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Kenya: Government must respect and protect the rights of all

Amnesty International today said that it was unacceptable that the Kenyan police are not actively enforcing law and order in the current violence involving armed community vigilante groups and members of the Mungiki group that has resulted in the deaths of up to 45 people in the last three weeks alone.

A police representative was quoted, in a local weekly on 21 April, as stating that the police support the activities of the community vigilante groups and that they are reluctant to act against illegal activities by members of the Mungiki group because "when the police act they are accused of extra-judicial executions".

Over the past three weeks vigilante groups have been active in Kirinyaga district, ostensibly to provide community protection or security against the operations of Mungiki members who have been demanding money as protection fees from residents of the area.

Amnesty International emphasizes that the state has an obligation to respect and protect the right to life of everyone within its jurisdiction.

The Kenyan Government must not abdicate its duty to respect and protect life by explicitly or tacitly supporting the activities of vigilante groups. If the state permits vigilante or similar groups to carry out security or law enforcement functions, any abuses they commit in doing so, including extrajudicial executions or other unlawful killings of criminal suspects, are human rights violations for which the state is responsible. The Kenyan authorities cannot evade their obligations by letting vigilante groups carry out unlawful killings.

It is likewise an abdication of their duty for the police to state that they will not act because whenever they do, they are accused of extrajudicial executions. It is the role of the state, through its law enforcement agencies, to provide adequate security and protection against violent crime. In doing so, the police must use only such force as is strictly necessary and proportionate for the performance of their duty. The government must ensure that the police or any other bodies which carry out law enforcement functions comply with Kenya's international human rights obligations. Deliberately killing a criminal suspect rather than arresting them is an extrajudicial execution.

As the UN Special Rapporteur on extrajudicial, arbitrary or summary executions said, following his visit to Kenya in February 2009, "all Governments have to deal with criminals, and it is one of the central duties of a Government to protect its citizens from such persons. But ... the proper response to criminality is not to shoot a suspect in the back of the head ..., but to investigate, arrest, and try the suspect in accordance with law".

Amnesty International calls on the Kenyan authorities to ensure that independent and impartial investigations are carried out into all these killings, whether by suspected Mungiki members, by members of vigilante groups, or by the police. Those suspected of being responsible should be arrested and prosecuted in fair trials without recourse to the death penalty, and families of those killed should receive reparations.

Amnesty International also calls on the Kenyan authorities to investigate the role of the police and relevant security personnel in expressing support for the operations of vigilante groups carrying out killings of Mungiki members.

Background

- Amnesty International, The UN Special Rapporteur on extrajudicial, arbitrary or summary executions, the Kenyan National Commission on Human Rights and other Kenyan human rights organisations have documented the unlawful killing, including extrajudicial execution, of hundreds of alleged Mungiki members by Kenyan security forces over the past three years.
- The Mungiki group is mainly active in Nairobi and parts of central Kenya. Group members say that they are guided by traditional religious and moral beliefs and the group claims to have a role in maintaining law and order and the running of the public transport industry in parts of Kenya. Alleged members have demanded "protection fees" from owners of public service vehicles and been implicated in killings and the assault of members of the public. Leaders of the group have publicly alleged that the group has tacit support from prominent government officials in the current and previous governments, but have so far not named any.
- International standards provide that law enforcement officials must not use firearms except to defend themselves or others against the imminent threat of death or serious injury, to prevent a particularly serious crime involving grave threat to life or to arrest or to prevent the escape of a person presenting such a danger and resisting their authority, and only when less extreme means are insufficient to achieve these objectives. Governments must ensure that arbitrary or abusive use of force and firearms by law enforcement officials is punished as a criminal offence.
- The President is on record (on 22 April) as having stated that perpetrators of the killings would be punished. The police also announced that as of 24 April it had arrested over 60 individuals suspected of involvement in the killings and stated that these individuals would be charged in court with crimes related to the violence and the killings. However, it is of serious concern that subsequent to the President's pledge and the arrests, the killings have continued.

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