police in the process of enforcing COVID-19 curfew and regulations.

3.2 Inhumane Treatment under COVID-19 Environment

The curfew declared by President Uhuru Kenyatta on March 25, 2020, as a mechanism to contain the spread of COVID-19 infections came into force on March 27, 2020, with the curfew extending from 7 p.m. to 5 a.m. daily. Movement by all persons was prohibited except for persons categorized as “critical and essential service providers”. Violating the curfew was to be met with an Sh10,000 (\$96) fine, three-month imprisonment, or both⁴³. However, the enforcement mechanisms by security agencies contributed to the gross violation of fundamental human rights and liberties. Incidences of arbitral arrest before curfew hours, use of lethal and brutal force by police, and harassment were reported. In Mombasa for instance, police officers were filmed using brutal force beating people waiting for a passenger ferry including journalists who were covering the events.⁴⁴ The use of force by police officers should be within the law, proportionate and adequate to enforce arrests without bringing harm to themselves. However, the initial enforcement of the curfew in most regions was indiscriminate, abusive, inhumane, and violent as depicted in some of the video clips captured in the Mombasa region.⁴⁵

⁴³ See: <https://www.capitalfm.co.ke/news/2020/03/govt-to-impose-7pm-to-5am-curfew-beginning-friday-to-contain-coronavirus/>

⁴⁴ <https://www.aljazeera.com/news/2020/04/fury-kenya-police-brutality-coronavirus-curfew200402125719150.html>

⁴⁵ <https://www.youtube.com/watch?v=zGpsJemuKhw>

IPOA preliminary monitoring of the curfew enforcement had revealed that 15 people had died due to police brutality, and thirty-one (31) incidents of serious injuries had been reported due to the use of excessive force by the police.⁴⁶ According to the situational report by IMLU in April 2020 covering Kakamega, Busia, Nairobi, Mombasa, Kilifi Nakuru, and Homabay counties, 25 cases of torture, ill-treatment, and extra-judicial executions (EJEs) were reported.⁴⁷ Out of the 25 cases, 6 were deaths 19 were injuries from police beatings. The gender disaggregation shows that out of the 25 cases recorded, 20 were male and 5 female and aged between 13 and 52 years⁴⁸, out of which Busia County had the highest number of cases (11), followed by Nairobi with (7), Kakamega and Nakuru had three each (6) and Kwale (1). In Nakuru, four police officers had been interdicted for allegedly clobbering and causing injuries to two members of the public while enforcing the dusk to dawn curfew in Nakuru Mauche village within Njoro Sub-County and another in Kaptembwa within Nakuru Town West Constituency.⁴⁹

Another study conducted by Haki Africa in Mombasa on the State of Human Rights at the Coast During the Covid-19-Pandemic (March-May 2020) shows that out of the twenty (20) people who had been killed as a result of direct enforcement of the COVID-19 pandemic, four (4) were directly linked to police brutality⁵⁰. During the same period, 2 persons were alleged to have disappeared as a result of police actions. Additionally, there were 23 cases of torture, police brutality, and assault reported by Haki Africa over the same period of March-May 2020. Table 4 and 5 highlights the summary of the cases.

⁴⁶ <https://citizentv.co.ke/news/kenya-police-have-killed-15-people-injured-31-in-covid-19-curfew-enforcement-ipoa-334522/>

⁴⁷ The situation of human rights protection in the measures to combat covid-19 pandemic <https://www.imlu.org/index.php/component/k2/item/55-the-situation-of-human-rights-protection-in-the-measures-to-combat-covid-19-pandemic>

⁴⁸ IMLU Report, Pg. 9.

⁴⁹ <https://www.kenyanews.go.ke/four-nakuru-police-officers-interdicted-over-curfew-brutality/>

⁵⁰ <http://haki africa.or.ke/wp-content/uploads/2020/06/State-of-Human-Rights-at-the-Coast-During-the-Covid-19-Pandemic-March-May-2020.pdf>

Table 4: Torture and Police Brutality Reported by IMLU During COVID-19

No.	Date	Name	Age	County	Injuries/ Death
1	2 nd April 2020	YHM	13	Nairobi	Death from police shooting
2	1 st April 2020	EN	23	Kwale	Death from police beating
3	29 th March 2020	RM	24	Nairobi	Injuries from police beating
4	3 rd April 2020	PGG	46	Nairobi	Death from police beating
5	5 th April 2020	DKK	23	Nakuru	Death from police beating
6	1 st April 2020	MMK	32	Nakuru	Injuries from police beating
7	30 th March 2020	FKK	Adult	Nakuru	Injuries (broken arm) from police beating
8	2 nd April 2020	C	Adult	Nairobi	Injuries from police beating
9	2 nd April 2020	MM	Adult	Nairobi	Injuries from police beating/ arrested by officers from the Kayole Police Station and arrested and released without any charges
10	2 nd April 2020	FM	19	Nairobi	Injuries from police beating/arrested by officers from the Kayole Police Station and arrested without any charges
11	6 th April 2020	DK	Adult	Nakuru	Death by KWS Officers
12	2 nd April 2020	RJ – Mentally Challenged	35	Kakamega	Death by beating
13	4 th April 2020	ZML	Adult	Kakamega	Injuries from police beating
14	30 th April 2020	PO	Adult	Kakamega	Injuries from police beating
15	3 rd April 2020	BK	52	Busia	Injuries from police beating

No.	Date	Name	Age	County	Injuries/ Death
16	3 rd April 2020	GO	28	Busia	Injuries from police beating
17	3 rd April 2020	RO	42	Busia	Injuries from police beating
18	3 rd April 2020	BA	14	Busia	Injuries from police beating
19	3 rd April 2020	DM	15	Busia	Injuries from police beating
20	3 rd April 2020	SB	49	Busia	Injuries from police beating
21	3 rd April 2020	EO	22	Busia	Injuries from police beating
22	3 rd April 2020	WB	35	Busia	Injuries from police beating
23	3 rd April 2020	JO	16	Busia	Injuries from police beating
24	3 rd April 2020	GO	19	Busia	Injuries from police beating
25	29 th March 2020	JO	Adult	Busia	Injuries from police beating

Source (IMLU, 2020).

Table 5: Extrajudicial Killings in the Coastal Region During COVID-19 Curfew

Name	Age	Date and Location	Case Brief
1. Hamisi Juma	49 Years	28/3/2020 Ng'ombeni, Kwale	Hamisi Juma was allegedly attacked by police officers for flouting curfew regulations. According to the family, the late Hamisi arrived home around 7:30pm writhing in pain and complaining that he had been beaten by police. It was alleged that Hamisi was returning home after dropping a pregnant woman at the hospital with his boda-boda motorcycle in the Likoni area. Hamisi died 3 days later from the injuries. However, police claimed that Hamisi got the injuries after falling in the ditch with his motorcycle while trying to avoid arrest

Name	Age	Date and Location	Case Brief
2. Erick Ngethe	22 Years		Erick was alleged to have been at a local pub in Ukunda past curfew hours when police officers raided the place to disperse revelers. It is alleged that a tear gas canister was thrown inside the pub causing the revelers to run. In the process, Erick was caught by the police, and beaten unconsciously. Erick succumbed to the injuries and dies a few hours later. The matter is with IPOA for investigations
3. Albanas Mwema	Elderly (age not available)	3/4/2020 Kwale	Albanas was a cobbler at Ibiza in Ukunda. He was coming from work on 2 nd April around 8 p.m (past curfew time) when he met police officers on Patrol. It is alleged that he was clobbered by police for flouting the curfew. It is alleged that Albanas was found dead at his doorstep on the morning of 3 rd April as he attempted to crawl to his house where he lived alone.
4. Abdallah Mohammed	45 Years	10/5/2020	Abdallah Mohammed was allegedly arrested by police in Tezo Roka Kilifi for violating the curfew regulations. Abdallah's family claims that he was assaulted by the police, which resulted in his death later while receiving treatment in a nearby clinic

Source: (Haki Africa, 2020)

Table 6: Torture and Inhumane Related Violations During COVID-19 Curfew in Coastal Region

Name	Age	Date and Location	Case Brief
1. 16 Ferry Users	N/A	27/3/2020 Likoni Ferry, Mombasa	Police who were stationed at Likoni Ferry used excessive force including beating ferry passengers, indiscriminately discharging tear gas in the crowd who were lining up to take the ferry to the mainland South. Sixteen (16) severe incidences that occurred during the fracas. The 16 recorded cases are for those for reported the case to Red Cross as they sought medical emergency treatment. There is a possibility that more people were beaten and injured, but the cases have not been recorded.
2. Asha Yusuf	58 Years	5/4/2020 Shanzu. Mombasa	Asha Yusuf was on her way home past 7 p.m curfew when an officer on patrol clobbered her unconscious. Asha was rushed to Coast general hospital, where it was recorded that she had lost two of her teeth from the police beating. The case was reported to Kiembeni Police station and IPOA for further investigation.
3. Purity Kavata	31 Years	24/4/2020 Chaani Mombasa	Police Brutally attached and beat up Purity Kavata for allegedly operating a bar in Chaani area past the 7 p.m curfew. The case was reported and being investigated by IPOA
4. Esther Kavutha	45 Years	24/4/2020 Chaani Mombasa	Esther Kavutha was assaulted by police officers from Chaani police station, while she was selling coffee at her shop. The case was reported to IPOA and is under investigation
5. Kalunda Kinyale	30 Years	24/4/2020 Chaani Mombasa	Kalunda alleged that police officers from Chaani police station assaulted her while she was at home around 8 p.m. The case was reported to IPOA and is under investigation
6. Mwashigadi Mwachofi	34 Years	1/5/2020 Voi, Taita Taveta	Mr. Mwachofi who worked for Shreeji Enterprises was allegedly assaulted by police in Voi, due to an altercation between him and his work colleagues. The case was reported to Voi police station

Name	Age	Date and Location	Case Brief
7. Charles Okello	35 Years	24/5/2020	Mr. Okello was allegedly assaulted by police officers from Inuka police station for failure to put on a face mask. The mater was referred to IPOA for investigations

Source: (Haki Africa, 2020)

Other cases reported by the Kenya National Commission on Human Rights in other regions are highlighted as follows:

Table 7: Torture and Related Police Abuses in other Regions (KNCHR)

Region	Case Description
Nambale - Busia County	At around 9.00 p.m police officers without any justifiable cause entered into a private homestead and indiscriminately assaulted all family members and destroyed properties
Githumu - Muranga County	A truck driver returning home after supplying maize flour, which is an essential service under the curfew order, was assaulted by police officers at 1915 hours and sustained serious injuries that required hospitalization
Halugho - Garissa County	A trader was opening her business when she was assaulted by the police and lost personal items including Kshs. 150,000 to the officers. In the process she also sustained serious injuries
Bureti - Kericho County	A clinical officer, who is an essential service provider, was shot on his leg while walking home from his place of work at around 7.10 p.m. He sustained serious injuries that required major surgery and a long hospital stay
Nakuru Town- Nakuru	A boda Boda rider who had taken a sick person to Nakuru Provincial General Hospital was assaulted by police officers for flouting the curfew order. He sustained a broken left arm and other serious injuries on his back and head as a result of the assault. He was admitted to the hospital as a result of sustained injures
Saboti, Trans Nzoia County	A man was assaulted by police officers for flouting the curfew order and he sustained a fracture on the left arm and other injures that required hospitalization.
Nyaribari Chache-Kisii	A Boda Boda rider was requested by a police officer to drop him at his workplace in a police station to get there on time. On his way back from the station heading to his home, he was stopped and assaulted by other police officers at 7.30p.m, He was arrested and detained for the night and continued to be assaulted. He was released without any charges been preferred. He sustained serious physical and mental injuries as a result of the ordeal

Region	Case Description
Kanangoni Kilifi County	The petitioner was assaulted during the enforcement of the curfew order. Four (4) police officers entered the petitioner's house and demanded that he leaves the house for flouting the curfew. When he tried to explain that he had not violated any curfew directives, the police officers pulled him outside and assaulted him. The next day he went to the Marereni police station to record a statement and the police officers refused to record it. A call from the KNCHR to the station OCS enabled him to record his statement.
Elburgon Nakuru County	The petitioner was assaulted by the area chief and three (3) police officers from the Elburgon police post. He sustained injuries leading to his admission at Nakuru provincial general hospital. The matter was reported at Elburgon police post where the petitioner alleges that no action has since been taken.
Mudete Vihiga County -	A 14-year-old girl was arrested for failing to wear a face mask in public. Despite her mother (a person with disabilities) requesting for her release on police bond, the child was detained at the police station and further held in an adult cell. This was against the Bail and Bond Policy which requires a police officer to consider the nature of a crime and the best interest of a child in granting police bail.
Embakasi Nairobi County	27-year-old sustained injuries after being assaulted and abandoned at the roadside by police officers who were enforcing curfew orders on 3 rd April 2020 at about 7.30 p.m. His family members picked him up at 9.00 pm. and were too scared of taking him to the hospital due to the curfew restrictions. He was taken to hospital on 4 th April 2020 and later succumbed to the injuries while receiving treatment.
Homabay County	On 24 th April 2020, a female adult was raped by persons who identified themselves as police officers at 9.00 p.m. while she was walking towards her house from her aunt's house. She was not able to access medical care until 25 th April 2020
Saboti, Trans Nzoia County	A man was assaulted by police officers who were enforcing the curfew orders on the evening of 29 th March 2020 He broke and fractured his left arm and was not able to access a medical care unit until the following day 30 th March 2020.

Source: KNCHR, 2020⁵¹

⁵¹ Pain and Pandemic Unmasking the State of Human Rights in Kenya in Containment of the COVID -19 Pandemic

3.3 Gender-Based Violence (GBV) Cases Under COVID-19 Environment

According to the Demographic Health Survey (2014)⁵², 45 percent of women and girls aged 15 to 49 have experienced physical violence and 14 percent have experienced sexual violence. Many cases are not reported to authorities and few women get justice or receive medical care. The restrictions imposed in response to the COVID-19 pandemic are likely to make it harder for survivors to report cases of abuse and seek help, or in cases where they seek help, to have service providers respond efficiently. Sexual and other forms of violence against women have devastating consequences including injuries and serious physical, mental, sexual, and reproductive health problems, including sexually transmitted infections, HIV, and unplanned pregnancies. A study by the Kenya National Bureau of Statistics (KNBS) showed that 23.6 percent of Kenyans have witnessed or heard cases of domestic violence in their communities since the introduction of COVID-19 containment measures.⁵³ In the period between 15th April to 3rd May 2020, 289 cases were reported to FIDA Kenya toll-free number, out of which, 81 cases were GBV related under COVID-19 lock-down.⁵⁴

Most of the GBV cases were reported from Nairobi, Kisumu, Mombasa counties. The nature of the GBV cases ranged from intimate partner violence, defilement, and rape, widow evictions, and violence by in-laws. According to the OCHA Kenya Situational Report (September 2020), the national GBV Hotline 1195 had received 810 cases as of 29 September 2020, compared to 646 cases in August 2020, an increase of 25 percent over the COVID-19 period.⁵⁵ A study was undertaken by the Ministry of Health and Population Council (April 2020) on COVID-19 Knowledge, Attitudes, Practices, and Needs which showed that 39 percent of women and 32 percent of men were experiencing tensions in their homes.⁵⁶ One of the major reasons provided for the increasing number of GBV cases was the many hours spent with abusive partners has exposed women

⁵² KDHS (2014). Available at: <https://dhsprogram.com/pubs/pdf/fr308/fr308.pdf>

⁵³ Report available at: <https://reliefweb.int/sites/reliefweb.int/files/resources/Situation%20Report%20-%20Kenya%20-%2010%20Aug%202020.pdf>

⁵⁴ FIDA-Kenya Statistics on Sexual and GBV cases reported through FIDA-Kenya's Toll-Free Number (0800720501) between 15th April to 3rd May 2020.

⁵⁵ Ibid.

⁵⁶ Kenya: COVID-19 Knowledge, Attitudes, Practices & Needs, Responses from second round of data collection in five Nairobi informal settlements (Kibera, Huruma, Kariobangi, Dandora, Mathare) April 13-14, 2020. Available at: https://www.popcouncil.org/uploads/pdfs/2020PGY_CovidKenyaKAPStudyResultsBriefRound2.pdf

and girls to more episodes of abuse. More hours spent home by abusers in addition to frustration and anger due to loss of jobs and livelihoods as a result of COVID-19 lockdown, job retrenchment, business closures have exacerbated women's and girls' exposure to abuse. Secondly, lockdown curfew measures have limited the options women and girls have in escaping from their relatives in other counties or upcountry.

4. SURVEY METHODOLOGY

4.1 Survey Design and Method

This torture survey adopted a descriptive research design. The choice of descriptive survey design enabled us to collect descriptive data. The survey utilized both qualitative and quantitative methodological approaches. The qualitative methodology enabled us to carry out an in-depth analysis and symbolic picture of torture and inhumane treatment in the informal settlements in Nairobi, Nakuru, and Garissa. This approach also helped us identify, formulate, verify, analyze, and interpret each finding thematically. On the other hand, the quantitative approach enabled us to collect survey data that present data findings in a numeric sense (numbers, trends, percentages, frequencies).

4.2 The Population and Sample Size

The population and sample size for this study were not computed based on a scientifically determined formula. This was due to constraints in time and financial resources able to cover scientific samples over the large population of Nairobi slums, Nakuru slums, and Garissa Slums. Instead, a rationalized sample size of 150 per region was adopted, making a total sample size of 450. However, the actual survey respondents were 477 (153 from Garissa, 154 from Nakuru, and 170 from Nairobi). A total of (14) Key Informant Interviews (KIIs) were conducted. This survey did not carry out any Focus Group Discussions (FGDs) that were not conducted due to the Ministry of Health COVID-19 restrictions.

4.3 Sampling Strategy

A list of slums in Nairobi, Nakuru, and Garissa were preselected to participate in the survey. In Nakuru (Gilani, Kaptembwa, and Kwa Rhoda); Nairobi (Fuata Nyayo, Mathare North, Mathare South, Mukuru Kwa Njenga, Mukuru Kwa Reuben, and Kibera); Garissa (Bulla Caadan, Bulla Hagar, Bula Taqwa, Bulla Yarey, and Garissa Ndogo). A simple random sampling technique was used to select households in the selected regions. For KIIs, purposive sampling was used. Purposive sampling was ideal in the sense that it provided researchers

with the ability to focus exclusively on informants with significant information from key government agencies such as IPOA and KNCHR; Human Rights NGOs such as Kenya Human Rights Commission (KHRC), Independent Medico-Legal Unit (IMLU); Amnesty International, Coalition of Human Rights Defenders, Shield for Justice Foundation; and other prominent individuals in the human rights sector.

4.3 Data Collection Tools

Survey data was collected using Smart Mobile Phone application – The Open Data Kit (ODK). First paper questionnaire tools were prepared and approved before they were converted to the ODK mobile platform. The key informant tool was administered via phone interviews. This was due to challenges with COVID-19 that have provided restrictions on access to some of the offices and individuals we were seeking to interview. Secondly, phone interview was a safe way to guarantee the safety of the key informants and our team, in addition to limiting contact and meetings through which the virus spreads. The list of secondary data reviewed is annexed.

4.4 Data Collection Process

The data collection process began with the training of enumerators. Each region had 5 enumerators, a total of 15 (8 Male, 7 Female). The training focused on the contents of the survey tool, how to deploy ODK, how to ask questions, research ethics, and training on COVID-19 regulations. Each region had a supervisor who guided the enumerators on how to select the households that took part in the study. Before the study was conducted, a pre-testing was conducted to ensure the ODK tool on the mobile platform was functioning properly, and also to ensure enumerators were comfortable using the tool.

4.5 Quality Assurance and Survey Ethics

Part of quality assurance for the study included training of the survey team on principles of human rights and ethics in research. This included adherence to child protection and safeguarding, non-discrimination, confidentiality, and anonymity of study respondents and seeking consent before interviews were conducted, do-no-harm principles including cultural and religious sensitivities, trauma sensitivities, and death, suffering, and hunger sensitivities will be strictly observed. Additionally, data collection tools will be validated and approved by LRF to ensure the tools were structured in a manner that responded to the study objectives.

4.6 Survey Limitations

This survey was restricted to informal settlements in Nairobi, Nakuru, and Garissa. Not all slums in the stated regions were covered due to resource constraints. However, most slums in the stated regions have similar characteristics, and therefore the findings from the slums surveyed can be generalized to the other slums not covered with the study. Secondly, COVID-19 restrictions and regulations made it difficult to have face to face key informant interviews. Telephone interviews were adopted. The scheduling of telephone interviews was also a challenge as respondents preferred taking the interview at their convenience, to which, some of the respondents did not get a convenient time within the study period to take the interview. This limitation notwithstanding, we managed to secure valuable information from key informants interviewed. Structural bureaucracy within IPOA and NPS Internal affairs Unit made it difficult to secure an interview within the study period.

FINDINGS. Although eight out of 10 people within slums experience some form of torture, most of them do not report the incidences to the police

Residents in slums exposed to torture during and before night curfew hours

New report shows that at least eight out of 10 people living in informal settlements around the country have been brutalised in one way or another.

By Daniel Wasungu
dwasungu@theindependent.co.ke

On April 3, 2020, Alhambra Mwema, a cobbler in Ukanda, Kwale County, was rushing home through deserted streets after a busy day. It was around 8pm and the first hour of a national curfew had just elapsed.

Before he got home though, witnesses alleged he was stopped by police officers on patrol who then beat him up for flouting the curfew laws. The next day, he was found dead at his doorstep in what looked like an attempt to crawl home to safety.

When Mwema died, another family hundreds of kilometres away was mourning the shooting of Yassin Moyo, 13, by a police officer enforcing curfew laws in Nairobi barely 24 hours earlier.

Now, a report by a local rights body shows just how commonplace these killings and related torture have become in the lives of many Kenyans, particularly those living in informal settlements.

A report by the Legal Resources Foundation shows that at least eight out of 10 people living in informal settlements around the country have been tortured or brutalised in one way or another.

Local militias

Most notably, the report also finds that a majority of abuses and torture in informal settlements are mostly perpetrated by local militias with the backing of area politicians and police officers. Densely populated settlements are cited as hotspots for police brutality, extra-judicial killings and ill-treatment.

The report also puts the main reasons for inhumane treatment as punishment for a crime committed at 32 per cent; torture to obtain a confession or reveal information (20%); for extortion and counter-terrorism reasons (19%); for political affiliation/Views (8%); for illegal business operations, paid revenge/retaliation, and drunk and disorderly respectively (6%); for failure to pay rent (4%); and for no apparent reason (1%). Data collected in the course of compiling the report on prevalence of torture and

Cruel inhuman treatment of **Residents in slums exposed to torture during and before night curfew hours**

Residents in slums also shows that unlike in the past, the main perpetrators of the violence are private militias. "In most instances, the private militias are usually funded by a local politician and supported and protected by the local police who allow them to run havoc over the slum dwellers when enforcing local slum security, security fee collections, disciplining alleged troublemakers, and also used for revenge missions" reads the report.

The report states that up to 60 per cent of the violence can be attributed to these militias, a statistic that is worrying, putting into consideration the heightened political activity around the country.

Indirectly involved
Although the police were indirectly involved in torture and other inhumane activities in these settlements, 84 per cent of these crimes can directly be attributed to the regular police, 17% to prison wardens, 12% to the national army soldiers, 14% Administration Police, (11%) private security guards, (10%) Kenya Forest officers, (9%) special branch; (5%) inmates in police cells; (3%) traffic police and local county officers.

The most common injuries resulting in the torture were body bruises at 43 per cent.

Seventeen per cent of respondents recorded post-torture trauma, loss of eyes and miscarriages; 14% of the victims suffered broken arms and legs while others had chronic illnesses; and 3% reported physical disability as a result of the torture.

Although eight out of 10 people within slums experience some form of torture, most of them (61%) do not report these incidences to the police.

Some victims (28%) do not report because they believe that no action will be taken against the perpetrators; 25% indicated that the fear of perpetrators make them not to report; 18% indicated they do not trust the



60% The report states that up to 60 per cent of the violence can be attributed to these militias

28% Some victims (28%) do not report because they believe that no action will be taken against the perpetrators

61% of these crimes can directly be attributed to the regular police, 17% to the prison wardens, 12% to the national army soldiers, 14% to the Administration Police, (11%) private security guards, (10%) Kenya Forest officers, (9%) Special branch

KENYA'S HISTORICAL TREND ON TORTURE

From 1978-2001, torture was mainly targeted at political opponents. During this period, a ruthless and often lawless Criminal Investigations Department, was charged with collecting information about those perceived to have divergent political views. Those arrested were detained without trial, tortured and even executed. From 2002-2012, established

policies and rule of law helped to reduce arbitrary arrest, detention without trial, torture, and extra-judicial executions of political opponents. But this only lasted for some time. Soon, the extrajudicial killings and executions were back as thousands of young men were executed across the country over allegations of their membership to the outlawed group, Mungiki. From 2012-2020, torture and

acts of torture took a new face, mainly through enforced disappearances. The enforced disappearances of particularly youth associated with the Islamic religion has become so common in the fight against violent extremism. Most recently, the Covid-19 control measures have provided the backdrop for another vicious round of torture, killings and disappearances.

police or authorities; 14% do not report the crimes committed because of threats from perpetrators and 9% are unaware of how and where to report; 18% indicated they do not trust the

do not report for other personal reasons. The deaths of Mwema in Ukanda and Moyo in Nairobi were not isolated incidences. Data from the Independent Police Oversight Authority

(Ipoa) revealed that 15 people had died due to police brutality and 31 incidents of serious injuries had been reported due to the use of excessive force by the police.

At the same time, a report by the Independent Medical Legal Unit covering Kakamega, Baringo, Nairobi, Mombasa, Kilifi, Nakuru, and Homa Bay counties recorded 25 cases of torture, ill-treatment, or extra-judicial executions. Out of the 25 cases, six were deaths and 19 were injuries from police beatings.

One of these recorded beatings was that of Asha Yusuf, a 28-year-old woman who was on her way home past the 7pm curfew time when, according to witnesses and a police statement recorded at Kiambeni Police Station in Mombasa, she was accosted by an officer on patrol who beat her across the face with two teeth during the incident.

5. RESULTS AND FINDINGS

5.1 Introduction

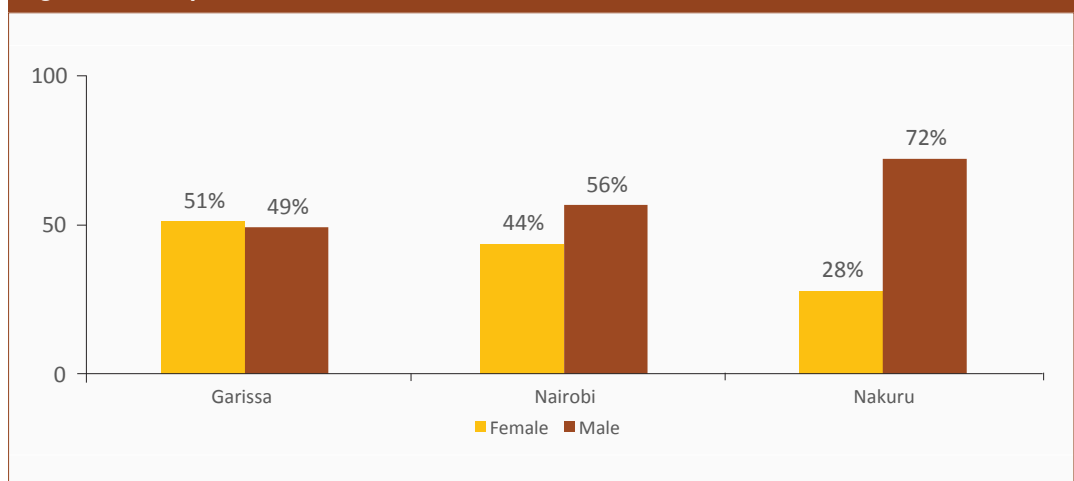
This chapter presents the findings of the study. The findings are presented in the following order. The demographic characteristics are presented first highlighting respondents' age, gender, and level of education. This is followed by finding on torture prevalence for all three regions namely Nairobi, Nakuru, and Garissa slums.

5.2 Democratic Characteristics

5.2.1 Respondents Gender

The gender composition of the respondents of the study was 59% (282) male and 41% (195) female for all the three study regions. When examined by each region, Garissa had 49% (75) male and 51% (78) female; Nairobi had 56% (96) male and 44% (74) female, and Nakuru had 72% (111) male and 28% (43) female representation in as summarized in Figure 5.1.

Figure 5.1: Respondents Gender



5.2.2 Respondents Per Slum Area

The finding of this study shows that Nairobi has the highest number of slums representation in the study (Fuata Nyayo, 25; Mathare North, 38; Mathare South, 22; Mukuru Kwa Njenga, 15; Mukuru Kwa Reuben, 30 and Kibera, 40); Garissa had the following slum representation (Bulla Cadaan, 20; Bulla Hagar, 27; Bulla Sagaray, 38; Bulla Shiekh, 16; Bulla Yarey, 3; Bulla Taqwa, 36; and Garissa Ndogo, 13); Nakuru had the following slums representation: (Gilani, 54; Kaptembwa, 59; Kwa Rhoda 41) as summarized in Table 8.

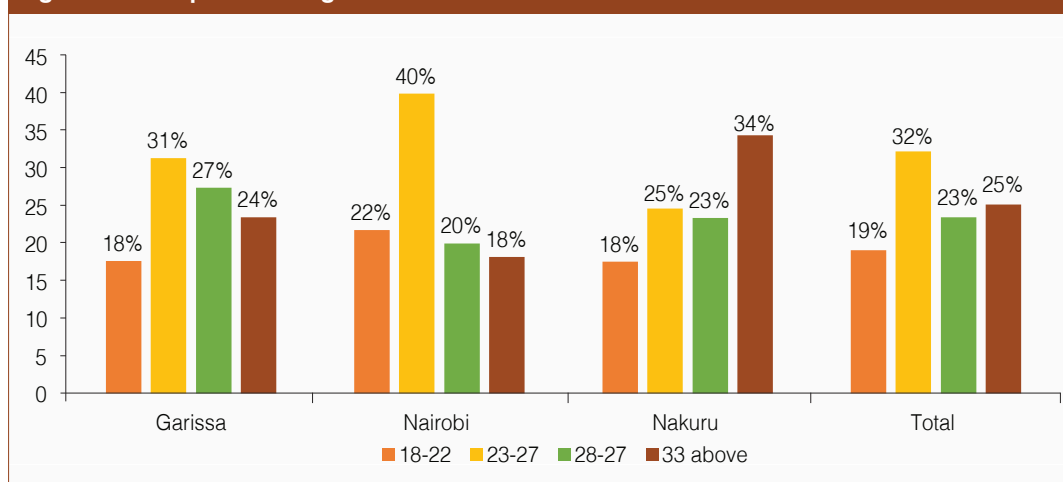
Table 8: Respondents Age

Garissa Slums	Respondents	Nakuru Slums	Respondents	Nairobi Slums	Respondents
Bulla Cadaan	20	Gilani	54	Fuata Nyayo	25
Bulla Hagar	27	Kaptembwa	59	Mathare North	38
Bulla Sagaray	38	Kwa Rhoda	41	Mathare South	22
Bulla Shiekh	16			Mukuru Kwa Njenga	15
Bulla Taqwa	36			Mukuru Kwa Reuben	30
Bulla Yarey	3			Kibera	40
Garissa Ndogo	13				
Total	153		154		170

5.2.3 Respondents Age

The age representations for study respondents across the three regions were reported as follows: For Garissa, 31% of respondents were aged 23-27 years; 27% were aged 28-32 years; 24% were aged 33 years and above; while 18% were 18-22 years. For Nairobi, 40% of respondents were aged 23-27 years; 22% were aged 18-22 years; 20% were aged 28-32years, and 18% were aged above 33 years. For Nakuru, 32% of respondents were aged 23-27 years; 25% were aged above 33 years; 23% were aged 28-32 years, and 19% were aged 18-22 years as summarized in Figure 5.2.

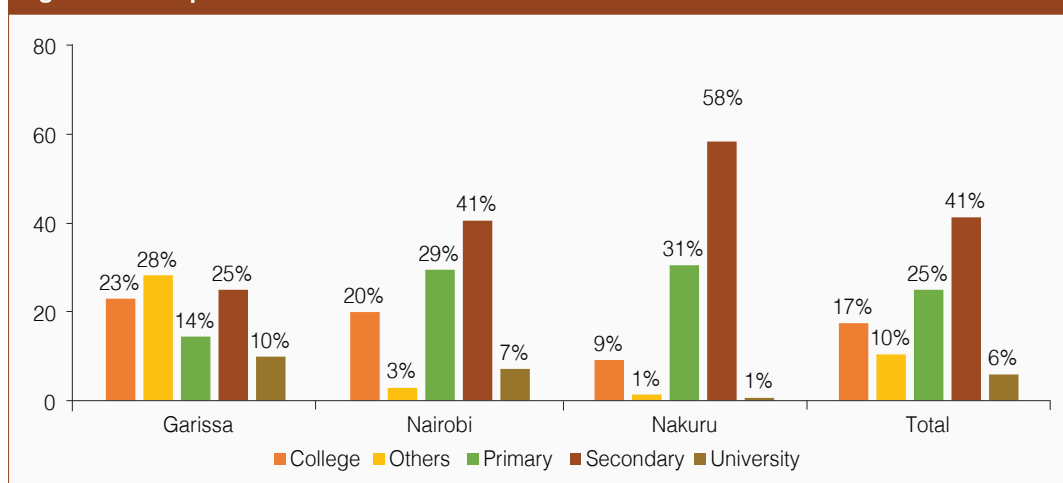
Figure 5.2: Respondents Age



5.2.4 Respondents Level of Education

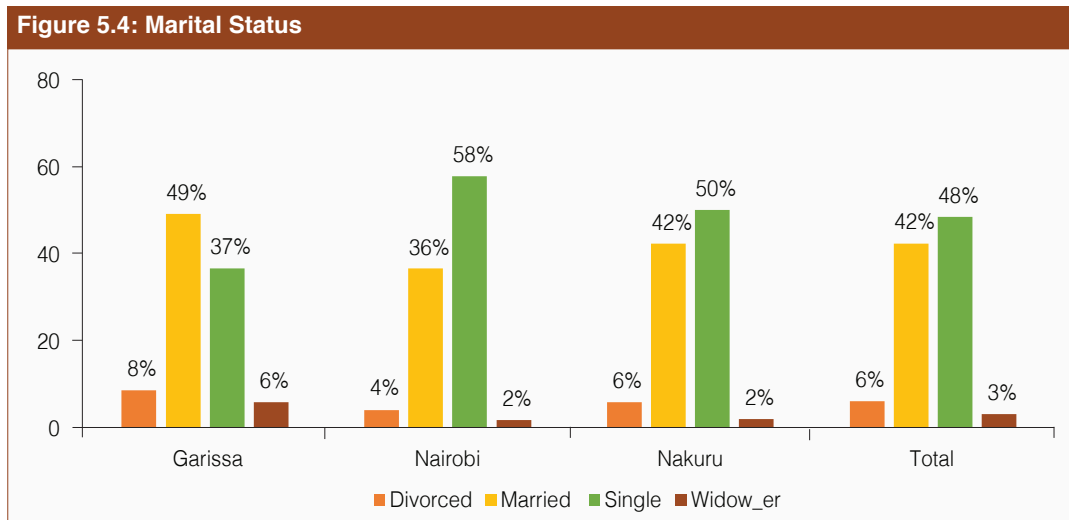
The study respondents' highest level of education is represented as follows: Garissa had 25% of respondents with secondary level education, followed 23% who had college-level education, 14% had primary level education, 10% had university-level education while 28% did not specify. Nairobi slums had 41% of respondents with secondary level education, followed by 29% with primary level education, 20% college-level education, 7% university education, and 3% did not specify the level of education. Nakuru slums had 58% of respondents with secondary level education, 31% with primary level education, 9% college-level education, 1% university-level education, while the other 1% did not specify their level of education as highlighted in Figure 5.3.

Figure 5.3: Respondents Level of Education



5.2.5 Respondents Marital Status

On the marital status of the respondents, findings show that for Garissa, 49% of respondents were married, 37% were single, 8% were divorced, and 6% were widow(er)s. For Nairobi, 58% were single, 36% were married, 4% were divorced, while 2% were widow(er)s. For Nakuru, 50% were single, 42% were married, 6% were divorced and 2% were widow(er)s as indicated in Figure 5.4.



5.2.6 Employment Status

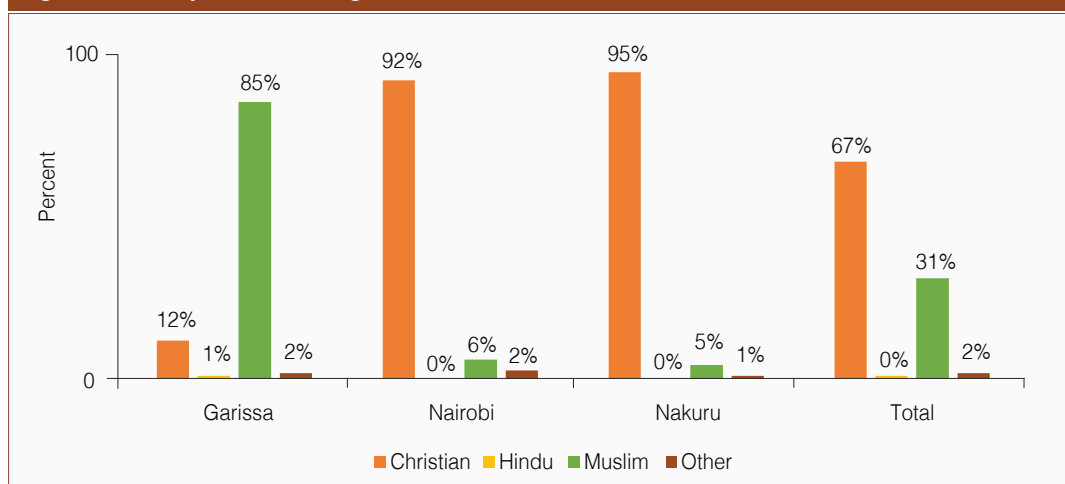
Respondents of this study were asked to indicate their current employment status. The findings show that for Garissa, the majority of respondents (53%) were unemployed, (15%) were engaged in unstructured income sources, (14%) were informal employment, (7%) were casual laborers as cleaners and domestic workers respectively. For Nairobi, (48%) of respondents were unemployed, (20%) were engaged in unstructured income sources, (15%) were casual laborers on Mjengo, (8%) domestic workers, and (5%) cleaners. For Nakuru, (36%) were engaged in unstructured income sources, (30%) were unemployment, (17%) were informal employment, (7%) were casual Mjengo laborers, and (5%) were cleaners and domestic workers respectively as summarized in Table 9.

Table 9: Respondents Age

Employment Status	Garissa	Nairobi	Nakuru	Total
Casual Labourer- Cleaner	7% (11)	5% (9)	5% (8)	6% (28)
Casual Labourer Domestic Worker	7% (11)	8% (13)	5% (8)	7% (32)
Casual Labourer Mjengo	4% (6)	15% (26)	7% (11)	9% (43)
Employed Formal job	14% (21)	4% (7)	17% (26)	11% (54)
Unemployed	53% (81)	48% (82)	30% (46)	44% (209)
Other	15% (23)	20% (34)	36% (56)	24% (113)
Total	100% (153)	100% (171)	100% (155)	100% (479)

5.2.7 Respondents Religion

The study findings show that the majority (85%) of Garissa respondents were Muslims, (12%) were Christians, while (1%) noted they were Hindu. For Nairobi, the majority (92%) were Christians, (6%) were Muslims, while (2%) belonged to other religious affiliations. For Nakuru, the majority (95%) were Christians, (5%) were Muslims, and (1%) belonged to other religious affiliations as summarized in Figure 5.5.

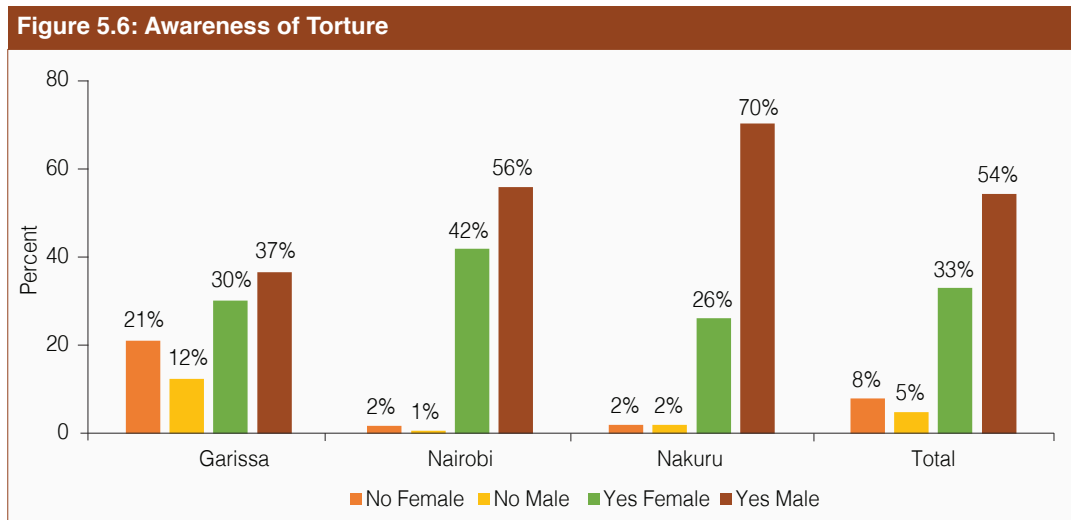
Figure 5.5: Respondents Religion

5.3 Torture Prevalence

5.3.1 Awareness of Torture

This study sought to determine whether targeted respondents had awareness of torture and prevalence. Cumulatively, (87%) of study respondents were aware (54% male, 33% female); while (13%) were not aware (8% female, 5%

male). When awareness was examined per region, for Garissa (37%) of male respondents were aware of torture while 12% were not aware, and for female respondents, (30%) were aware while (21%) were not aware. In Nairobi, (56%) of male respondents were aware of the torture, compared to (42%) female awareness. In Nakuru, (70%) of male respondents were aware, while (2%) were not, compared to (26%) of the female who was aware, while (2%) were not as summarized in Figure 5.6.



5.3.2 Torture Definition

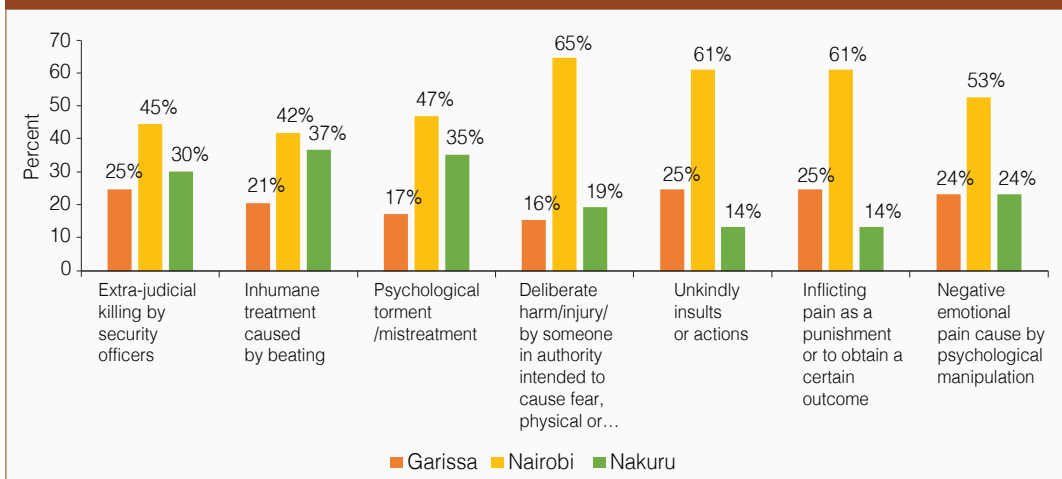
Respondents who indicated they were aware of the torture, were asked to define torture. Twenty-five (25%) of respondents from Garissa indicated that torture could be defined as extra-judicial killings by police officers; Insults and unkind actions from police; infliction of pain as punishment or to obtain certain outcomes respectively. Similarly, 24% of Garissa respondents defined torture as negative emotional pain caused by psychological manipulation, 21% defined torture as inhumane treatment caused by beating, 17% defines torture as psychological torment/mistreatment by those in authority, while 16% of Garissa respondents defined torture as harm /injury caused by someone in authority that is intended to cause fear.

For Nairobi respondents, 65% defined torture as a deliberate harm/injury/ by someone in authority intended to cause fear, physical or emotional harm; 61% indicated torture as inflicting pain as a punishment or to obtain a certain outcome and unkind insults and actions respectively; 53% noted torture as a negative

emotional pain cause by psychological manipulation; 47% defined torture as psychological torment /mistreatment; 45% indicated torture as extra-Judicial Killing by security officers, while 42% defined torture as inhumane treatment caused by beating.

For Nakuru respondents, 37% were of the view that torture could be defined as inhumane treatment caused by beating; 35% psychological torment / mistreatment; 30% extra-Judicial Killing by security officers; 24% as a negative emotional pain cause by psychological manipulation; 19% indicated torture as deliberate harm/injury/ by someone in authority intended to cause fear, physical or emotional harm; while 14% defined torture as inflicting pain as a punishment or to obtain a certain outcome, and unkind insults and actions by those in authority respectively as highlighted in Figure 5.7.

Figure 5.7: Definition of Torture



5.3.3 Torture Prevalence

Respondents were asked whether they had suffered from any forms of torture, or whether they were aware of someone who had suffered from torture or police brutality. The findings show that for Garissa, (49%) had either suffered from torture or knew someone who had; in Nairobi, (95%) of respondents had either suffered or knew someone who had suffered from torture; while in Nakuru, (94%) of respondents had either suffered from torture or knew someone who had suffered from torture as summarized in Table 10. The national torture prevalence survey conducted in 2016 indicated a 30.3% torture prevalence among those surveyed. Comparatively, this study findings show that the torture

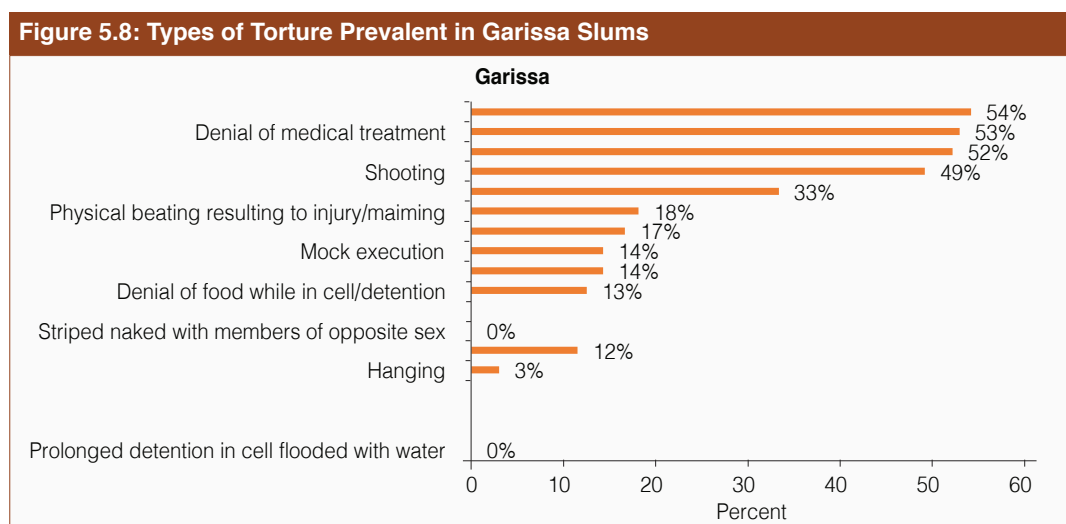
prevalence within informal settlements is very high (80%). By deduction, it is apparent that police brutality is matted mostly on slum dwellers as compared to other urban, peri-urban, and rural dwellers.

Table 10: Torture Prevalence

Region	Yes	No	Grand Total
Garissa	75 (49%)	78(51%)	153
Nairobi	162 (95%)	8 (5%)	170
Nakuru	145 (94%)	9 (6%)	154
Grand Total	382 (80%)	95 (20%)	477

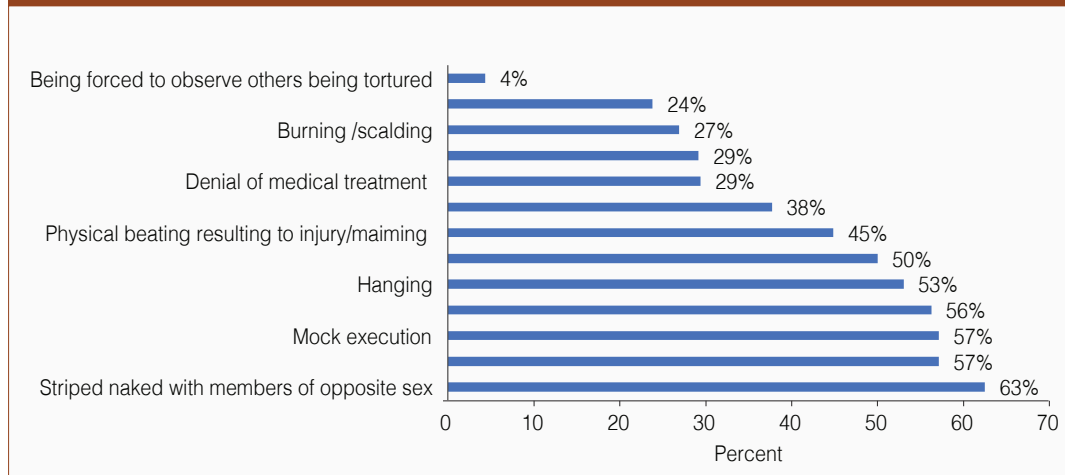
5.3.4 Type of Torture Prevalence

This study sought to examine the type of torture prevalence for each region. For Garissa slums, the findings show that the majority (54%) of those who experienced torture were forced to squat, stand or perch for hours; 53% were denied medical treatment after being tortured; 52% were psychologically tortured by being forced to observe while others were being tortured; 49% had suffered from shooting incident or knew someone who had been shot; 33% indicated suffocation and strangulation, 18% physical beating resulting to maiming, 14% sleep deprivation and mock execution respectively, 13% denial of food while in police cells /detention, 12% burning and scalding, while 3% indicated hanging as summarized in Figure 5.8.

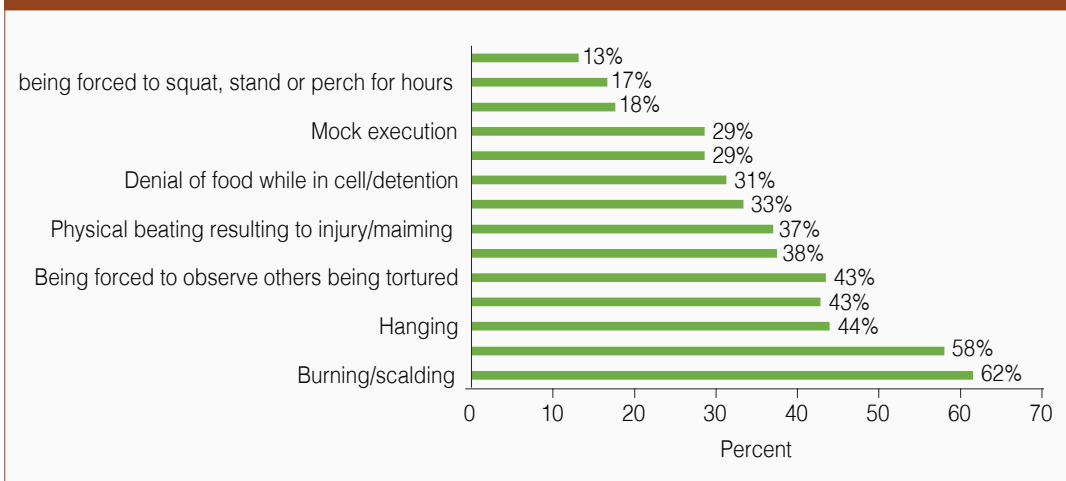


For Nairobi, most (63%) of victims were forced to strip naked in front of the opposite sex, 57% indicated the prevalence of electric shock and mock execution; 56% denial of food while in police detention, 50% sleep deprivation, 45% physical beating resulting to injury and maiming; 38% shooting; 29% denial of medical treatment and being forced to squat, stand or perch for hours, 27% scalding /burning; 24% of victims suffered from suffocation and strangulation, while 4% were forced to observe others being tortured as indicated in Figure 5.9.

Figure 5.9: Types of Torture Prevalent in Nairobi Slums

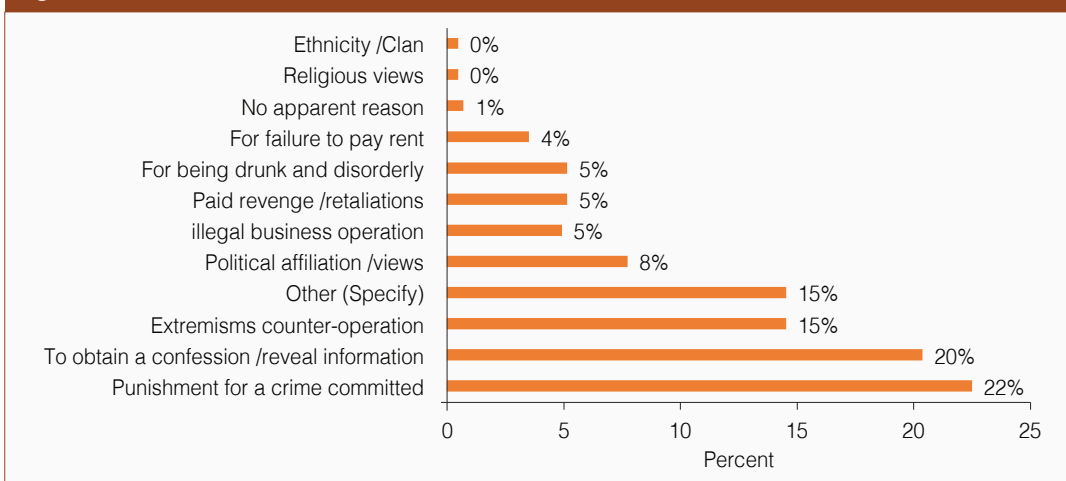


For Nakuru, most (62%) of victims were had experienced burning and scalding, 58% of victims had experienced prolonged detention in a cell with water; 44% had experienced hanging; 43% of victims had experienced suffocation and strangulation, and being forced to watch while others were being tortured respectively; 38% were forced to strip in front of the opposite sex; 37% experienced physical beating resulting to injury and maiming; 33% suffered from sleep deprivation; 31% experienced denial of food while in detention, 29% experienced electric shock and mock execution respectively, 18% were denied medical treatment, 17% of victims were forced to squat, stand or perch for hours, while 13% were victims of police shootings as summarized in Figure 5.10

Figure 5.10: Types of Torture Prevalent in Nakuru Slums

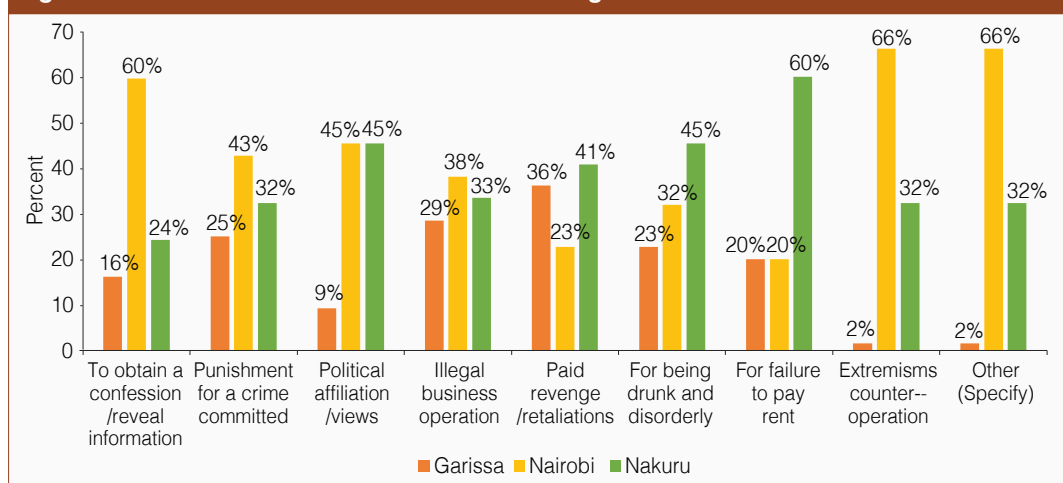
5.3.5 Main Reason for Torture

The main reason for torture and inhumane in was (22%) punishment for a crime committed; (20%) torture to obtain a confession or reveal information; (15%) for extremism and counter-terrorism reasons; (8%) for political affiliation /views; (5%) for illegal business operations, paid revenge/retaliation, and drunk and disorderly respectively; (4%) for failure to pay rent, (1%) for no apparent reason as summarized in Figure 5.11.

Figure 5.11: Main Reason for Torture

When the reasons for torture were examined for each region separately, Garissa, the main reasons for torture were (36%) for paid retaliations; (29%) for operating illegal businesses; (25%) punishment for a crime committed; (23% for being drunk and disorderly; (20%) for failure to pay rent; (16%) to obtain a confession or reveal information that was needed by the authorities; (9%) for political affiliations and (2%) for extremist counter-terrorism. For Nairobi, (66%) for extremism operations, (60%) of torture and inhuman treatment was for obtaining a confession from victims; (45%) for political affiliation (43%) punishment for a crime; and (38%) for operating illegal business. For Nakuru, (60%) were tortured for failure to pay rent; (45%) for being drunk and disorderly, and for political affiliations respectively, (41%) paid revenge, (33%) for illegal business operations; and (24%) torture and inhumane treatment as a way of obtaining a confession as summarized in Figure 5.11.

Figure 5.12: Main Reasons for Torture for Each Region

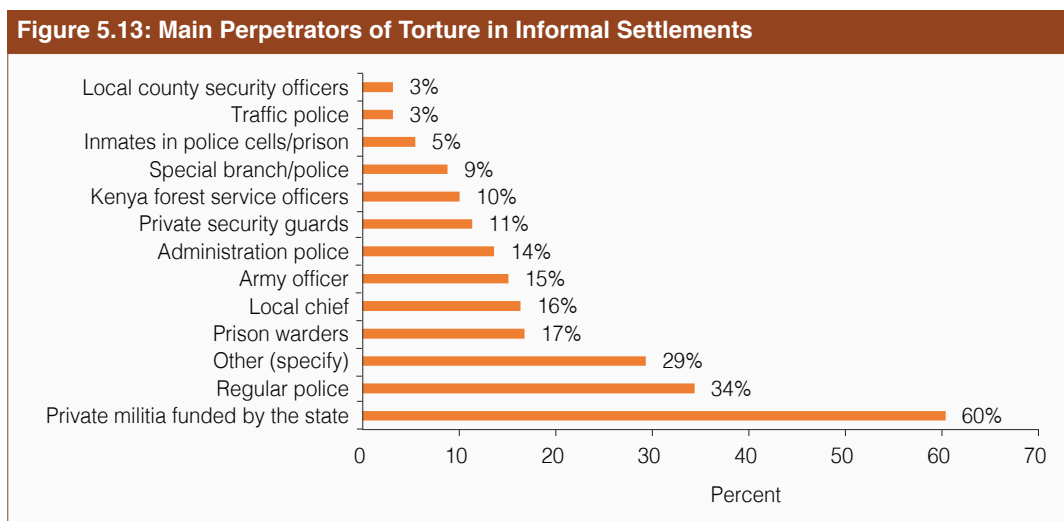


“One of the reasons why torture is still prevalent in Kenya is because of the culture of impunity where accountability is not entertained. Although there is glaring evidence of increased reporting of torture and pressure from HR organizations, the government doesn’t seem to be moved. It has become a normal story and that is how they treat it. We have the constitution that protects citizens from such acts but due to ignorance and impunity the police do not seem to care. Secondly it has to do with how our enforcement personnel are trained. They are usually trained to use “Reasonable” force to subdue and extract information from suspects. The police cannot or do not seem to know what REASONABLE is and thus they use all available strength to force confessions”

Former Commissioner, KNCHR

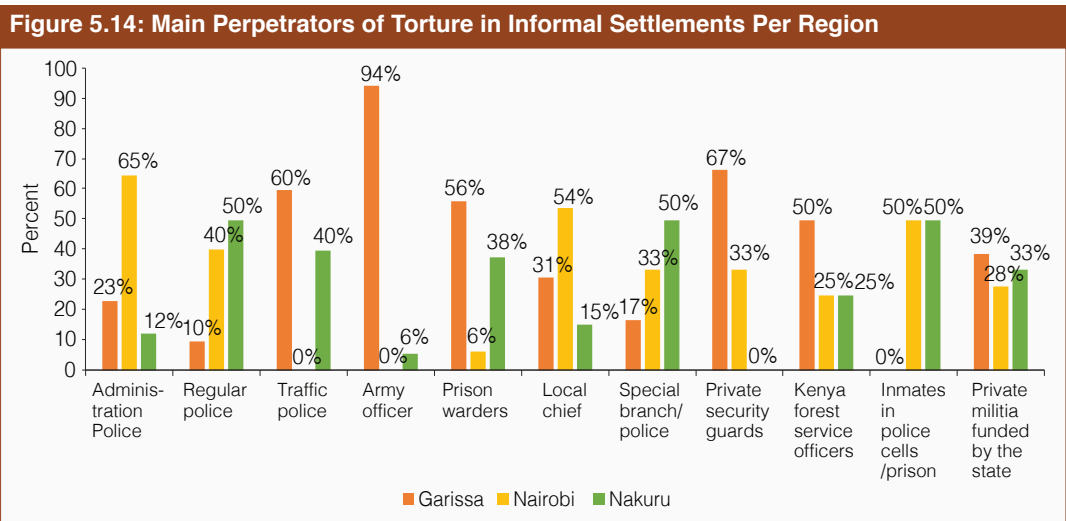
5.3.6 Main Perpetrators of Torture and Inhumane Treatment

The findings of this study show that the main perpetrators of torture and inhumane treatment in informal settlements are privately funded militias as indicated by (60%) study respondents. In most instances, the private militias are usually funded by a local politician and supported and protected by the local police who allow them to run havoc over the slum dwellers when enforcing local slum security, security fee collections, disciplining alleged crime offenders, and also used for revenge missions. This was followed by (34%) regular police, (17%) prison warders, (16%) of prison warders; (15%) Army officers; (14%) Administration Police; (11%) private security guards; (10%) Kenya Forest Officers; (9%) special branch; (5%) inmates in police cells; (3%) traffic police and local county officers respectively as summarized in Figure 5.13.



When examined per region, in Garissa, the main perpetrators (94%) were the National Military placed in the region to combat violent extremism and Islamic radicalization of youth coming across Somalia Border. Al-Shabaab's April 2, 2015 attack on Kenya's Garissa University College that killed 147 non-Muslim students heightened military deployment and activities in Garissa, which has contributed to the high number of local run-ins with the military. Garissa County is a hub for thousands of refugees from Somalia across Kenya's porous border. In December of 2019, the Kenyan government established Modika Barracks in Garissa to help fight local and imported terror activities by Al-Shabaab militants. Based on the findings, (67%) indicate private security guards are also the main perpetrators of torture, followed by (50%) prison warded; (50%) Kenya Forest service officers; (31%) local chief; (23%) administration police.

For Nairobi, the main perpetrators were (65%) administration police, followed by (54%) local chief; (50%) inmates in police cells; (40%) regular police; (33%) special branch and private guards respectively. In Nakuru, (50%) regular police, special branch; and inmates were the main perpetrators, followed by (38%) prison warders, and (33%) private militias, and (12%) administration police as summarized in Figure 5.14.



Enforced disappearance

On 11th October 2020, Amos Kang'ara, a 19-year-old Boda-boda rider from Mlango kubwa was waiting for a Matatu around 11p.m. at Guru Nanak stage, when five known Police Officer from Pangani Police station accosted him at the stage and arrested him. They drove off with him in a Probox vehicle towards Pangani police station. Since then, he went missing. The wife and the mother reported his case as a missing person and began the search for him. On 17th his body was found in City mortuary with signs of strangulation and knife wounds. The case has been reported to IPOA awaiting investigation"

~ Interview of Human Rights Activist, Mathare North, Nairobi

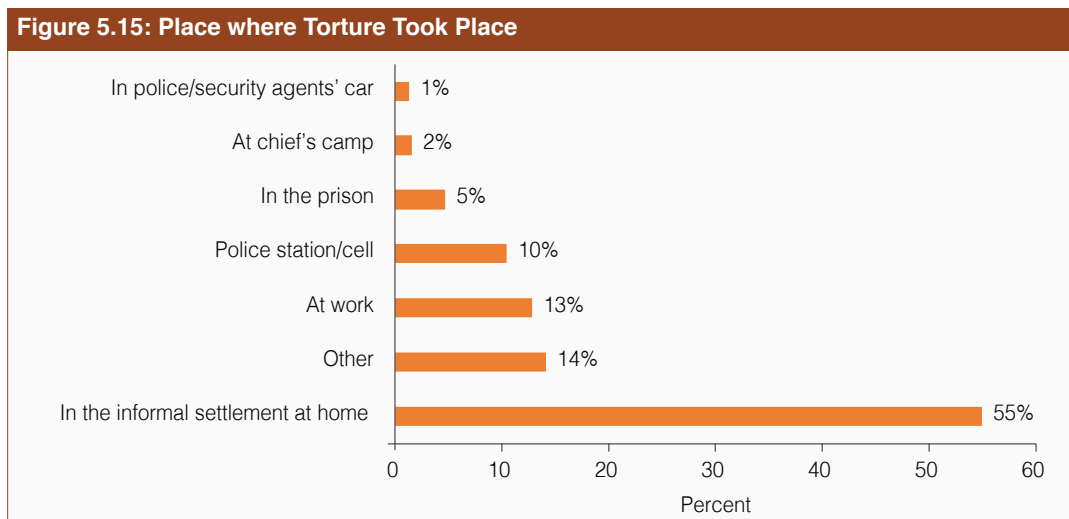
“Following Al-Shabaab killings at Garissa University, Military operations were deployed in Garissa. On the evening of April 20, 2015, more than 20 non-uniformed men armed with pistols raided our residential compound in Taqwa neighborhood of Garissa town. Shortly after, around 50 uniformed security officers scaled the compound’s walls and forced their way into houses, arresting Mahat Ahmed, Ismail Mohamed, Rahma Ali, and Anab Abdullahi, and beating others with sticks and gun butts. Security officers held guns to peoples’ heads and blindfolded two women who were in the house. The security officers threatened to kill them all if they did not reveal the location of Al-Shabab fighters. At least two residents were arrested from the compound and later released after being beaten and threatened”

~ Taqwa Resident Interview

(As Reported in HRW Deaths and Disappearances, 2016 Report: Pg. 31)

5.3.7 Place Where Torture Took Place

The findings on the place where torture took place show that the majority (55%) of torture took place in the informal settlements at the victims’ home, (14%) indicated the torture took in other places such as market place and on the public road; (13%) indicated torture took place at their place of work; (10%) noted at the police station/cell; (5%) in prison, (2%) at the chiefs camp; and (1%) in police / security agents car as indicated in Figure 5.15.



When respondents from each region were asked to indicate the place where torture or inhumane treatment took place, for Garissa, (24%) of torture took in public places and markets (described as other); (21%) were tortured while in prison and holding camps; (17%) were tortured in police station cells, and the

informal settlements respectively. For Nairobi, the majority (74%) of victims were tortured within their informal settlements, followed by (12%) who were tortured in police cells/station; (8%) indicated other places such as markets and public roads; and (4%) at the workplace. Nakuru, (53%) had experienced torture within their respective informal settlements, (23%) at work; (16%) indicated other places such as marketplace and public road; while (6%) indicated police station /cells as summarized in Table 11.

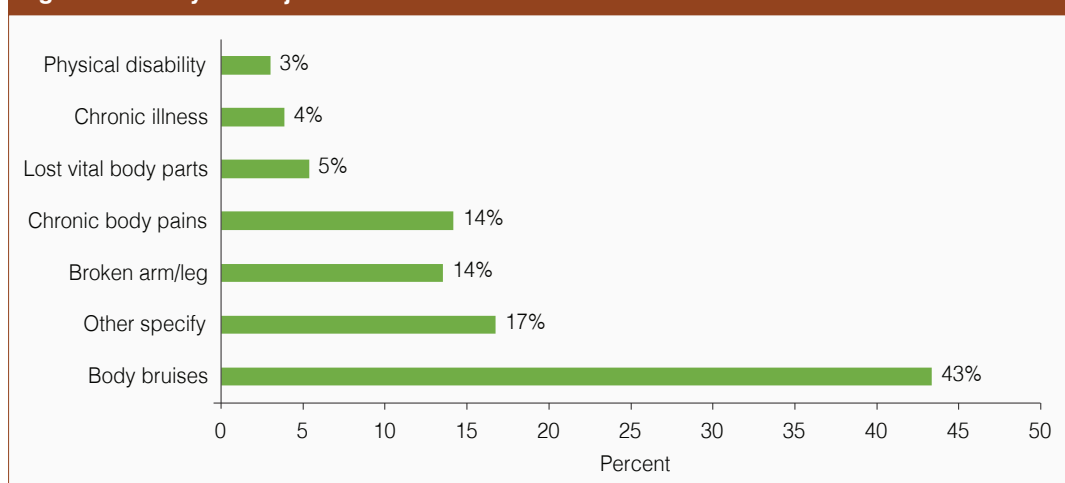
Table 11: Place where Torture Took Place by Region

Region	In the informal settlement at home	Police station/cell	In police/ security agents' car	In the prison	At chief's camp	At work	Other	Grand Total
Garissa	17% (13)	17% (13)	5% (4)	21% (16)	4% (3)	11% (8)	24% (18)	20% (75)
Nairobi	74% (120)	12% (19)	1% (1)	0% (0)	1% (2)	4% (7)	8% (13)	42% (162)
Nakuru	53% (77)	6% (8)	0% (0)	1% (2)	1% (1)	23% (34)	16% (23)	38% (382)
Total	55% (210)	10% (40)	1% (5)	5% (18)	2% (6)	13% (49)	14% (54)	100%

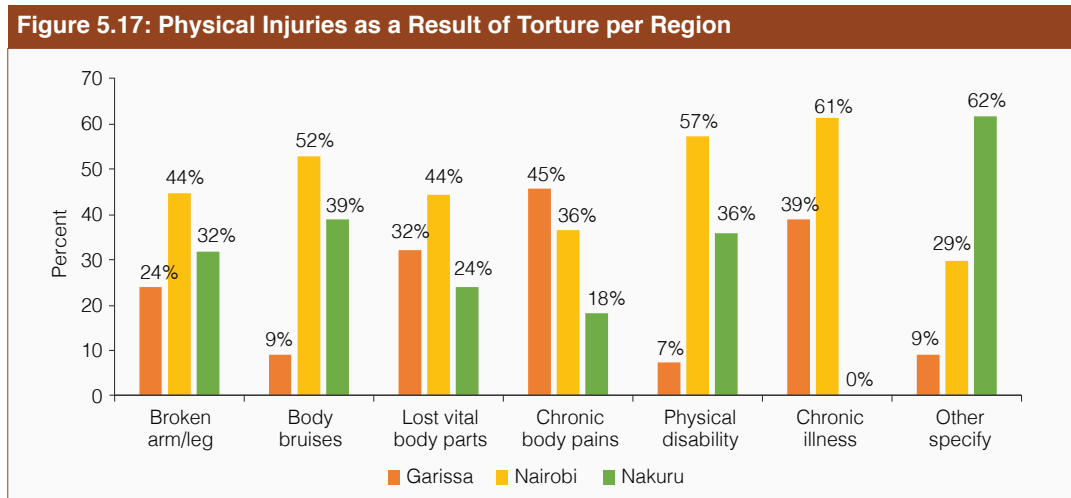
5.3.8 Physical Injuries as a Result of Torture

The majority (43%) of study respondents indicated victims of torture had body bruises as a result of torture they had suffered, (17%) indicated other injuries like post torture trauma, loss of eyes, and miscarriage; (14%) had broken arm / legs while others had chronic body pains respectively; (5%) indicated they lost vital body parts; (4%) had developed chronic illnesses; and (3%) had physical disabilities as highlighted in Figure 4.16. For Garissa, most of the torture victims (45%) suffered chronic body pains; (39%) suffer from chronic illness; (32%) lost vital body parts; (24%) had broken legs/arms; (9%) body bruises; and (7%)

Figure 5.16: Physical Injuries as a Result of torture

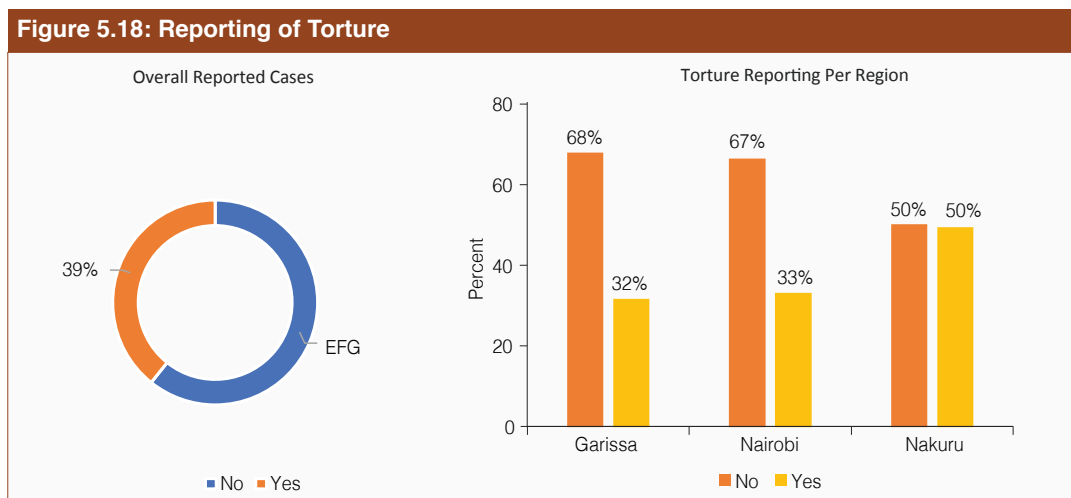


suffer a physical disability. For Nairobi, (61%) had chronic illnesses; (57%) had suffered physical disabilities; (52%) had suffered body bruises; (44%) had broken legs/arms and loss of vital body parts. For Nakuru, (39%) suffered body bruises; (36%) suffer from physical disability; (32%) from broken leg/ arms as indicated in Figure 5.17.



5.3.9 Reporting of Torture

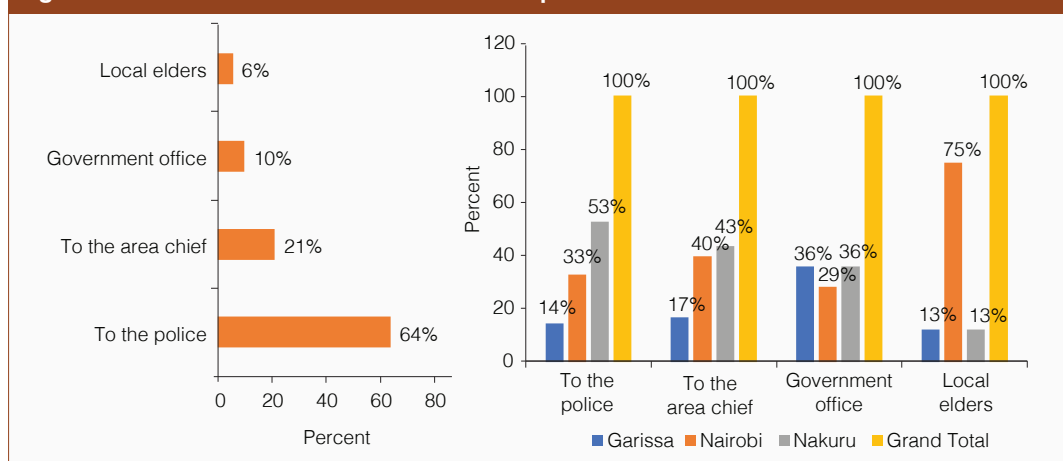
Respondents of this study were asked whether they did report the torture incidences they had suffered. The majority (61%) of respondents from all the informal sectors under the study did not report torture incidences they had suffered, while (39%) reported these cases. When examined per study region, (32%) of Garissa torture survivors reported while (68%) did not; In Nairobi (33%) reported torture incidences, while (67%) did not; while in Nakuru (50%) reported the incidences while (50%) did not as summarized in Figure 5.18.



5.3.10 Places Torture Incidences were Reported

The majority (64%) of torture victims had reported torture cases to police, (21%) reported to the local administration chief; (10%) reported to nearby government office; while (6%) reported to local elders. When examined per region, (36%) of torture victims in Garissa preferred to report to government offices; (17%) to local chiefs; (14%) to police. For Nairobi, (75%) reported to local elders, (40%) to the chief; (33%) to police; (29%) to government offices. Nakuru, (53%) to the police, (43%) to local chief; (36%) government offices, and (13%) to local elders as highlighted in Figure 5.19.

Figure 5.19: Place Torture Incidences were Reported



5.3.11 Action Taken for Torture Incidences Reported

Based on the findings, (19%) indicated that local authorities intervened to have the reported torture incident case dropped; (17%) indicated that their perpetrator was arrested; (16%) indicated respondents who reported torture incidences were charged in court, (10%) had no action taken, (9%) indicated the perpetrator was arrested; (7%) were threatened by the perpetrator, while (6%) indicated that their perpetrator was acquitted, and the case dismissed as highlighted in Figure 4.20. For Garissa, (17%) indicated the perpetrators were either arrested and the case was ongoing in court, or they were threatened by perpetrators or had the case dropped after authorities intervened respectively, (33%) were charged in court, (11%) indicated that no action was taken. For Nairobi, (21%) noted the perpetrator was arrested and the case is ongoing, or case dropped due to intervention of the authorities respectively; (13%) noted the perpetrator was charged; (8%) indicated the perpetrator was acquitted in court, while (4%) indicated no action taken. For Nakuru, (19%) indicated the case was dropped

after the intervention of authorities, (15%) indicated no action was taken, (22%) indicated they were arrested instead of the perpetrator; (7%) perpetrator, (4%) had the case dismissed as summarized in Figure 5.20.

Figure 5.20: Action Taken for Torture Incidences Reported

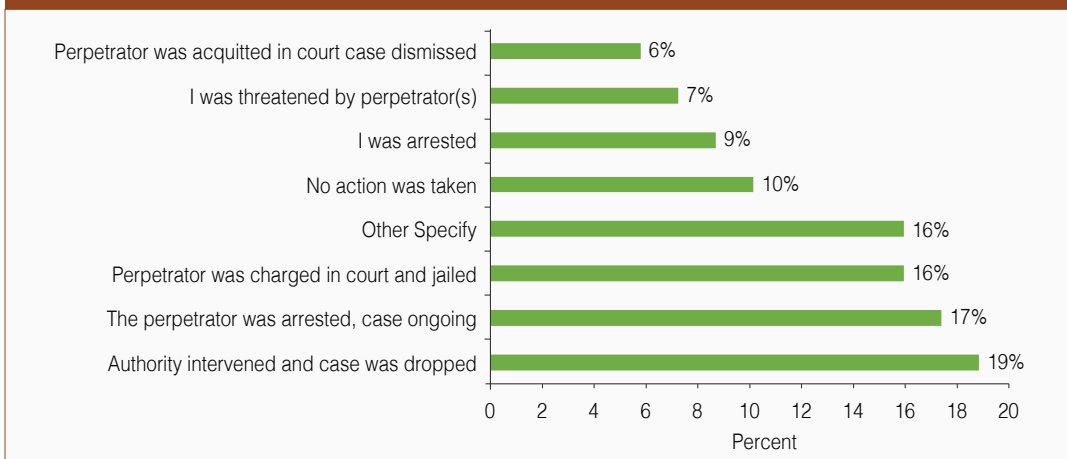
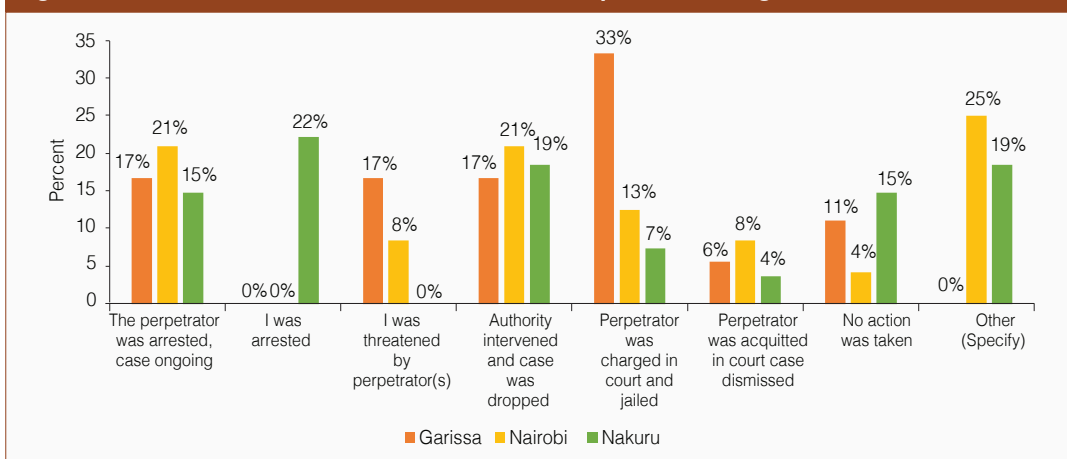


Figure 5.21: Action Taken for Torture Incidences Reported Per Region



5.3.12 Satisfaction with Action Taken Against Torture Perpetrators

Most (39%) of victims of torture indicated that they were dissatisfied with the action taken against their perpetrators, (32%) were very dissatisfied, (6%) were neither satisfied nor dissatisfied, while (17%) indicated they were satisfied, and (5%) were very satisfied as indicated in Table 4.5. Garissa, (25%) was very dissatisfied and dissatisfied respectively; while (38%) were satisfied, and (8%) were very satisfied. For Nairobi, (56%) were very dissatisfied, (15%)

were satisfied, (7%) were neither satisfied nor dissatisfied, while (13%) were satisfied. For Nakuru, (63%) were dissatisfied, (17%) were dissatisfied, (6%) were neither satisfied nor dissatisfied; while (10%) indicated they were satisfied as summarized in Table 12.

Table 12: Satisfaction with Action Taken Against Torture Perpetrators

Region	Very Dissatisfied	Dissatisfied	Neither Satisfied / Dissatisfied	Satisfied	Very Satisfied	Other	Grand Total
Garissa	6(25%)	6 (25%)	1 (4%)	9 (38%)	2 (8%)		24
Nairobi	30 (56%)	8 (15%)	4 (7%)	7 (13%)	5 (9%)		54
Nakuru	12 (17%)	45 (63%)	4 (6%)	10 (14%)		1 (1%)	72
Grand Total	48 (32%)	59 (39%)	9 (6%)	26 (17%)	7 (5%)	1 (1%)	150

5.3.13 Reasons why Torture Cases are Unreported

Most cases of torture and inhumane treatment go unreported. Based on the study findings, (28%) of victims do not report because they believe that no action will be taken against the perpetrators, (26%) indicated they fear of perpetrators make them not to report; (18%) indicated they do not trust the police or authorities; (14%) threats from perpetrators; (9%) indicated they do not know where to report, and (5%) do not report for other personal reasons. Twenty-eight percent (28%) of Garissa respondents noted fear of perpetrators as the main reason for not reporting torture incidences, followed by (23%) who believe no action will be taken; (18%) do not know where to report; and (11%) threat from perpetrators. Nakuru, (29%) indicated they fear their perpetrators; (24%) believe no action will be taken; (17%) do not trust police or authorities; (16%) indicated threat from perpetrators, (9%) indicated they do not know where to report. For Nakuru, (37%) indicated they believe no action will be taken, (21%) fear of perpetrators; (19%) indicated they don't trust police or authorities; (14%) indicated the threats from perpetrators; (1%) indicated they don't know where to report, and (8%) indicated they don't report due to other personal reasons as summarized in Table 13.

Table 13: Reasons why Torture Cases are Unreported

Region	Fear of perpetrator	Threats from Perpetrator	Believe no action will be taken	Don't Trust Police / authorities	Don't Know where to report	Other	Total
Garissa	55 (28%)	21 (11%)	45 (23%)	37 (19%)	35 (18%)	2 (1%)	195
Nairobi	90 (29%)	48 (16%)	73 (24%)	51 (17%)	28 (9%)	16 (5%)	306
Nakuru	49 (21%)	33 (14%)	88 (37%)	44 (19%)	2 (1%)	20 (8%)	236
Grand Total	194 (26%)	102 (14%)	206 (28%)	132 (18%)	65 (9%)	38 (5%)	737

5.3.14 Factors that Precipitate Torture and Inhumane Treatment

This study sought to document factors that precipitate torture and inhuman treatment in the informal /slums settlements. The findings show that ignorance of human rights by perpetrators was the leading factor with (21%), followed by lack of awareness of fundamental human rights that prohibit torture. Similarly, 15% of respondents noted that torture is precipitated by blatant disregard to human rights by perpetrators, 12% indicated the prevalence of poverty in informal settlements, 9% indicated slum related factors such as lack of clean water, toilets, food contributed to the prevalence of torture, 7% indicated corruption, inadequate laws to prohibit and protect against torture, and COVID related factors respectively as summarized in Figure 5.11

When factors that precipitate torture were examined per region, Garissa, lack of awareness of fundamental human rights that prohibit torture has a prevalent factor of (28%) followed by (20%) inadequate laws to prohibit and protect against torture, and (19%) ignorance of human rights by perpetrators. For Nairobi, the main factors driving torture and inhumane treatment were blatant disregards for human rights by perpetrators (22%); followed by (16%) ignorance for human rights by perpetrators; and (14%) lack of awareness of fundamental human rights that prohibit torture. For Nakuru, (29%) torture and inhumane treatment were driven by ignorance for human rights by perpetrators, followed by (18%) on lack of awareness on fundamental human rights that prohibit torture, and (13%) prevalence of poverty in the informal settlements as summarized in Figure 5.22.

Figure 5.22: Factors that Precipitate Torture

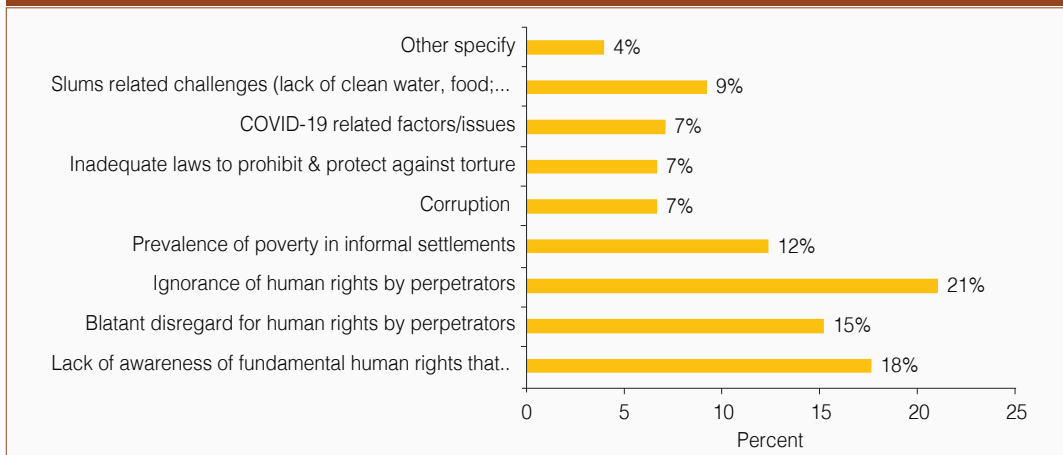
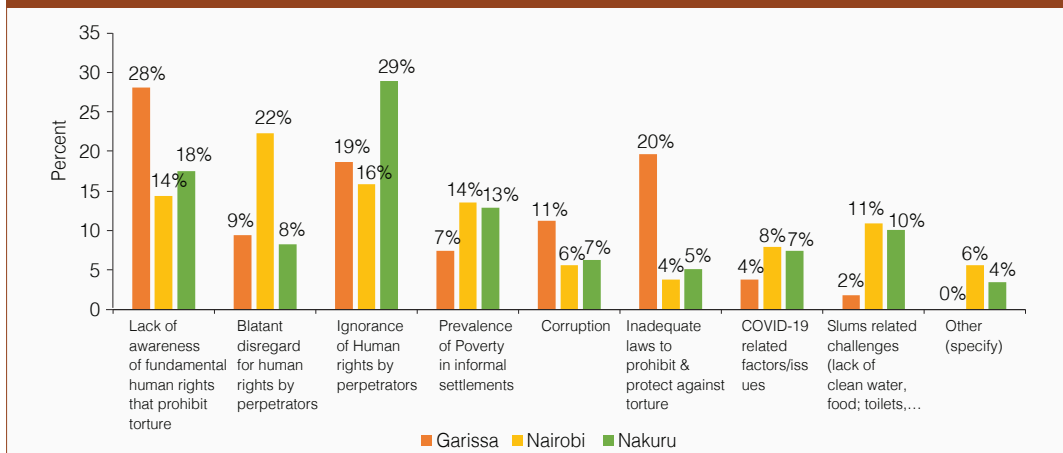


Figure 5.23: Factors that Precipitate Torture Per Region



“Investigative officers sometimes have no confidence in institutions (ODPP and Courts). They believe that these institutions will not serve justice to suspects. They take justice in their own hands to punish criminals, which results in torture. Secondly, oversight of torture has been left to state officers. IPOA and ODPP are state offices that are highly bureaucratic, and at time, influenced, or interfered with by political elites in government. As such, high ranking officers who are to be held accountable for torture, inhuman treatment, or extra-judicial killings never face justice, since the bureaucratic system within oversight bodies shields them...”

~ Program Manager, Legal Resource Foundation

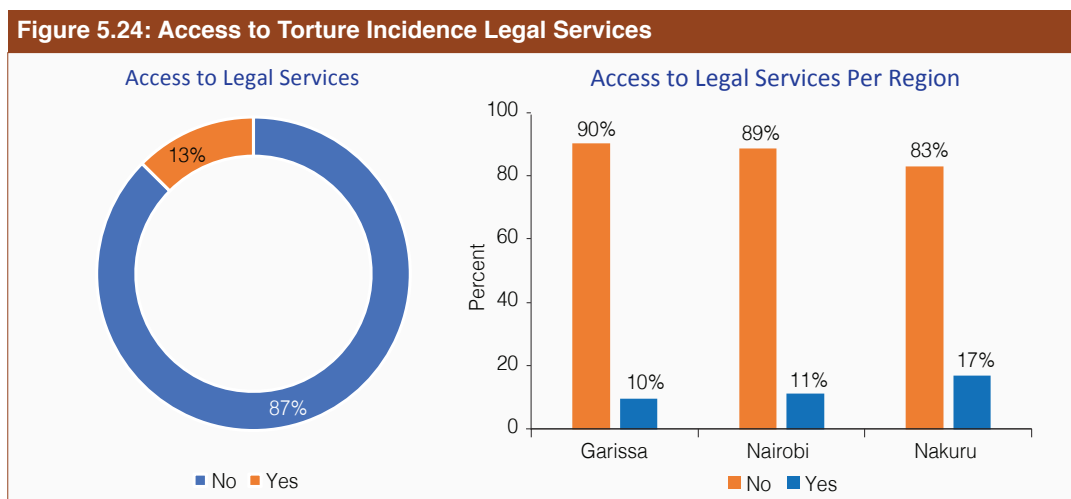
“Attitude within the Police service contributes significantly to inhumane treatment of civilians including torture. The attitude that “watu lazima wachapwe ndio wasikie... provides police with the leeway they need to engage in these inhumane acts... just look at the videos of what happened in Likoni during enforcement of COVID-19 curfew... Police descended on innocent passengers waiting to board the ferry even before the curfew was in force. They used brutal force clobbering the passengers for no apparent reason. Some of the passengers sustained heavy injuries...this is impunity that demonstrates that the state does not care anymore about laws that speak against torture. The officers are the law unto themselves. They know nothing will happen to them even when they do the kind of things they do to innocent people or suspects of crime...”

~ Legal Officer, Independent Medico Legal Unit

5.4 Psychosocial Support to Victims of Torture

5.4.1 Access to Legal Services

This study sought to determine whether targeted respondents had access to legal services as provided for in the prevention of the Torture Act, and the Victims Protection Act. The findings show that majority (87%) of those who had suffered from torture or knew someone who had suffered from torture did have access to legal services, while (13%) had access to legal services. Those who indicated they had access to legal services indicated the support was mainly from NGOs and well-wishers. Lack of access to legal services was higher in Garissa (90%); followed by Nairobi (89%), and Nakuru (83%) as summarized in Figure 5.24.



5.4.2 Types of Legal Services Accessed

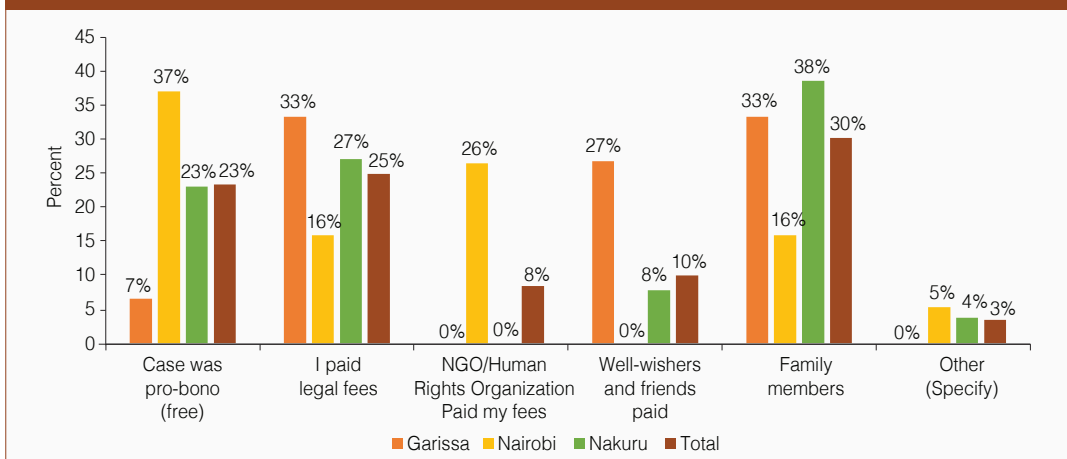
For respondents who indicated they had access to legal services, (41%) had received legal advice on how to go about their torture incidence, (35%) received help to file court cases, (13%) received legal representation in court; and (12%) received other services including emotional support. For Garissa, the majority (56%) legal services were in filing court cases; followed by (38%) who received legal advice, and (6%) legal representation in court. For Nairobi, (36%) received legal service advice, (28%) filing of torture related court cases, and (24%) legal representation. For Nakuru, (46%) received legal advice, (29%) received support in filling legal cases, and (7%) received legal representation for their torture cases before the courts as indicated in Table 14.

Table 14: Types of Legal Services Accessed

What did the legal services entail?	Legal advice	Filing of the case in Court	Legal representation while the case was in Court	Other (Specify)
Garissa	6 (38%)	9 (56%)	1 (6%)	0
Nairobi	9 (36%)	7 (28%)	6 (24%)	3 (12%)
Nakuru	13 (46%)	8 (29%)	2 (7%)	5 (18%)
Total	28 (41%)	24 (35%)	9 (13%)	8 (12%)

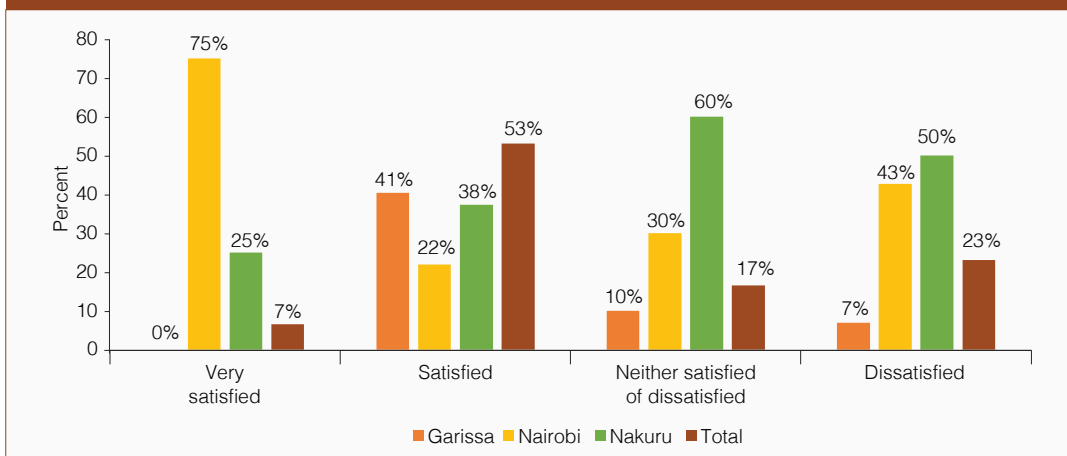
5.4.3 Legal Fees

Based on the study findings, (30%) of torture survivors received legal fee support from their family members, followed by (25%) who paid for their legal fees; (23%) who received pro-bono case support, (10%) from well-wishers and friends, and (8%) from human rights organizations. For Garissa torture survivors, most (33%) received support from family members or paid their legal fees respectively. For Nairobi torture survivors, most (37%) got pro-bono legal services, while (26%) got support from human rights organizations. In Nakuru, most survivors got support from their families; while (25%) paid their fees, and (23%) got pro-bono services as highlighted in Figure 5.25.

Figure 5.25: Legal Fees

5.4.4 Satisfaction with Legal Services

The majority (53%) of study respondents who had suffered from torture or knew someone who has suffered from torture was satisfied with legal services provided to them, (7%) indicated they were very satisfied; (23%) were dissatisfied, and (17%) were neither satisfied nor dissatisfied. Nairobi had the highest level of satisfaction at (75%) who was very satisfied; followed by (41%) from Garissa, and (38%) for Nakuru as indicated in Figure 5.26.

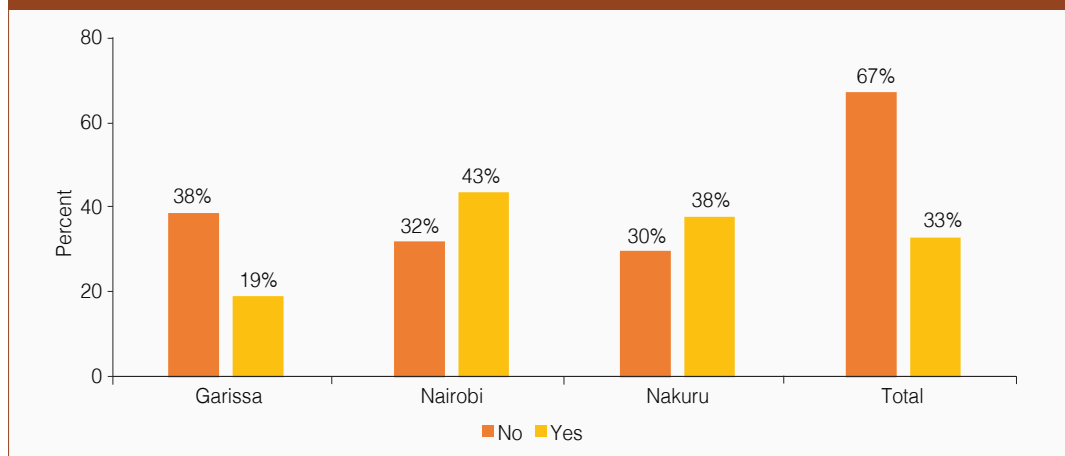
Figure 5.26: Satisfaction with Legal Services

5.4.5 Access to Medical Service

This study sought to determine whether targeted respondents had access to medical services as provided for in the prevention of the Torture Act, and the Victims Protection Act. The findings show that majority (67%) of those who had

suffered from torture or knew someone who had suffered from torture did not have access to legal services, while (33%) had access to medical services. Nairobi had the highest number with access to medical services (43%), followed by Nakuru (38%) and Garissa (19%) as summarized in Figure 5.27.

Figure 5.27: Access to Medical Services



4.4.6 Types of Medical Service Accessed

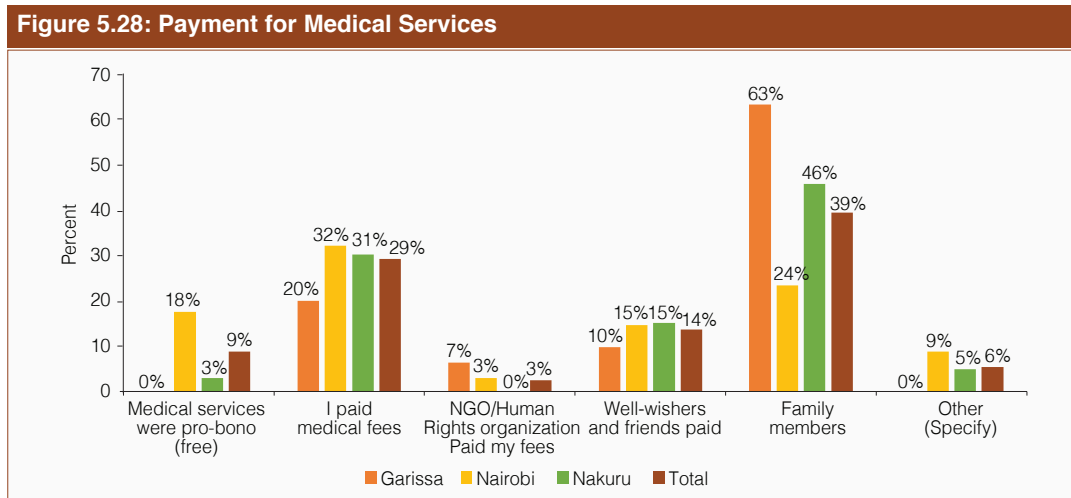
Most (40%) of respondents indicated that had received a medical assessment for their injuries, (38%) had received minor treatment, (15%) had received major surgeries; (4%) physiotherapy, and (2%) had received other treatment for concussions, x-rays, first aid, and counseling. Most (45%) in Garissa received a medical assessment for injuries; in Nairobi, (48%) had minor treatment; and in Nakuru (42%) had a medical assessment for their injuries as summarized in Table 15.

Table 15: Types of Medical Service Accessed

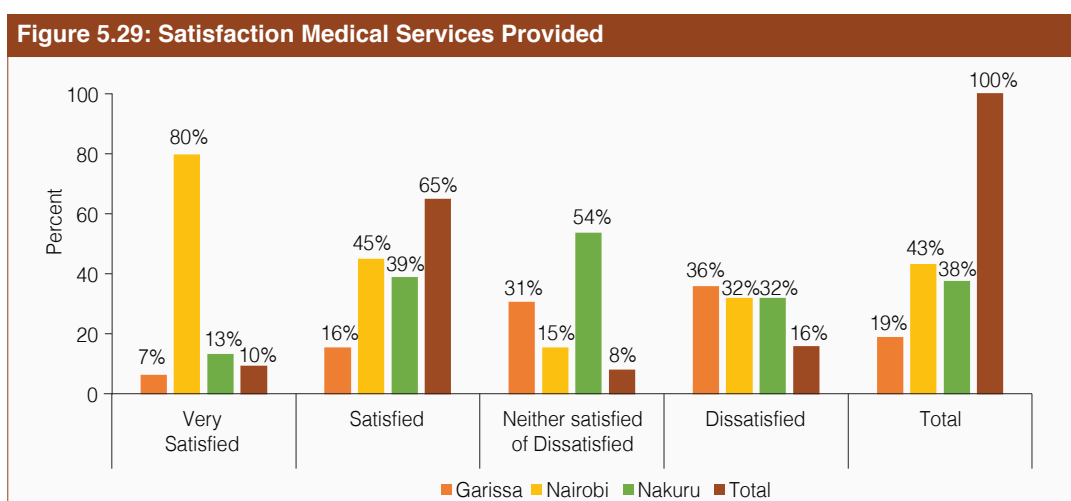
What did the medical services entail?	Medical assessment of injuries	Minor Treatment	Major Treatment/ surgeries	Physiotherapy	Other (Specify
Garissa	18 (45%)	10 (25%)	5 (13%)	7 (18%)	0 (0%)
Nairobi	31 (36%)	41 (48%)	10 (12%)	1 (1%)	2 (2%)
Nakuru	32 (42%)	25 (32%)	16 (21%)	1 (1%)	3 (4%)
Total	81 (40%)	76 (38%)	31 (15%)	9 (4%)	5 (2%)

When respondents were asked to indicate which entity had covered the medical bills of torture survivors, (39%) of respondents indicated the bills were covered by their family members, (29%) paid the medical fee themselves, (14%) had their bills paid by well-wishers; (9%) received pro-bono medical services, (6%) bills

were paid either by a government official, employer, or perpetrator; while (3%) of medical bills were paid by NGOs.

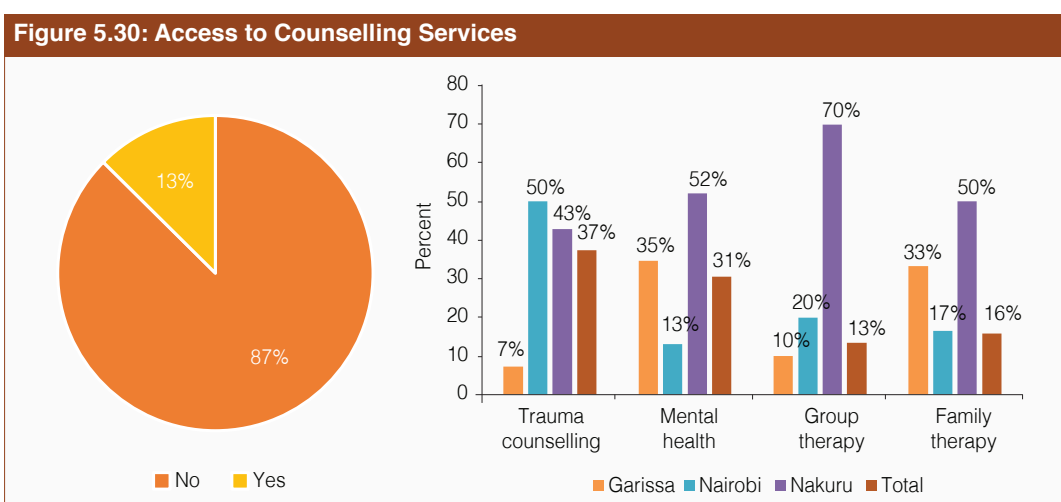


On the question of whether survivors of torture were satisfied with the medical services they have received, the majority (65%) indicated they were satisfied, (10%) were very satisfied, (8%) were neither satisfied nor dissatisfied. The regional analysis shows that for Garissa, (7%) of respondents were very satisfied, (16%) were satisfied; (31%) were neither satisfied nor dissatisfied; (36%) were dissatisfied. For Nairobi, (80%) were very satisfied, (45%) satisfied; (15%) neither satisfied nor dissatisfied; and (32%) dissatisfied; For Nakuru, (54%) were neither satisfied nor dissatisfied, (32%) were dissatisfied, (39%) were satisfied, and (13%) were very satisfied as summarized in Figure 29.

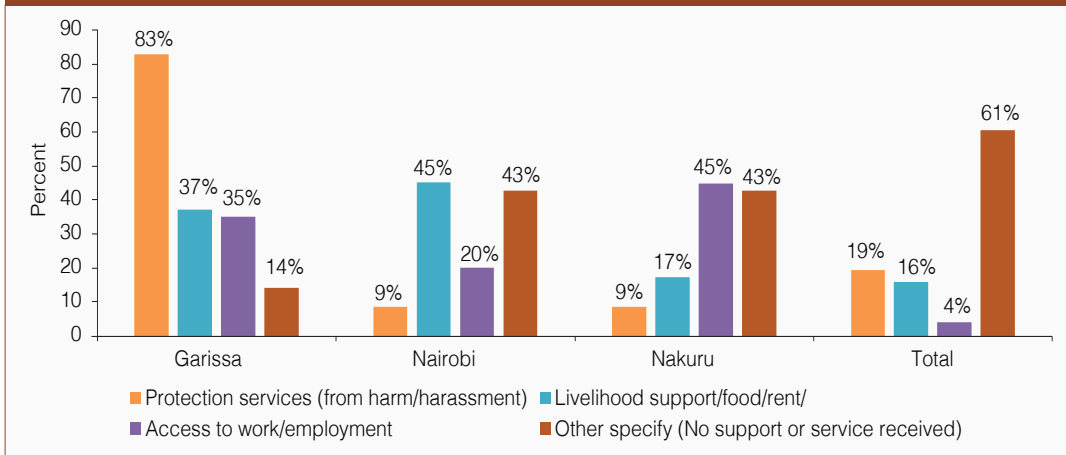


5.4.7 Access to Counseling Services

The majority (87%) of torture survivors did not have access to counseling services, while (13%) indicated they had access to counseling services. For those who had access to counseling, (37%) received trauma counseling, (31%) mental health services, (13%) group therapy. Garissa had (35%) of survivors receiving mental health counseling and (33%) family therapy. In Nairobi, (50%) received trauma counseling, while (20%) received group therapy. For Nakuru, (70%) received group therapy, (52%) received mental health counseling while (50%) received family therapy, and (43%) received trauma as summarized in Figure 5.30.



When respondents were asked whether there were any other psychosocial support services apart from legal, medical and counseling, (61%) of survivors did not receive other services, (19% received protection victim protection services, (16%) had received livelihood support including food and rent; while (4%) had access to work/employment support. The majority (83%) of survivors in Garissa received protection services, compared to (45%) from Nairobi who received protection services, and (45%) from Nakuru who received access to work and employment opportunity as summarized in 5.31.

Figure 5.31: Other Psychosocial Support Services

“Torture survivors are supposed among other remedies, to receive compensation and psychosocial support. I have not heard of any victim who has received psychosocial support, including medical, legal, counseling of livelihood support from the government. Worse still, survivors whom the courts have awarded compensation are still fighting with government to get their dues...”

~ Executive Director, Chemchemi ya Ukweli

“There is need to break down the Prevention of Torture Act to reflect compensation beyond monetary payment. Mostly, when judgement is passed in favor of victims, compensation is always monetary. There is need to insert a clause for consideration that gives leeway for victims to be engaged on the nature of compensation they prefer. Some people who have lost their loved ones to torture or extra judicial killings would probably want a job in state agencies rather than being given a one-time payment. So, there is need to bring a clause that would give latitude to victims to have a say on the kind of compensation...”

~ Program Manager, Legal Resource Foundation

5.5 The Role of Human Rights Organizations and Agencies in the Prevention of Torture

Human rights organizations are at the forefront of combating torture through advocacy and training, awareness creation, lobbying government agencies to establish policy and law that protects citizens, and prevents torture and inhumane treatment. Secondly, the role of the human rights organizations is basically to keep an eye on the excesses of the authorities and to document those cases and bring them to the attention of the authorities. Some organizations such as IMLU also provide services such as legal aid. Medical support, psychosocial support, advocacy, and documentation of torture and extra-judicial executions. A summary of roles and collaborative opportunities is highlighted as follows:

Table 16: Role of Human Rights Organizations and Government Agencies

Agencies	Functions	Collaboration
IPOA	Investigation of Police Misconduct	<ol style="list-style-type: none"> 1. ODPP- Prosecution of case files received from IPOA. Collaborations should focus on ensuring investigations are solid and complete. 2. KNCHR- Investigation of torture. 3. HR Organizations- collaboration in Collecting evidence. 4. NPS- Act of IPOA recommendation particularly on disciplinary cases and compliance with Prevention of Torture Act.
ODPP	Preservation of Evidence and prosecution of torture /gross human rights violations	<ol style="list-style-type: none"> 1. IPOA- Provide investigation guidance and support for cases that merit prosecution. 2. KNCHR- Investigation of torture- and provide evidence to ODPP; provide advisory and recommendation on cases that constitute a gross violation of Prevention of Torture Act. 3. NSP/DCI- completed investigation files for prosecution. 4. HR Organizations – support in documentation and presentation of torture /gross violation of HR to ODPP.

Agencies	Functions	Collaboration
KNCHR	Investigate alleged violations against prevention of Torture Act; Acts upon receipt of a complaint or on its initiative; Recommend effective measures for prevention of torture and cruel, inhuman, and degrading treatment and punishment	<ol style="list-style-type: none"> 1. NPS- Monitor compliance with Torture Act; Provide recommendation for action or disciplinary action, summon heads of NPS/members on cases of gross violations of HRs. 2. ODPP-Prosecute cases with significant torture evidence /extrajudicial executions presented. 3. HR Organizations – Synergy programming partners in the sector of HRs, share info. 4. Help and collaborate with IPOA in the investigation of torture and gross violation of HR.
HR Organizations	HR programming, advocacy, awareness on torture, and inhumane treatment. Legal, medical, protection, psychosocial support to victims of torture and ill-treatment	<ol style="list-style-type: none"> 1. NPS- Investigate and act on torture cases reported by HR organizations. 2. ODPP- Prosecute cases with significant torture evidence /extrajudicial executions presented. 3. KNCRH- Synergy programming partners in the sector of HRs share info. 4. Other HR Organizations- Offer Witness protection programs; partnering in torture awareness, prevention advocacy campaigns.

6. CHALLENGES ASSOCIATED WITH TACKLING TORTURE IN KENYA

6.1 Introduction

Challenges associated with elimination of torture and police brutality in Kenya are numerous. This chapter presents a discussion on the inadequacy of torture definition in the Kenyan context, challenges of inquest related to the death of missing persons found to have been tortured; limitations of the IPOA Act, and challenges associated with NPS Internal Affairs Unit.

6.2 Inadequacy of Torture Definition in Kenyan Context

The UN Convention against Torture defines torture as “any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. The Prevention of Torture Act No 12 of 2017, defines torture “to means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person: (a) to obtain information or a confession from him or her or any other person; punishing him or her for an act he or she or any other person has committed, is suspected of having committed or is planning to commit; or intimidating or coercing him or her or any other person to do, or to refrain from doing, anything; or (b) for any reason based on discrimination of any kind. These definitions do not cover areas associated with covert and overt inhumane treatment by those in authority acting in an unofficial capacity.

“One of the challenges with definition of torture within the Prevention of Torture Act is that it borrows heavily from the Convention Against Torture, but does not expand on the definition to suit Kenyan context. For instance, the Act acknowledges torture only when police or those in authority have committed inhumane acts, while in their official duty or capacity. The problem with this approach is that majority of police brutality, particularly in the informal sectors, are perpetrated by police but not in their official capacity. For instance, what happens when rival gangs use police informally to take down their rivals? What happens when police hire their guns to criminals to execute murder? What happens when errand police become a law by themselves when off duty, and lend services in dealings with criminal and illegal clandestine groups who use robbery with violence, torture and other inhumane treatment as a form of extracting information from their targets? To this extent, the definition is not broad enough to cover this kind of covert and overt inhumane treatment by those in authority...”

~ Programme Coordinator, Amnesty International Kenya

6.3 Lack of Law of Enforced Disappearances

Kenya has not established any legislation on enforced disappearances, nor enacted the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED). As highlighted in section 2.2 of this report, forced disappearance has been part and parcel of different government regimes in Kenya (from Moi to Kibaki to Uhuru government). The enactment of the Prevention of Terrorism Act in 2012 exacerbated enforced disappearances particularly in Nairobi, North and North Eastern, and Coastal. Human Rights Watch (2016) report “Deaths and Disappearances Abuses in Counterterrorism Operations in Nairobi and Northeastern Kenya” documents cases of abductions, enforced disappearances, torture, and extrajudicial killings. Police and military enforcement of counter-terrorism measures most often adopted these tactics, where people were detained without the rights of a detained person, and often disappeared without a trace, and in some cases, were found killed.

“One of the questions we need to ask ourselves is to what extent counter-terrorism measures justify abductions, enforced disappearances, and torture. The lack of express law prohibiting enforced disappearances is a lacuna that needs to be addresses. During Moi’s time, political opponents were either assassinated or forced to disappear, and later turned dead. In Kibaki’s time, members of Mungiki sect were arrested, with hundreds disappeared, who later turned dead. In Uhuru’s time, operation Usalama Watch disappeared hundreds of Kenyan youths of Somali decent, and coastal youth alleged to be affiliated to Al-Shabaab or other illegal groups were disappeared, some turned dead, while others have not been traced to date...”

~ Human Rights Defender and Activist, Nairobi

6.4 Inquest related to Death by Torture

The inquest related to the death of missing persons believed to have been tortured is stipulated in the Criminal Procedure Code Act No. 11 of 1993. Magistrates are empowered to sanction inquests under Section 386. In a case where police find a dead body, the police commanding the police station is required to immediately provide this information to the nearest magistrate for further investigation and inquest. The main challenge with this procedure is that Magistrates do not conduct investigations, but rather, rely on the same police reporting a death case to conduct an investigation and provide an apparent cause of death. Under the magistrate's order, the police are required to document describing such wounds, fractures, bruises, and other marks of injury as may be found on the body, and stating in what manner, or by what weapon or instrument (if any), the marks appear to have been inflicted, and then report back to the magistrate empowered to hold inquests. The report is authorized by the magistrate and submitted to the Director of Public Prosecutions through the Inspector-General of the National Police Service to enable for the compilation of all supporting evidence relating to the circumstances surrounding the disappearance, and the grounds upon which the death of that person is presumed to have taken place. In cases where the person was tortured by the police, the evidence ends up being destroyed, tempered with, or scuttled altogether. Relying on police to investigate themselves has a low probability or no chance of yielding fair justice. Expecting police involved in torture related death to collect data and information that incriminates their colleagues is an unrealistic, mostly unattainable expectation, which often, if not always, has defeated access to justice.

6.5 Limitations of the IPOA Act

Concerning torture, the IPOA Act mandates IPOA to investigate deaths and serious injuries caused by police action and to investigate police misconduct. However, this function has not been as effective as it should. First, IPOA does not have a mandate to compel National Police Service (NPS) to implement disciplinary actions to errant police found culpable of misconduct. In most cases, the recommendations made by IPOA to NPS are hardly implemented. Secondly, the Lack of protection of whistleblowers in the Police Service makes it difficult for police to provide witness statements or report cases within their ranks. Thirdly, low public awareness on what constitutes police misconduct, in addition to the public perception that police misconduct will not be punished even if

they report such misconduct limits the effectiveness of IPOA. Between 2014 and 2018, IPOA had received 10,381 cases of police misconduct, out of which, 5,140 were forwarded for investigations cases. Seven Hundred and ninety (790) cases involving deaths and serious injuries occasioned by the police. Further, 105 cases were classified as an inhumane and gross violation of human dignity and forwarded to DPP for prosecution. Within the same period, the DPP filed 53 of these cases in court and secured 3 convictions, which accounted for 3% of torture or gross violations by police.⁵⁷ The jurisdiction of IPOA is equally limited when it comes to the investigation of torture outside the police service as noted by Shield for Justice Program Manager:

“one of the questions we keep asking ourselves that has not been covered in IPOA Act, is: What happens when the military personnel commit torture? What happens when Kenya Wild Life Officers, or Forestry Officers, or City County Askari’s who commit torture? Can IPOA investigate the military...or do they have jurisdiction over military conduct? This are some of the gaps the Act did not anticipate”

~ Program Manager, Shield for Justice Foundation

“I think we need to come up with a protection and reporting mechanism for people who would like to report torture. People are afraid of reporting torture because they know it could be dangerous for them. There has been reports of disappearances from people reporting torture. This would complement the witness protection act. Secondly there should be a clear mechanism and framework for reparation to ensure victims are actually compensated and in time, and IPOA should take lead to ensure this happens...”

~ Program Assistant, Legal Resource Foundation

Inadequate funding and human resources: Effective investigations into police misconduct by IPOA requires adequate funding and human resources both at the national and county level. IPOA still lacks sufficient funding not only to implement investigations but public awareness on documenting and reporting police misconduct and torture.

Resistance, obstruction, and some degree of hostility by police officers:

The issue of non-cooperation by NPS in the investigation processes where IPOA is investigating police misconduct greatly impedes the effectiveness of the authority. For instance, the Commission of Inquiry into Post-Election Violence report released in October 2008 noted that 1,133 people died in the violence out

⁵⁷ IPOA Strategic Plan 2019-2024, Pg. 16.

of which 405 deaths were caused by gunshot wounds from police shootings. However, there are no convictions out of these cases due to poor evidence collection by police investigation units⁵⁸. The use of intimidation and police tampering with evidence in shooting cases mars the investigation capability by independent agencies such as IPOA. Following election violence after contested elections in 2013, a study by Human Rights Watch (2013) noted that police did not only fire on protesters in Kisumu on March 30, 2013, but they also tried to conceal the evidence by intimidating the victims. Despite repeated private requests and public calls, both domestic and international, for independent, effective, and credible investigations and prosecutions of police involved in the unlawful shooting of civilians during the election-related violence, no such investigations or trials have occurred. For instance, the trial of a police officer who was identified on video shooting and killing unharmed protester in Kisumu was found innocent because the evidence held in police custody, did not match the weapon of the accused. This is a classic case of a cover-up by the police meant to defeat investigation and justice⁵⁹. Additionally, there were efforts by police to confiscate all bullets recovered from other victims to tamper with evidence and defeat any change for prosecution or justice for the victims.

“the issue of police investigating their fellow police officers implicated in human rights violations and inhumane treatment, including extra-judicial killings defeats the laws of natural justice. The unwritten loyalty to the “Blue Code Comrades” makes it difficult for police investigators to remain partial and objective when assigned to investigate their friends...there is a need to completely delink police from investigating themselves”

~ Program Manager, Ujamaa Centre

An inadequate framework by which to hold officers accountable: The IPOA Act as currently constituted lacks a mechanism or framework to hold police officers accountable for their actions, other than preliminary investigations they present to the Office of Director of Public Prosecution. For instance, in the case of in the matter of baby **Samantha Pendo (deceased)**⁶⁰, Magistrate Beryl Omollo (on 14th February 2019) noted that there was sufficient evidence pointing to the culpability of members of the National Police Service in the death of the deceased Baby

⁵⁸ Available at: <https://jffjustice.net/kenyan-court-dismisses-most-of-the-case-against-police-for-involvement-in-post-electionviolence/>

⁵⁹ Kenya: Witnesses Describe Kisumu Killings by Police- Used Live Ammunition, Tried to Cover Up Evidence <https://www.hrw.org/news/2013/05/23/kenya-witnesses-describe-kisumu-killings-police>

⁶⁰ Inquest No. 6 of 2017.

Pendo. The magistrate recommended for necessary action against commanders in charge of Kilo Junction in Nyalenda Estate Kisumu (on the night of 11.08.17 and early morning of 12.08.17) per the law. The thirty (30) General Service Unit Officers deployed in the same region were to be treated as persons of interest. However, no officer has been prosecuted for lack of evidence, as the officer who struck the baby and the weapon used have not been identified.

Non-cooperation by NPS and other relevant stakeholders: Most of the recommendations that have been made towards the improvement of the police service and conduct, and discipline are hardly adopted or implemented. In most instances, police who are found culpable of misconduct are usually transferred from the duty station where they committed misconduct to another new station. Regular engagements with NPS top leadership and other relevant institutions do not seem to have a well-established framework for ensuring enforcement and compliance with disciplinary protocols. As such, the lack of enforcement mechanisms by oversight agencies allows for police departments to ignore important recommendations on holding errand police officers accountable.

6.6 Inadequate Training and Awareness of Prevention of Torture Act

The Third Periodic Report (CAT/C/KEN/QPR/3)⁶¹ to the United Nations Committee on Torture, submitted by Kenya under article 19 of the Convention shows that despite the enactment of the Prevention of Torture Act, the police, prosecutors and magistrates still rely on the Penal Code and the Criminal Procedure Code to prosecute offenses such as murder and grievous harm, committed by police officers. In effect, this limits the impact and effectiveness of the Prevention of Torture Act. Prosecutors' familiarity with the Penal Code, Children's Act of 2001, and the National Police Service Act explains their preference for these Acts as opposed to the Torture Act. Additionally, they find that the Penal Code has higher penalties for the offenses of grievous harm and murder. However, the threshold of evidence under the penal code for murder is higher as compared to evidence of torture under the Prevention of Torture Act. Under the Prevention of Torture Act, a person who commits the crime of torture is liable to imprisonment for a term not exceeding twenty-five years without the option of a fine. The torture that results in the death of a person attracts imprisonment for life. Section 7 of the Act provides for a penalty of a term not exceeding fifteen years or a fine of shillings

⁶¹ Available at: https://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/KEN/CAT_C_KEN_3_5856_E.pdf

one million or both for an offense of cruel, inhuman, or degrading treatment or punishment. Therefore, not adopting and prosecuting police perpetrators under this Act erodes /diminishes the gains made by the Prevention of Torture Act. There is a need for continuous training of police effective investigation and documentation of torture and other cruel, inhuman, or degrading treatment or punishment. Kenya National Commission on Human Rights (KNCHR) and other NGOs have offered torture documentation training to national level police stations, however, cascaded curriculum training at the county and sub-county levels is required. Police stations need to establish a torture desk, where police are trained on how to handle torture related incidences happening from within their precincts, for persons under their custody.

“The problem with the Prevention of Torture Act is its implementation. Surprisingly very few people are aware of the Act. Many officers tasked with implementing the Act don’t even know about it. The Ministry of Interior has the responsibility to create awareness about it. People should also be encouraged to read and implement the National service Coroner Act which when combined with the 2017 Act can be very effective in preventing acts of torture”

~ Former Commissioner, KNCHR

6.7 Operationalization of the Coroner’s Act

The prevention of the Torture Act goes hand in hand with the Coroners Act. Under the Coroners Act, parliament was to establish the office at the national coroner and county levels. The Coroners Act has been adopted as law, however, to operationalize it, the office of the Coroner both at National and county levels was to be established through funding. The funding to establish the Coroners office has not been put in place since 2017. Lack of the establishment of the coroner’s offices has diminished national investigative and forensic documentation capacity which is essential for inquests related to torture cases.

6.8 Torture and Extra-Judicial Killings Take Too Long to Resolve

The speedy resolution, prosecution, and conviction of torture cases take too long to resolve. In Kenya, it has been the trend that once a torture case has been reported, it takes a political turn. The case then takes too long to be resolved even when the judgment is in favor of the victim including compensation. In most instances, the Attorney General (AG) has moved to court to appeal against judgment offering compensation to torture survivors, while in other cases, there has been blatant disregard, and refusal to pay claiming lack of budgetary allocation by the treasury to such compensation. However, this amounts to

impunity, since the office of the AG has had several opportunities to include these compensations in successive budget estimates and proposals to the treasury, but this has not been done. This leads to years of appeals and counterclaims at the expense of the survivors. Secondly, most extra-judicial cases are charged under the penal code for murder, which has a higher threshold of evidence and intent, compared to charging offenders under the Prevention of Torture Act. Thirdly, police investigations are most often scuttled or frustrated by police protecting their colleagues. This kind of obstruction makes it difficult for ODPP to successfully gather the requisite evidence required for successful prosecution and conviction, which in turn, makes torture, and extra-judicial cases to take years without resolution.

6.9 Recommendation

The following recommendations are extracted from the discussion of this survey:

1. Human Rights stakeholders such as civil society organizations, private sector associations, international agencies should lobby parliament on the operationalization of the Prevention of Torture Act and the Coroners Act.
2. Prevention of Torture Act establishes a victim's compensation fund, which parliament has not provided budgetary allocation. There is a need to lobby parliament for victim's compensation fund to be included in Mid Term Plan (MTP)-III.
3. Adequate funding for IPOA to establish forensic data documentation before the establishment of the coroner's office to support all 47 counties in documenting cases of torture that happen at the county and local community levels.
4. There is a need to holistically look at the Acts that guide forces against terror. There is a need to look at the KDF ACT, the NIS ACT to seal loopholes that are exploited to perpetuate inhumane /ill-treatment to citizens under their custody.
5. There is a need to de-link police from investigating themselves in cases where they are the perpetrators of inhuman treatment. Independent bodies other than IPOA and ODPP should do this. The bureaucracy within IPOA and ODPP has contributed to the slow pace at which some of the high-profile case of police brutality.

6. There is a need to relook at the Criminal Procedure Code Act No. 11 of 1993 that empowers the Magistrates to sanction inquests under Section 386, in cases where police find a dead body, to prevent the destruction of evidence in cases where police are the perpetrators.
7. The Law on Enforced Disappearances has not been established in Kenya. In the meantime, there is a need to lobby for ratification of the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED). This will help to hold authorities (police and military) accountable for enforced disappearances.
8. Adequate funding of IPOA, ODPP, and Kenya National Human Rights Commission is required. This will enable these agencies to enhance effectiveness in investigations into police misconduct by including promoting public awareness on documenting and reporting police misconduct and torture.
9. There is a need for LRF to collaborate with HR stakeholders and organizations in training police and prosecutors on the Awareness of Prevention of Torture Act. Since 2017 when the law was enacted, there has been no single prosecution that relied on the Act.
10. NPS Internal Affairs Unit (IAU) should not be relied upon as a single source of an internal investigation into police misconduct. Junior officers within the NPS cannot investigate their seniors implicated in police misconduct, or those who have violated the code of service. In this regard, an independent unit should be established that is not a government agency to enhance objectivity, transparency, and accountability.

ANNEX I: LIST OF DOCUMENTS REVIEWED

1. CAT/C/KEN/QPR/3) Report
2. Constitution of Kenya 2010
3. Deaths and Disappearances Abuses in Counterterrorism Operations in Nairobi and Northeastern Kenya 2016 Report by Human Rights Watch
4. FIDA-Kenya Statistics on GBV cases Reported April and May 2020
5. Footprints of Impunity Counting the Cost of Human Rights Violations. Nyayo House Torture Chambers
6. Handbook on The National Coroners Service Act, 2017-2018
7. Human Rights Abuse in Kenya Under Moi
8. IMLU -COVID Situational Report 8th April 2020
9. IMLU National Torture Prevalence Survey 2011
10. IMLU National Torture Prevalence Survey 2016
11. IPOA Act No.35 of 2011
12. IPOA Draft Strategic Plan 2019-2024
13. KNCHR COVID 19 Situational Report June 2020
14. Mathare Social Justice Center – Report on Torture 2013-2016
15. National Coroners Act No 18 of 2017
16. National Police Service Act No 11(a) of 2011
17. Penal Code Cap 63
18. Prevention of Torture Act No 12 of 2017
19. State of Human Rights at the Coast During the Covid-19 Pandemic March-May 2020.
20. The Cry of Blood’ Report on Extra-Judicial Killings and Disappearances by KNCHR
21. The Error of Fighting Terror with Terror Report by KNCHR
22. The Mountain of Terror” A Report on the Investigations of Torture by the Military at Mt. Elgon by KNCHR
23. The Prevention of Terrorism Act No. 30 of 2012
24. Victim Protection Act No 17,2014
25. Witness Protection Act No 16 of 2006

(Footnotes)

- 1 Kenya Law. Available at: <http://kenyalaw.org/treaties/treaties/159/International-Covenant-on-Civil-and-Political-Rights>
- 2 <https://www.ohchr.org/EN/UDHR/Pages/UDHRIndex.aspx>
- 3 “UN Treaty Collection, Status of the First Optional Protocol to the ICCPR”. UN OHCHR. Retrieved 14 October 2011. <https://indicators.ohchr.org/>
- 4 https://treaties.un.org/doc/Publication/CTC/Ch_IV_16.pdf



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