



# INSULT TO INJURY

The 2014 Lamu and Tana River Attacks and Kenya's Abusive Response

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Kenya's Abusive Response**

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# Map of Kenya and Coast Region





## Summary

During five weeks between mid-June through July 2014, armed gunmen who in most cases claimed to be part of the Somalia-based armed Islamist group Al-Shabaab, attacked a passenger bus and at least eight villages in the Kenyan coastal counties of Lamu and Tana River. The attackers killed 87 people including four security officers, and destroyed approximately 30 buildings and 50 vehicles.

Kenyan security forces were slow to respond to the attacks, leaving villages unprotected and when they eventually responded, their actions were often discriminatory, beating, arbitrarily detaining and stealing personal property from Muslim and ethnic Somalis in the two counties. A year later, despite numerous law enforcement operations along the coast, hundreds have been arrested and mistreated, only to have charges dropped for lack of evidence and no one has been held responsible for the attacks.

This report, an outcome of a 10-day research mission in Lamu and Tana River counties by Human Rights Watch and the Kenya Human Rights Commission, and follow-up research in Nairobi, documents the initial attacks and the Kenyan government's response, including abusive operations by security forces in the aftermath of the attacks.

The attacks began in Mpeketoni, a small town in Lamu County, on the evening of June 14, 2014, and spread to neighboring Tana River County over the following weeks. The attackers, operating in groups of 15 to 300 men armed with guns, knives and machetes, as well as heavy weapons such as bazookas and grenade launchers, targeted mainly non-Muslims of different ethnicities, despite a claim by President Uhuru Kenyatta that the attackers had targeted one ethnic group. They killed men by stabbing or shooting them at close range, sparing women but in some cases forcing them to watch the killings. In all but one case, attackers introduced themselves as Al-Shabaab fighters and the group has claimed responsibility for at least four of the attacks.

According to witnesses, the attackers listed the persecution of Muslims, the presence of the Kenyan military in Somalia, and avenging the killing of Muslim clerics by Kenyan security forces in Mombasa, as some of the reasons for the attacks. They demanded the



withdrawal of Kenyan military from Somalia and directed the women, many of whom were made to watch the killings of men, to relay their demands to President Kenyatta.

Kenyan security forces were ill-prepared in responding to the attacks, and failed to protect the communities as events unfolded over time, according to research by Human Rights Watch and the Kenya Human Rights Commission. These findings are similar in many respects to those of an investigation by the Kenyan Independent Policing Oversight Authority (IPOA), a state-funded institution that provides civilian oversight of police work in Kenya. Security forces on the ground lacked sufficient personnel, vehicles, and communication, and there was insufficient command and coordination. According to an IPOA investigation into the June 15 and 16 attacks in the Mpeketoni, Kibaoni and Kijijoni areas of Lamu County, security forces also failed to act on intelligence suggesting a future attack might occur.

As early as June 16, a day after the initial Mpeketoni attack, senior government officials stated publicly that the government had increased security and that justice would be done. Yet the attackers struck again in the subsequent days, and in the very locations where the authorities said security had been improved.

A year later, there have been no successful prosecutions for the 2014 attacks on the coast, with the state dropping most of the cases for lack of evidence. Instead, starting in July 2014, security forces arbitrarily detained residents of the two counties and subjected them to cruel, inhuman or degrading treatment, including rounding up men and boys, searching and ransacking homes and businesses, and beating male residents. Members of the security forces also stole money and valuables from residents.

Under Kenyan law, suspects can only be held for more than 24 hours with the permission of the court. In Tana River, security officers detained at least 60 people at Gamba Police station and held them without food for more than 24 hours without permission of a court, forcing them to sleep on cold concrete floors in very small, overcrowded and unsanitary cells. In Lamu County, police detained 41 people and held all of them in a small and filthy cell at Mpeketoni Police station between three days and two weeks.

Police meanwhile told the media in August 2014 that the Lamu detainees were “terrorists” who had been arrested in Pangani forest. Later, these detainees were all released by police

without charge, or prosecutors dropped charges for lack of evidence. Most of the detainees interviewed for this report were, at the time of the interview four months later, still recovering from serious injuries sustained from beatings by security officers either during roundups or in detention.

In the face of multiple horrific attacks over recent years in Kenya, security forces are clearly stretched thin. Improving security forces' ability to respond both lawfully and efficiently to protect communities most affected by attacks should be a central priority of Kenyan authorities. Thus far, rather than increase the quality and capacity of Kenya's security forces, authorities have proposed amending laws to expand police powers, remove checks and balances, and weaken accountability mechanisms within the security sector. The government's failure to implement long delayed security sector reforms has also been a lost opportunity to improve the protection of human rights and the rule of law, as well as build confidence and necessary cooperation with affected communities.

It is unclear whether there have been internal investigations into the government's response into the attacks in Lamu and Tana River counties in June and July 2014, beyond the IPOA investigation. The Kenyan government and its international partners should support a credible investigation into the security force operations in Lamu and Tana River counties described in this report with the view to ending abuses by security forces and holding abusive officials to account. Failure to investigate and ensure accountability for security force abuses only serves to alienate affected communities and, potentially, increase the risk of radicalization and recruitment by militant groups operating in the region.

Al-Shabaab's April 2, 2015 attack on Garissa University College, in which at least 147 people, including 142 students, were killed, and the very real prospect of future attacks, make addressing the types of abuses documented in this report all the more pressing. Kenyan authorities should urgently implement necessary reforms and ensure the response to the security crisis respects Kenya's human rights obligations, is founded on the rule of law and genuinely protects the public from further violence.

## **Recommendations**

### **To the Office of the President and the Executive Arm of Government**

- Acknowledge the scope and gravity of the problem of abusive operations; publicly condemn abuses by security forces, and commit to taking all necessary steps to end these abuses.
- Encourage the Independent Policing Oversight Authority (IPOA) to expand investigations into abusive security force operations on the coast.
- Direct the Kenya Defense Forces (KDF) to investigate the involvement of its officers and commanders in abusive operations in Lamu and Tana River.
- Encourage the Kenyan Police Service to conduct effective criminal investigations into future attacks to ensure that those responsible are brought to justice in accordance with the rule of law.
- Increase funding and support for IPOA and ensure that their recommendations are implemented and enforced.
- Ensure Kenyan security officers are retrained on effective policing in line with international standards, and provide them with adequate resources to respond effectively and lawfully to the security challenges Kenya is facing.
- Accelerate the ongoing security sector reforms with the view to improving, among other measures, the investigative capacity of the police, the coordination framework for all security agencies, and accountability mechanisms of the police and the KDF.
- Take concrete steps to repeal recently enacted laws such as the amendments to the National Police Service Act and the Security Laws Amendment Act that either expand police use of firearms or undermine the rights of accused persons.

### **To the Inspector General of Police, the Independent Policing Oversight Authority (IPOA) and National Police Service Commission**

- Ensure that police end abuses in Lamu and Tana River counties and work with affected communities to improve avenues for communication and protection.

- Support the ongoing police reform process including the vetting of all officers to ensure all those implicated in human rights abuses are removed from their positions and held to account.
- Ensure that reports of abuses by security agencies involved in operations in Tana River and Lamu counties are adequately and genuinely investigated including by IPOA and the Kenyan Police Service and that the officers found to be responsible are held to account.

### **The Chief of General Staff, Kenya Defense Forces (KDF)**

- Investigate reports of KDF involvement in abusive operations in Ngumu village in Tana River; Maziwa “B” village in Tana River; Witu town in Lamu County; Mpeketoni in Lamu County; Hindi in Lamu County and Mokowe in Lamu County.
- Ensure the KDF officers and their commanders implicated in abusive operations are held to account.
- Immediately relocate KDF officers who are using educational institutions as military bases, such as at Pandanguo Primary School, and establish clear mechanisms to prevent occupation of schools by security forces in the future.

### **To the Director of Public Prosecutions**

- Direct the Kenya Police Service to investigate reports of abusive security force operations in Lamu and Tana River counties.
- Prosecute any members of the security forces where there is prima facie evidence of criminal wrongdoing in connection with the abuses in Lamu and Tana River counties, as well as the officers found responsible for the abuses in other regions.
- Ensure the Kenya Police Service carry out effective criminal investigations into future attacks to ensure that those responsible are brought to justice in accordance with the rule of law.

## **To Al-Shabaab and other Armed Groups Operating in Kenya**

- End all attacks on civilians, respect the right to freedom of religion and appropriately punish group members who commit or order attacks on civilians.

## **To Kenya's International Partners**

- Continue to support comprehensive security sector reforms and urge Kenyan authorities to redesign and expedite the reform process.
- Urge Kenyan authorities to investigate reports of abuses by security forces and ensure accountability for those found responsible.
- Enhance financial and other support to Kenyan human rights organizations, including through public condemnation of attacks or threats against them, and urge the Kenyan authorities to respect their role in the protection of human rights.

## Methodology

This report is the outcome of joint research by Human Rights Watch and the Kenya Human Rights Commission. Researchers visited eight villages in Tana River and Lamu counties between October 21 and 30, 2014 and interviewed 92 people, including 21 survivors of attacks by armed groups, 57 victims of government security force abuses, as well as humanitarian workers, civil society officials, imams and other religious leaders and village elders. Follow-up interviews were carried out with police, other government officials and politicians.

Human Rights Watch and the Kenya Human Rights Commission sought to investigate and document the attacks in Tana River and Lamu counties in June and July 2014 through interviews with victims and witnesses, and the government's response to the attacks.

To protect survivors and residents of the two counties from possible reprisals from Al-Shabaab and government security agencies, Human Rights Watch and the Kenya Human Rights Commission have withheld the identities of interviewees.

All interviews with victims and witnesses were conducted confidentially, in safe locations away from their homes or communities, and were either in Swahili or Somali, with the aid of interpreters where necessary. No compensation for interviews was requested and none was provided. Interviews with police and other government officials were conducted in English, either in person or through a set of questions mailed to the relevant officials.

On April 27, 2015, Human Rights Watch and the Kenya Human Rights Commission wrote to the Inspector General of Police, the Chief of General Staff and the Director General of the Kenya Wildlife Service setting out preliminary research findings and requesting information on the wide range of human rights concerns contained in this report. This includes information relating to the initial state response to the attacks, the status of efforts to investigate and prosecute attackers, and the wider response by security forces following the attacks (see the attached annex 1). At the time of writing, the officials of the Kenya Police Service, Kenya Wildlife Service and Kenya Defense Force had not responded.

*Note on police structures:* The Administration Police are a unit created in pre-independence Kenya to support the administrative work of the officials of the now defunct provincial administration.

Unlike the regular police who were headed by the then-Police Commissioner, Administration Police were until 2010 headed by a commandant and worked under the Ministry of Internal Security, which was under the office of the President. Attempts to merge the Administration and regular police succeeded only partially due to internal resistance from the Administration Police. Currently, the regular and Administration Police are each headed by a deputy inspector general, who are both answerable to the Inspector General of Police. The letter to the Inspector General of Police covered concerns relating to both the regular police and the Administration Police.

# I. Background

Kenya has long faced incidents of insecurity, but the number and scale of incidents have increased since October 2011, when Kenya deployed forces to Somalia in response to increased kidnappings, gun and grenade attacks at the coast, in the northeast and Nairobi.<sup>1</sup> The Kenyan government labeled Al-Shabaab, the Somalia-based armed Islamist group, "the enemy," and vowed to set up a "buffer zone" north of its border with Somalia to stop the attacks.<sup>2</sup>

Al-Shabaab swore to resist the Kenyan deployment and take the war to Kenya.<sup>3</sup> Although the identity of perpetrators remains unclear in some cases, Al-Shabaab has claimed responsibility for most of the large-scale attacks since 2011.<sup>4</sup>

According to media reports, there were at least 133 grenade and gun attacks in Nairobi, Mombasa, and Garissa between 2011 and 2014.<sup>5</sup> Kenyan police said that 173 people were killed in attacks in 2014 alone.<sup>6</sup> In September 2013, gunmen attacked the affluent Westgate Mall in Nairobi, killing 67 people and injuring hundreds.<sup>7</sup> Al-Shabaab claimed

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<sup>1</sup> The population of Kenya's northeast region is predominantly Kenyan Somali and the area borders Somalia. The coastal region has a sizeable Muslim population and is in proximity to Somalia and northeast Kenya. For general background on the rising number of Al-Shabaab attacks in Kenya see "Kenya: Al-Shabaab – Closer to Home," Crisis Group, Africa Briefing No. 102, September 25, 2014, <http://www.crisisgroup.org/-/media/Files/africa/horn-of-africa/kenya/b102-kenya-al-shabaab-closer-to-home.pdf>.

<sup>2</sup> Daniel Howden, "Kenya Sends troops to Somalia in Pursuit of Al-Shabaab Militants," *The Independent*, October 17, 2011, <http://www.independent.co.uk/news/world/africa/kenya-sends-in-troops-to-somalia-in-pursuit-of-alshabaab-militants-2371620.html>.

<sup>3</sup> "Kenya has been attacked 133 times since Start of Operation Linda Nchi," *The Standard*, August 31, 2014, <http://kenya.afrolly.com/news/lifestyle-kenya-has-been-attacked-133-times-since-start-of-operation-linda-nchi/>. See also, "Kenya Sends Troops To Attack Al Shabaab," Al Jazeera, October 24, 2011, <http://www.aljazeera.com/news/africa/2011/10/20111016115410991692.html>.

<sup>4</sup> Al-Shabaab statements seek to justify their attacks on the presence of Kenyan forces in Somalia; alleged targeted killings of Muslim clerics by Kenyan security forces, and the mistreatment of Muslims, ethnic Somali Kenyans and Somali refugees by the Kenyan authorities. "Al-Shabaab Claim Responsibility for Mpeketoni Attack," *The Standard*, June 16, 2014, <http://www.standardmedia.co.ke/the-counties/article/2000124978/Al-Shabaab-claim-responsibility-for-mpeketoni-attack>.

<sup>5</sup> "Kenya has been attacked 133 times since the start of Operation Linda Nchi," *The Standard*, August 31, 2014, [www.standardmedia.co.ke/.../story.php?...2000133281...Kenya-has-been-attacked-133-times-since-the-start-of-operation Linda - Nchi](http://www.standardmedia.co.ke/.../story.php?...2000133281...Kenya-has-been-attacked-133-times-since-the-start-of-operation-Linda-Nchi).

<sup>6</sup> Tom Odula, "173 People Die in Extremist Attacks in Kenya in 2014: Police," *Associated Press*, February 25, 2014, <http://abcnews.go.com/International/wireStory/174-people-die-extremist-attacks-kenya-2014-police-29207328>.

<sup>7</sup> Sudarsan Raghavan, "Attackers Storm Nairobi Mall, Killing Dozens," *The Washington Post*, September 21, 2013, [http://www.washingtonpost.com/world/africa/gunmen-attack-shopping-mall-in-kenya/2013/09/21/05b5e016-22b5-11e3-a358-1144dee636dd\\_story.html](http://www.washingtonpost.com/world/africa/gunmen-attack-shopping-mall-in-kenya/2013/09/21/05b5e016-22b5-11e3-a358-1144dee636dd_story.html).



responsibility for that attack. There were also a series of grenade and gun attacks at the coast, in Nairobi and in the northeast throughout 2014 and early 2015. These include the attacks on villagers and shopping centers in Lamu and Tana River in June and July 2014, two attacks in which at least 64 teachers and mine workers in Mandera county in the northeast were killed on November 24 and December 1, 2014,<sup>8</sup> and the April 2, 2015 attack on Garissa University College in which at least 147 people were killed.<sup>9</sup>

The public response to these attacks has varied, with some Kenyans calling on the government to withdraw Kenyan forces from Somalia and concentrate on improving internal security. Others support the position of Kenyan officials and the ruling Jubilee Alliance Party, who insist that Kenya will only leave Somalia once Al-Shabaab has been defeated.<sup>10</sup>

## Grievances and Insecurity at the Coast

The Kenyan coast, Nairobi and the northeast experienced repeated attacks well before the Kenyan military entered Somalia.<sup>11</sup> In 2002, armed gunmen attacked Kikambala Hotel 25 kilometers north of Mombasa, killing 15, including the three attackers.<sup>12</sup> The attack on Kikambala Hotel, which was owned by an Israeli national, has been blamed on Al-Qaeda.<sup>13</sup>

Between 2010 and 2013, grenade and gun attacks along the coast which have been attributed to Al-Shabaab and its supporters largely targeted public places such as hotels,

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<sup>8</sup>“Kenya Bus Attack: Mandera Residents Flee To Army Base,” *BBC*, November 25, 2014, <http://www.bbc.com/news/world-africa-30192588>. Also, see “Al-Shabaab massacres non – Muslims at Kenya quarry,” *BBC*, December 2, 2014, <http://www.bbc.com/news/world-africa-30288137>.

<sup>9</sup> “Kenya attack: 147 dead in Garissa University assault,” *BBC*, April 3, 2015, <http://www.bbc.com/news/world-africa-32169080>.

<sup>10</sup> Drazen Jorgic and George Obulutsa, “Call for Withdrawal of Kenyan troops from Somalia,” *Business Day*, July 8, 2014 <http://www.bdlive.co.za/africa/africanews/2014/07/08/call-for-withdrawal-of-kenyan-troops-from-somalia>. See also Allan Olingo, Experts Urge Kenya to Secure Border In Al-Shabaab Fight, *The East African*, December 6, 2014, <http://www.theeastafrican.co.ke/news/Experts-urge-Kenya-to-secure-border-in-Al-Shabaab-fight/-/2558/2547096/-/paewrgz/-/index.html>. See also “President Uhuru Kenyatta: Kenyatta Will Not Withdraw Its Troops From Somalia,” *The Standard*, October 1, 2013, <http://www.standardmedia.co.ke/article/2000094685/president-uhuru-kenyatta-kenya-will-not-withdraw-its-troops-from-somalia>.

<sup>11</sup> The 2010 Constitution divided the Kenyan coastal region into six counties: Kilifi, Kwale, Lamu, Mombasa, Tana River and Taita Taveta.

<sup>12</sup> “At Least 12 Killed in Kenyan Hotel Blast”, *The Guardian*, November 28, 2002, <http://www.theguardian.com/world/2002/nov/28/israel.kenya>.

<sup>13</sup> Caroline Theuri, “2002: Terrorists Hit Paradise Hotel after Elaborate Planning,” *The Daily Nation*, November 10, 2013 <http://mobile.nation.co.ke/lifestyle/-Terrorists-hit-Paradise-Hotel-after-elaborate-planning/-/1950774/2067670/-/format/xhtml/-/cygh6tz/-/index.html>.

restaurants, churches, pubs and nightclubs in Mombasa County, Kwale County and parts of Malindi, the headquarters of Kilifi County and a significant tourist destination.<sup>14</sup>

Armed attackers with alleged ties to Al-Shabaab conducted a series of kidnappings of tourists off the coastal town of Lamu in 2010 and 2011.<sup>15</sup> These incidents, and the abduction of two aid workers from the Dadaab refugee camps, prompted the Kenyan military incursion into Somalia in October 2011.<sup>16</sup> However, the most organized and sustained armed attacks at the coast, the subject of this report, occurred in June and July 2014.<sup>17</sup>

The 2014 attacks exacerbated longstanding grievances of the ethnic communities along the coast.<sup>18</sup> The Truth, Justice and Reconciliation Commission (TJRC) report of 2013 faulted the way successive Kenyan governments have responded to these grievances, including the appropriation of natural resources such as land by either government officials or powerful individuals seen to be aligned with government interests, and the lack of economic development of the region.<sup>19</sup> The report of the state-funded Commission on Revenue Allocation ranked Tana River and Kilifi among Kenya's poorest counties.<sup>20</sup>

In the past, social movements on the coast, some of them seeking secession of the region from the rest of Kenya, have mobilized coastal communities around these grievances,

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<sup>14</sup> "44 Kenyans Killed in Terrorist attacks since 2010," *The Reporter*, July 6, 2012, <https://karizmwangi.wordpress.com/2012/07/06/44-kenyans-killed-in-terror-attacks>.

<sup>15</sup> One of the women kidnapped from Kenya's coastal town of Lamu later died in Mogadishu in 2011. Also see "British Tourist Kidnapped in Kenya held by Al Shabaab – BBC," British Broadcasting Corporation, September 16, 2011, <http://www.bbc.com/news/world-africa-14943300>.

<sup>16</sup> Jeffrey Gettleman, "Kenyan Forces Enter Somalia to Battle Militants," *New York Times*, October 16, 2011, <http://www.nytimes.com/2011/10/17/world/africa/kenyan-forces-enter-somalia-to-battle-shabab.html>.

<sup>17</sup> "Gunmen kill 48 in attack on coastal town of Mpeketoni," *Business Daily*, June 16, 2014, <http://www.businessdailyafrica.com/Gunmen-kill-48-in-attack-on-Mpeketoni/-/539552/2350274/-/kmy291/-/index.html>.

<sup>18</sup> Four coastal communities believe they are indigenous to the region. They are the Mijikenda (with nine villages of sub tribes – the Digo, Giriama, Duruma, Chonyi, Kambe, Jibana, Rabai, Ribe, and Kauma); the Pokomo (divided into the Northern and Southern Pokomo); the Swahili (with 12 sub tribes), and the Bajuni, who are mainly found in Lamu and north of Tana River. But the region has upcountry communities such as the Kikuyu, the Kisii, the Kamba, the Meru, the Luo and the Luhya who have since settled there.

<sup>19</sup> "The report of the Truth, Justice and Reconciliation Commission" presented to President Uhuru Kenyatta on May 3, 2013. TJRC was one of the commissions created by an act of parliament in 2008 to look into historical injustices that were believed to have partly triggered the post-election violence of 2007-2008.

<sup>20</sup> Samuel Siring, "The Richest and Poorest Counties," *The Daily Nation*, November 24, 2013, <http://mobile.nation.co.ke/News/Revealed-The-richest-and-poorest-counties/-/1950946/2086958/-/format/xhtml/-/12rqtw8/-/index.html>.

leading to violence in 1997 and 2003, and the emergence of the Mombasa Republican Council, a movement which has demanded secession.<sup>21</sup> The 2012 and 2013 violent clashes between the Orma and the Pokomo communities in Tana River County was partly a result of the failure of both national and local authorities to address these grievances.<sup>22</sup>

Some analysts have suggested that Al-Shabaab has sought to use the unaddressed grievances over land and inequitable access to resources and opportunities,<sup>23</sup> together with inter-communal tensions emanating from lack of access to economic development for the indigenous communities to recruit disgruntled young men from the coastal region of Kenya.<sup>24</sup>

Kenyan authorities have blamed Al-Shabaab's recruitment from the coast for the increased attacks across the country, but specifically attacks at the coast, Nairobi and northeast region.<sup>25</sup>

## Government Response to Attacks in Kenya

Kenyan authorities have over the past decade responded to the increase in attacks in different parts of the country with heavy-handed operations, especially against members of Muslim and ethnic Somali communities.<sup>26</sup> Some analysts have warned that these operations could contribute to the radicalization of some members of the Somali and Muslim communities in Kenya.<sup>27</sup>

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<sup>21</sup> "Kenya's Coast Province and the Mombasa Republican Council: Islamists, Separatists or Political Pawns?" Jamestown Foundation, November 2, 2012.

<sup>22</sup> "Kenya: Tana River Clashes Leave Dozens Dead," BBC, December 21, 2012, <http://www.bbc.com/news/world-africa-20807736>. Also, "Kenya: Investigate All Politicians in Tana River Clashes", Human Rights Watch news release, September 13, 2012 <http://www.hrw.org/news/2012/09/13/kenya-investigate-all-politicians-tana-river-violence>.

<sup>23</sup> See e.g. Murithi Mutiga, "Al-Shabaab Lays a Trap For Kenya," *New York Times*, June 29, 2014. [http://www.nytimes.com/2014/06/30/opinion/al-shabab-lays-a-trap-for-kenya.html?\\_r=0](http://www.nytimes.com/2014/06/30/opinion/al-shabab-lays-a-trap-for-kenya.html?_r=0).

<sup>24</sup> Ally Jamah, "Report: Al-Shabaab Targets Historical Grievances to Advance Agenda in Kenya," *The Standard*, September 27, 2014 <http://www.standardmedia.co.ke/article/2000136306/Al-Shabaab-targets-historical-grievances-to-advance-agenda-in-kenya>. See also "Kenya: Al-Shabaab – Closer to Home," Crisis Group, Africa Briefing No. 102, September 25, 2014, <http://www.crisisgroup.org/-/media/Files/africa/horn-of-africa/kenya/b102-kenya-al-shabaab-closer-to-home.pdf>.

<sup>25</sup> "Al-Shabaab Kenya Radicalization and Recruitment of Muslim Youth," Intelligence News, March 25, 2015 <http://www.intelligencebriefs.com/al-shabaab-kenya-radicalization-recruitment-of-muslim-youth>.

<sup>26</sup> "Kenya: Halt Crackdown on Somalis," Human Rights Watch news release, April 11, 2014, <http://www.hrw.org/news/2014/04/11/kenya-halt-crackdown-somalis>.

<sup>27</sup> "Kenyan Somali Islamist Radicalization," International Crisis Group, Africa Briefing No. 85, January 25, 2012, <http://www.crisisgroup.org/-/media/Files/africa/horn-of-africa/kenya/Bo85%20Kenyan%20Somali%20Islamist%20Radicalisation.pdf>.

In April and May 2014, government security forces targeted ethnic Somali populations in operations known as Usalama Watch in Nairobi’s Eastleigh neighborhood.<sup>28</sup> Security forces raided homes, buildings, and shops; looted cell phones, money, and other goods; harassed and extorted money from residents; and detained thousands – including Kenyan and non-Kenyan journalists, other Kenyan citizens, and international aid workers – without charge in harsh conditions for periods well beyond the 24-hour limit set by Kenyan law, without any attempt to seek the required permission from the court.<sup>29</sup>

Kenyan security forces have also been implicated in targeted killings and disappearances of Muslims, including prominent clerics.<sup>30</sup> The human rights organization Haki Africa alleged that Kenyan security agencies have killed at least 21 Muslim clerics in its counterterrorism campaign over the past three years.<sup>31</sup> Human Rights Watch research also found credible evidence that the Anti-Terrorism Police Unit (ATPU), working with other security agencies, has forcibly disappeared or killed alleged terrorism suspects.<sup>32</sup> These killings and enforced disappearances of suspects documented by human rights organizations have not been investigated and those responsible have not been held to account.<sup>33</sup>

In April 2015, Kenyan police published a list of 86 organizations and individuals they accused of either being sympathetic to or having links with Al-Shabaab. The list includes two Mombasa-based human rights organizations, Haki Africa and Muslims for Human Rights (MUHURI), which have been critical of the abusive practices of the security forces. Kenyan authorities have frozen the bank accounts of the two organizations and raided

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<sup>28</sup> Usalama Watch Operation was carried out by a team of at least 5,000 officers from multiple agencies in response to attacks in Nairobi and Mombasa. At least 4,000 Somali refugees and ethnic Somali Kenyans were arrested and detained for varied periods during the operation. For more information on the operation, see Human Rights Watch news releases “Kenya: End Abusive Roundups,” March 13, 2014, <http://www.hrw.org/news/2014/05/12/kenya-end-abusive-round-ups>, and “Kenya: Halt Crackdown on Somalis,” April 11, 2014, <http://www.hrw.org/news/2014/04/11/kenya-halt-crackdown-somalis>.

<sup>29</sup> Ibid.

<sup>30</sup> “Kenya: Third Imam Killed in 2 Years,” Human Rights Watch news release, April 4, 2014, <http://www.hrw.org/news/2014/04/04/kenya-third-imam-killed-2-years>. See also “‘We’re Tired of Taking You to the Court’: Human Rights Abuses by Kenya’s Anti-Terrorism Police Unit,” Open Society Justice Initiative and Muslims for Human Rights (MUHURI), November 20, 2013, <http://www.muhuri.org/images/We%20are%20Tired%20of%20Taking%20you%20to%20the%20Courts.pdf>.

<sup>31</sup> “Gunned Down in Mombasa – The Clerics That Have Died,” IRIN, July 28, 2014, <http://www.irinnews.org/report/100412/gunned-down-in-mombasa-the-clerics-that-have-died>.

<sup>32</sup> “Kenya: Killings, Disappearances by the Anti-Terror Police,” Human Rights Watch news release, August 18, 2014, <http://www.hrw.org/news/2014/08/18/kenya-killings-disappearances-anti-terror-police>.

<sup>33</sup> Ibid.

their offices, carrying away documents and computer hard drives, in what the authorities claimed was an investigation into possible tax evasion.<sup>34</sup> According to media reports in late May, the government's NGO Coordination Board deregistered Haki Africa and MUHURI. The government said Haki Africa was not legally registered and that both Haki Africa and MUHURI were operating bank accounts that had not been declared to the board.<sup>35</sup>

Kenya's counterterrorism campaign in Somalia and within Kenya receives significant support and training from various international partners, notably the governments of the United Kingdom and United States. Kenyan authorities have not conducted any known investigations into human rights abuses by its counterterrorism forces, despite credible allegations of abuse. Representatives of governments that support some Kenyan security forces, such as the US and the UK, told Human Rights Watch they have asked Kenyan authorities to investigate abuses and hold those responsible to account.<sup>36</sup>

## Delayed Security Sector Reform

Kenya's heavy handed response to insecurity in a variety of contexts points to wider problems within the security sector, including lack of accountability and weak investigative capacity – issues that have been repeatedly identified by various official inquiries. The Commission of Inquiry into Post-Election Violence of 2008, created to investigate the violence that followed the disputed 2007 elections, and the Report of the National Task Force on Police Reforms of 2009, created by then-President Mwai Kibaki to provide a way forward for police reforms, recommended comprehensive police reforms to address these and other challenges.<sup>37</sup>

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<sup>34</sup> "Ensure Due Process on 'Terrorism List'," Human Rights Watch news release, April 15, 2013, <http://www.hrw.org/news/2013/04/12/kenya-ensure-due-process-terrorism-list>.

<sup>35</sup> "Kenya: Rights Groups Fight Attempt to Scrap Them," *The Star*, May 29, 2015, <http://allafrica.com/stories/201505290136.html>. See also Justus Wang, "NGOs Lose Licenses Over Terrorism Claim," *Daily Nation*, May 27, 2015 <http://mobile.nation.co.ke/news/NGOs-lose-licences-over-terrorism-claim/-/1950946/2731888/-/format/xhtml/-/kivyy5/-/index.html>.

<sup>36</sup> Human Rights Watch discussions with US and UK missions in Nairobi, September and October 2014. See also, Kate Linthicum, "As Kenya Fights Terrorism, Its Tactics Come Under Fire," *Los Angeles Times*, August 24, 2014, <http://www.latimes.com/world/africa/la-fg-kenya-clerics-20140824-story.html#page=1>.

<sup>37</sup> Report of the National Task Force on Police Reforms, 2009, headed by Justice Philip Ransley, [http://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=4&ved=oCCoQFjAD&url=http%3A%2F%2Fxa.yimg.com%2Fkq%2Fgroups%2F18991630%2F780706894%2Fname%2FFinal\\_Report\\_Draft6%25252810%252529\\_21Oct%25252009&ei=FijXVLquKKOv7Abpp4D4Bw&usq=AFQjCNE9pzUmo23-vCdzzf8UYmQenYlhrQ&bvm=bv.85464276,d.ZGU](http://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=4&ved=oCCoQFjAD&url=http%3A%2F%2Fxa.yimg.com%2Fkq%2Fgroups%2F18991630%2F780706894%2Fname%2FFinal_Report_Draft6%25252810%252529_21Oct%25252009&ei=FijXVLquKKOv7Abpp4D4Bw&usq=AFQjCNE9pzUmo23-vCdzzf8UYmQenYlhrQ&bvm=bv.85464276,d.ZGU).

Kenya's 2010 Constitution lays out the roadmap and timelines for police reforms.<sup>38</sup> Some of the reforms have been implemented since 2011, including the enactment of various security sector laws and competitive recruitment of top police officers outlined under the new laws.<sup>39</sup> The process of vetting police officers at all levels by the National Police Service Commission started in 2012, amid concerns from human rights organizations about protracted delays, lack of transparency and failure to engage the public in the process as required under the National Police Service Act.<sup>40</sup>

However, overall security reforms have lagged under the administration of President Kenyatta. The government has repeatedly tried to amend security sector laws to expand police powers to use firearms, remove checks and balances, weaken accountability mechanisms and increase executive control over the security agencies. Recommendations of the recently created statutory bodies such as the Independent Policing Oversight Authority (IPOA) to ensure accountability for security forces abuses are largely being ignored by the authorities.

In December 2014, President Kenyatta's administration introduced problematic amendments to various statutes, including the National Police Service Act, the National Police Commission Act, Prevention of Terrorism Act, the Penal Code, and the Refugees Act, among others, arguing that the amendments were necessary to bolster the government's fight against "terrorism."<sup>41</sup>

The amendments increased executive control over the police and eliminated some requirements of accountability for the security agencies, seeking to abrogate the rights of

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<sup>38</sup> Envisaged police reforms under the 2010 Constitution included establishment of accountability institutions, vetting to remove corrupt and abusive officers, and reorganization of the Kenya Police Service to improve governance and responsiveness of the police.

<sup>39</sup> The National Police Service Act, 2011, National Police Service Commission Act, 2011.

<sup>40</sup> "Position on Police Reforms," The CSO Police Reforms Working Group-Kenya, December 1, 2012, <http://www.khrc.or.ke/media-centre/press-releases/125-position-on-police-reforms.html> and "Recruitment of the Inspector General and the two Deputy Inspectors General of the NPS," The CSO Police Reforms Working Group-Kenya, November 22, 2012, <http://www.khrc.or.ke/media-centre/press-releases/124-recruitment-of-the-inspector-general-and-the-two-deputy-inspectors-general-of-the-nps.html>

<sup>41</sup> The Security Laws (Amendment) Act, 2014. "Kenya: Security Bill Tramples Basic Rights," Human Rights Watch and Amnesty International joint news release, December 14, 2014, <http://www.hrw.org/news/2014/12/13/kenya-security-bill-tramples-basic-rights>. See also, Chrispinus Omar and Njoroge Kaburo, "President Uhuru Kenyatta Signs Security Law to Curb Terror Attacks", *The CoastWeek*, December 20, 2014, <http://www.coastweek.com/3751-President-Uhuru-Kenyatta-signs-security-law-to-curb-terror-attacks.htm>.

accused persons.<sup>42</sup> Although the High Court struck down eight clauses of the contentious amendments in February 2015, other problematic provisions were still in force as of this writing.<sup>43</sup> Human rights organizations have appealed against the retention of these clauses in the Security Laws Amendment Act and the appeal was pending at this writing.

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<sup>42</sup> Ibid.

<sup>43</sup> Petition No. 628 of 2014 consolidated with petition No. 630 of 2015 and petition No. 12 of 2015, The High Court of Kenya, February 23, 2015, [http://www.judiciary.go.ke/portal/assets/filemanager\\_uploads/Court%20Decisions/Press%20Summary%20%20Security%20Case.pdf](http://www.judiciary.go.ke/portal/assets/filemanager_uploads/Court%20Decisions/Press%20Summary%20%20Security%20Case.pdf).

## II. Attacks in Lamu and Tana River Counties

The attacks started in the town of Mpeketoni, Lamu County, on the evening of June 14, 2014, and continued until July 19 in various locations in Lamu and neighboring Tana River County. In attacks targeting eight villages and a bus, the attackers, in groups of between 15 to 300 men armed with guns, daggers and machetes, shot victims at close range, mostly to the face, or slit their throats with daggers and forced others to watch.

Nearly all the targeted villages and town centers are along the main Tana River-Lamu road. Only Pandanguo and Kakate villages, both in Lamu County, are more than 15 kilometers off the Tana River-Lamu road, where most of the police stations and military camps are located. The attacks killed a total of 87 people and destroyed at least 30 buildings and 50 vehicles, with most of the damage in Mpeketoni.

Survivors and witnesses of the attacks told researchers that the attackers wore military fatigues and spoke Somali and/or Swahili. In all but one attack on Kakate village, the attackers introduced themselves to their victims as Al-Shabaab fighters. The 15 to 20 armed men who attacked Kakate village claimed to be officers from Witu Police Station, according to two survivors, but Human Rights Watch and the Kenya Human Rights Commission could not verify this allegation.<sup>44</sup>

Sixteen of the witnesses and survivors who were interviewed for this report described the attackers as predominantly “light-skinned” Somali men. Witnesses in Pandanguo said they identified among the attackers at least one Kenyan national whom they recognized as a resident of Kiunga area who was believed to have joined Al-Shabaab a few years ago and that the leader of the group that attacked Pandanguo identified himself as a Kenyan from central Kenya.

The attackers targeted non-Muslims, witnesses said, killing those who could not recite an Islamic creed to prove they were Muslims. The attackers targeted only men, but said they would kill women in the next round of attacks. They also targeted police stations and other

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<sup>44</sup> Human Rights Watch and the Kenya Human Rights Commission interview with a survivor of the Kakate attack, Lamu County, October 26, 2015.



government installations and killed government security officers. On June 16, a day after the attack, President Kenyatta alleged that the attackers targeted a particular Kenyan ethnic group. Survivors and witnesses told researchers that the attackers did not ask the victims about their ethnicity or geographic origin in Kenya.

The attackers, according to witnesses, said they were avenging the killing of Muslim clerics by Kenyan security agencies, the persecution of Muslims by Kenyan authorities, and to protest the presence of the Kenyan military in Somalia. They demanded the withdrawal of Kenyan military from Somalia and asked the women, whom they spared, to deliver their demands to President Kenyatta.

By killing and injuring villagers during the June and July 2014 attacks, the perpetrators committed serious crimes under Kenyan law and human rights abuses including of the right to life and physical integrity protected under the Kenyan constitution.<sup>45</sup>

### **Attack on Mpeketoni, June 14**

A 46-year-old businessman described to researchers how the attackers destroyed his hotel in Mpeketoni:

The attackers came on June 14, 2014, at around 8.45 p.m. I heard a lot of shooting at the police station and I assumed it was a normal gun fight between thieves and police. However, the gunshots persisted and I thought we were being attacked. The masked attackers came in a matatu [Swahili word for privately owned public transport vans] in combat uniform. They had guns and bulletproof vests. They came into the hotel and went upstairs to assemble the weapons. They were speaking in Somali through the radio while they were assembling the weapons. They had heavy weapons.

They started shooting in the air and at the walls and windows for almost 20 minutes. I ran and hid behind the hotel and I noticed that they had started

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<sup>45</sup> Constitution of Kenya, 2010, <http://www.kenyalaw.org/kl/index.php?id=398> (accessed May 1, 2015). UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, Adopted by General Assembly resolution 53/144 of 9 December 1998; <http://www.ohchr.org/EN/ProfessionalInterest/Pages/RightAndResponsibility.aspx> (accessed May 1, 2015).

burning it down. I ran into one of the rooms and hid there. But they had seen me and started pushing the door open. I forced the window of the room open and jumped from the second floor. They heard me fall down at the back of the hotel and came searching. My legs were hurting and trembling, but I managed to scale the perimeter wall and escape into the nearby bush. I left the bush the next morning.

The attackers left the hotel at around 1 a.m. and drove into the town in a white Nissan where they joined others in destroying buildings, cars and killing any non-Muslim in sight. They also attacked the police station and the administration police camp we have here without much resistance. I think the attackers were Al-Shabaab because they spoke in the Somali language and they had very sophisticated weapons, including a bazooka.

When the attackers first came into the hotel, I thought it was the police who had come to assemble their guns and go on to fight the robbers. The police arrived at the hotel the following day between 7 and 8 a.m.

Witness and survivor interviews suggested that 100 armed men attacked Mpeketoni town at around 8.30 p.m. on June 14, 2014.<sup>46</sup> About 40 attackers arrived in a matatu that they hijacked just outside of Witu town and drove into Mpeketoni, where they joined about 70 other armed men who had walked into the town from Pangani forest.

Witnesses who survived the attack said the attackers went around the streets of Mpeketoni center shouting “Takbir! Allahu Akbar!” and spoke fluently in Somali and Swahili languages.<sup>47</sup> On June 15, Al-Shabaab claimed responsibility for the Mpeketoni attack.<sup>48</sup>

Witnesses said the attackers were armed with heavy bazookas, grenade launchers, self-loading sub-machine gun, AK-47 and grenades, and identified themselves as Al-Shabaab.

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<sup>46</sup> The IPOA report estimated the number of attackers at 30, but witnesses and victims interviewed by Human Rights Watch and the Kenya Human Rights Commission estimated the number at 100.

<sup>47</sup> Human Rights Watch and the Kenya Human Rights Commission interviews with multiple survivors and witnesses of the attack in Mpeketoni and Kakate village, October 26 and 27, 2014, Lamu County.

<sup>48</sup> Agence France Presse, “Al-Shabaab Claim Responsibility for Mpeketoni attack,” *Daily Nation*, June 16, 2014, <http://www.nation.co.ke/news/Al-Shabaab-Mpeketoni-Lamu-Attack-Terrorism/-/1056/2350568/-/yxpm8y/-/index.html>.

They surrounded the Mpeketoni shopping center and ordered men to quote a verse in the Koran or recite an Islamic creed. Those who failed were shot at close range and hacked to death.

Attackers killed at least 49 people in Mpeketoni and nearby Kibaoni, around five kilometers from Mpeketoni, destroyed 26 buildings including the Breeze View Hotel and set on fire 44 vehicles parked within Mpeketoni town, including police vehicles, according to Kenyan police statements in the media.<sup>49</sup> Some of the attackers left Mpeketoni at around midnight and went to Kibaoni, where they hacked people to death with knives or daggers or shot some people at close range and left them for dead on the road, according to a Kenya Red Cross official who both witnessed the attack and later supported the humanitarian efforts of the Kenyan authorities.<sup>50</sup> The attackers killed five, mostly non-Muslims, at Kibaoni.

## Attack on Poromoko and Mapenya Villages, June 16

The attackers struck Poromoko and Mapenya villages on June 16, killing people in the same style and pattern as the Mpeketoni attackers two days earlier. In Poromoko, the attackers killed 15 people by shooting some at close range and by cutting the throats of others with daggers. An official of the Kenya Red Cross said 15 bodies were discovered by villagers on the morning of June 17, 2014 in Majembeni village, which is between Witu town and Mpeketoni center.<sup>51</sup> In Mapenya, several houses were razed but no one was killed.<sup>52</sup> On June 18, Al-Shabaab claimed responsibility for the attack on Poromoko and Mapenya villages.<sup>53</sup>

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<sup>49</sup> Human Rights Watch and the Kenya Human Rights Commission interview with an official of the Kenya Red Cross involved in humanitarian efforts after the Mpeketoni attack, October 27, 2014. See also Onyango Oloo, "Lessons from Mpeketoni", *The Star*, November 22, 2014, <http://www.the-star.co.ke/article/lessons-mpeketoni#sthash.plcXabcX.dpbs>.

<sup>50</sup> Human Rights Watch and the Kenya Human Rights Commission interview with an official of the Kenya Red Cross, Mpeketoni, October 27, 2014.

<sup>51</sup> Human Rights Watch and the Kenya Human Rights Commission interview with an official of the Kenya Red Cross, Mpeketoni town, October 26, 2014.

<sup>52</sup> John Hall, "Al-Shabaab Kill 15 in Overnight Raid on Kenyan Coastal Villages Just 24 hours after Killing 50 in nearby Mpeketoni", *Daily Mail*, June 17, 2014, <http://www.dailymail.co.uk/news/article-2659903/BREAKING-NEWS-Al-Shabaab-gunmen-kill-eight-night-raid-Kenyan-coastal-town-Poromoko-24-hours-killing-50-nearby-Mpeketoni.html>.

<sup>53</sup> Mohamed Sheikh Nor and David Malingha Doya, "Al-Shabaab Contradicts Kenyatta Claim in Kenyan Coast Attacks", *Bloomberg*, June 18, 2014, <http://www.bloomberg.com/news/2014-06-18/Al-Shabaab-contradicts-kenyatta-claim-over-kenyan-coast-attacks.html>.

## Attack on Kakate Village, June 23

A group of about 15 armed men killed five people in Kakate village, after ambushing a group of men at around 8:30 p.m. on June 23. The village is the only one where the attackers did not introduce themselves as Al-Shabaab, claiming instead to be police officers, although our research was unable to confirm their identity.

Community members had gone to their farms that evening to scare away monkeys from eating crops, a witness said.<sup>54</sup> Witnesses and survivors of the attack told researchers that the attackers released one of the men only after he recited an Islamic verse. Another victim overpowered his attacker and escaped, with serious wounds to the neck.<sup>55</sup> Researchers saw the wound marks that showed the machete or dagger had gone deep into his neck.

The survivor told researchers that he witnessed the attackers slit the other five men's throats with daggers, one after another.<sup>56</sup>

A 38-year-old Muslim man from the Giriama ethnic group who lived in Maleli village, Lamu County, narrowly escaped the attack on Kakate village.<sup>57</sup> He told Human Rights Watch:

I was at home when I heard gunshots. I ran out of the house and saw a man running towards me and screaming. His neck had been cut by the attackers and he was bleeding profusely. Some of the villagers came out of their homes and helped me give the young man some first aid. We then ran into the maize plantation where we hid until the morning. We were around 10 villagers hiding in the plantation. At around 6 am the police came into the village. They searched the houses, then proceeded into the maize plantation where they found us.<sup>58</sup>

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<sup>54</sup> Human Rights Watch and the Kenya Human Rights Commission interview with a survivor of the Kakate attack, Maleli Village, Lamu County, October 26, 2014.

<sup>55</sup> Human Rights Watch and the Kenya Human Rights Commission multiple interviews with witnesses and survivors of Kakate attack, October 26, 2014.

<sup>56</sup> Human Rights Watch and the Kenya Human Rights Commission interview with a survivor of the Kakate attack, Maleli Village, Lamu County, October 26, 2014.

<sup>57</sup> Although the attackers introduced themselves to their victims in Kakate village as police officers from Witu police station, the villagers said they believed they were Al-Shabaab given the style and pattern of their killings. They singled out non-Muslims and demanded that everyone recite an Islamic creed.

<sup>58</sup> Human Rights Watch and the Kenya Human Rights Commission interview with a witness of the Kakate attack, October 26, 2014.

## Attacks in the Hindi area and Gamba Police Station, Lamu, July 5

A 40-year-old woman from Maramande village on the outskirts of Hindi town, some 30 kilometers from Mpeketoni shopping center, told researchers how she was attacked:

The attack started at around 8 p.m. I was at home in Maramande village, in Hindi. Some of the attackers went to my neighbors' house and set it ablaze. The others came to my house – they were 20, but overall we counted up to 50 attackers who were in that operation. They did not find any man in my house and, even though they decided not to kill us, they wanted to burn my house. I said an Islamic prayer. They were surprised. They asked whether I was Muslim, but I said I was Christian. They told me no Christian can say an Islamic prayer. They decided not to burn my house. They were in military jungle fatigues but they wore varied shoes; some even wore open shoes.

They then proceeded to another neighbor's house where they found men. They killed all the men. The killing continued up to early morning when they started firing in the air as a sign of their departure. In total, they killed 13. I watched them carry out all the killings in the village. They would force you to knock on the neighbor's door and when the neighbor opens, they kill you and then ask the neighbor to knock on the other neighbor's house and the pattern would repeat itself. They forced me to go along with them and they warned me against attempting to run away.

Administration police officers came at 7 a.m. accompanied by the village chief. They were followed by the General Service Unit at 11 a.m. the next day, many hours after the attackers had left. The bodies were not picked until midday when the deputy president, William Ruto, came. The bodies had started swelling by the time they were being picked: after more than 12 hours. The attackers were of mixed ethnicity: they included Kikuyus, Giriamas, Kenyan Somalis and Pokomo among others.

Witnesses and survivors in Hindi told researchers that at least 50 attackers went around the villages in Hindi area, cutting the throats of their victims using daggers.<sup>59</sup> Only one man was shot dead at close range and his body thrown back into his grass-thatched house. The armed men then set the house on fire, burning his body, according to his wife who was spared.<sup>60</sup> The attackers continued with the killings in Hindi until 3 p.m., when they left, firing in the air, a typical act, witnesses said, to signal that they were on their way out.<sup>61</sup>

Another group of armed men attacked Gamba police station in Tana River at around the same time, according to media reports.<sup>62</sup> Gamba and Hindi are almost 70 kilometers apart, along the main Tana River-Lamu road. The attack on the Gamba police station killed nine people, including a police sergeant manning the station. The attackers then hijacked a truck with an unknown number of people and escaped, according to media reports that cited a source within the Kenyan police.<sup>63</sup>

## Attack on Pandanguo village, July 9

On July 9, at around 8:30 p.m., around 300 gunmen surrounded Pandanguo village, according to a school official who was taken hostage by the attackers. They disarmed several Kenya Police Reservists guarding the village and went to the village mosque where their commanders told worshippers that they were Al-Shabaab fighters and were seeking the emancipation of Muslims in Kenya, according to a man who was present during the attack and saw the reservists being disarmed as the attackers addressed the worshippers.<sup>64</sup>

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<sup>59</sup> Human Rights Watch and the Kenya Human Rights Commission interviews with multiple witnesses and survivors of the Hindi attacks, October 27, 2014.

<sup>60</sup> Human Rights Watch and the Kenya Human Rights Commission interview with witnesses to the July 5, 2014 attack, Hindi, October 27, 2014. The women did not know why they were spared, but the attackers said they will not spare women in subsequent attacks.

<sup>61</sup> Human Rights Watch and the Kenya Human Rights Commission interviews with a survivor in Maleli village, October 26, 2014.

<sup>62</sup> Damien Gayle, "29 People Killed in Overnight Attacks by Terror Group Al-Shabaab who raided village taking aim at residents and targeted police station", *Daily Mail*, July 6, 2014, <http://www.dailymail.co.uk/news/article-2682239/29-people-killed-overnight-attacks-terror-group-al-Shabab-raided-village-taking-aim-residents-targeted-police-station.html>.

<sup>63</sup> Alphonse Gari, More than 21 People Killed in Hindi, Gamba Twin Attacks, *The Star*, July 6, 2014, <http://www.the-star.co.ke/news/article-174679/more-21-people-killed-hindigamba-twin-attacks>.

<sup>64</sup> Human Rights Watch and the Kenya Human Rights Commission interviews with a medical practitioner in Pandanguo village, October 25, 2014.

Another villager who was in the mosque during the attack said: “They told us that if the Kenya Defense Forces (KDF) does not leave Somalia then the attacks will continue and they would not leave Pandanguo. They said Muslims were mistreated in Kenya and they had come to free them.”<sup>65</sup>

The attackers surrounded the village and left nearly six hours later, at around 3 a.m. On their way out, they invaded two farms and took maize, taking hostage, beating and threatening to kill the owner of the farm, who was left with injuries.<sup>66</sup> The farm owner, who was forced to lie down in his house, face-down, recalled:

They saw some of my pictures, which showed I was a former employee of the government of Kenya. They got so furious and started beating me. They actually wanted to shoot me. They spared me when they learnt I was Muslim.<sup>67</sup>

## Attack on Tahmeed Bus, July 18

At around 6.30 p.m., approximately 10 gunmen shot at a Tahmeed bus, a popular privately-owned bus company plying the Lamu-Mombasa route, along Malindi-Lamu highway, at Pangani forest near Witu town. The attackers came from a Toyota car parked by the road and started firing at the moving bus, according to two men who survived the bus attack.<sup>68</sup> The attackers killed three administration policemen, one regular police officer, the bus driver, a male nurse attached to Hindi Prison Dispensary who was on the bus and another passenger. In total, seven people were killed and eight injured, three on the bus and four police officers outside. On July 19, 2014, Al-Shabaab claimed responsibility for the attack.<sup>69</sup>

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<sup>65</sup> Human Rights Watch and the Kenya Human Rights Commission interview with a resident of Pandanguo village who was briefly kidnapped and then freed by the attackers, Pandanguo, October 25, 2014.

<sup>66</sup> Alphonse Gari, “More than 21 People Killed in Hindi, Gamba Twin Attacks”, *The Star*, July 6, 2014, <http://www.the-star.co.ke/news/article-174679/more-21-people-killed-hindigamba-twin-attacks>.

<sup>67</sup> Human Rights Watch and the Kenya Human Rights Commission interview with a farm owner, Pandanguo village, October 25, 2014.

<sup>68</sup> Human Rights Watch and the Kenya Human Rights Commission interview with a survivor of the bus attack, Witu town, October 25, 2014.

<sup>69</sup> Galgalo Bocha, “Four Policemen among 7 dead in Lamu attack”, *The Daily Nation*, July 19, 2014, <http://www.nation.co.ke/news/Four-policemen-among-7-dead-in-Lamu-attack/-/1056/2389730/-/fonuih/-/index.html>.

### III. Government Response

The Kenyan government's response to the June and July 2014 attacks in Lamu and Tana River counties raises many concerns. Kenyan security forces were ill-prepared in responding to the attacks and failed to respond promptly or protect villages from imminent threat of continued violence. Security forces on the ground lacked sufficient personnel, vehicles, communication equipment, and there was insufficient command and coordination.

In all the cases documented in this report, including when attacks targeted police stations, security forces arrived after attackers had left. There is also evidence that in at least one case, the attack on Mpeketoni center, the local authorities had prior intelligence of a possible attack but failed to protect the town.

Conflicting statements about who was responsible for the attacks by high-level officials over several weeks undermined the ability of the police to effectively investigate the attacks.<sup>70</sup>

Overall, the law enforcement officials failed to impartially investigate the attacks or bring to justice those responsible for the attacks. The government mobilized various security agencies, including the General Service Unit (GSU), regular police, administration police and Kenya Wildlife Service to carry out operations in Ngumu and Maziwa villages in Tana River and Witu and Mokowe area, in Lamu County.

Some of the operations appeared to target ethnic Somalis and Muslims rather than identifying suspects based on evidence of actual criminal wrongdoing. The operations were also riddled with violence (see Chapter IV).

Under the Kenyan Constitution, which reflects key provisions of international human rights treaties to which Kenya is party including the International Covenant on Civil and Political Rights,<sup>71</sup> all people in Kenya are entitled to protection of their right to life and to physical integrity. Under international human rights law, governments have a positive

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<sup>70</sup> "IPOA report following the Mpeketoni attack, redacted version, sections 5.0.1 and section 5.0.2," September 2014.

<sup>71</sup> International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976, <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx> acceded to by Kenya on May 1, 1972. Constitution of Kenya, 2010, <http://www.kenyalaw.org/kl/index.php?id=398>.



obligation to take effective action to protect the right to life, including by preventing and punishing deprivation of life resulting from criminal acts.<sup>72</sup> That includes attacks by armed groups.

Violent attacks like the ones documented in this report are serious crimes under Kenyan criminal law.<sup>73</sup> Police have an obligation under Kenyan law to protect the public against all forms of violence, including violence by private groups such as Al-Shabaab or state agencies, and to investigate and prosecute those found to be responsible for such violence.<sup>74</sup>

## Failure to Respond and Protect

### *Mpeketoni and Surrounding Villages*

On June 14, the attackers were able to take control of Mpeketoni town for more than six hours without any response from security officers, despite the presence of six security stations in the area.<sup>75</sup> The IPOA report describes the stations as having been insufficiently staffed and logistically unprepared to respond to the attacks.<sup>76</sup> Two officers at Mpeketoni Police Station attempted to engage the fighters when the station came under attack at around 10 p.m., but were over-powered and had to flee after they failed to receive reinforcements.<sup>77</sup> The Al-Shabaab fighters also attacked and destroyed the Mpeketoni Administration Police camp without incurring a response from security forces.<sup>78</sup>

Security officers did not respond until 3 a.m. when, according to residents, survivors and witnesses of the attack, the first contingent of the Kenya Police officers arrived.<sup>79</sup> At least three people, a resident and two victims, told researchers they had called senior police

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<sup>72</sup> UN Human Rights Committee, General Comment 6, [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCCPR%2fGEC%2f6630&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCCPR%2fGEC%2f6630&Lang=en) (accessed May 1, 2014).

<sup>73</sup> The Penal Code, Cap 63 of the laws of Kenya, Chapter XIX, sections 202 - 207

<sup>74</sup> National Police Service Act, 2011.

<sup>75</sup> Human Rights Watch and the Kenya Human Rights Commission interview with a Kenya Red Cross official who also witnessed the attack, Mpeketoni, October 27, 2014.

<sup>76</sup> "IPOA Report Following Mpeketoni Attacks," Redacted Version, Independent Policing Oversight Authority, September 2014, section 5.0.7.

<sup>77</sup> Human Rights watch interview with multiple witnesses and survivors of the Mpeketoni attack, October 27, 2014. See also the redacted version of the IPOA report, sections 5.0.3.

<sup>78</sup> Ibid.

<sup>79</sup> Human Rights Watch and the Kenya Human Rights Commission interviews with multiple sources in Mpeketoni on October 27, 2014.

officers in Mpeketoni during the attack, pleading for help, with some officers promising swift action while others could not be reached, but none came until after the attackers had departed.<sup>80</sup>

A businessman and resident of Mpeketoni who witnessed the six-hour ordeal recalled:

The police came at 3 a.m. but they never did anything because the fighters had long gone. They just came to collect bodies, assisted by Kenya Red Cross. In some instances, they even refused to go where the injured were despite assurances by us that the attackers had already left.<sup>81</sup>

There is evidence that the authorities had intelligence of a possible attack at Mpeketoni. President Kenyatta, in his state of the union address on June 17, 2014, said the security officers in Mpeketoni had prior intelligence of the impending attack but failed to prevent it.<sup>82</sup>

The IPOA report also found that police had prior intelligence about the attack.<sup>83</sup> The report stated that the attackers ferried weapons to Mpeketoni a few days ahead of the attack under armed protection of a known police officer attached to the Anti-Terrorism Police Unit (ATPU).<sup>84</sup> The report concluded: “The failure to act on this specific intelligence displays lack of appreciation of the gravity of the matter on the part of the security agencies.”<sup>85</sup>

Kenyan security forces failed to adequately protect the areas surrounding Mpeketoni in the days and weeks following the initial attack. The attacks on Poromoko and Mapenya villages, which are near Mpeketoni, occurred the night after government said that security had been increased in the area and claimed it had pushed attackers to the forest

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<sup>80</sup> Human Rights Watch and the Kenya Human Rights Commission interviews with survivors of Mpeketoni attack, October 27, 2014, Mpeketoni.

<sup>81</sup> Human Rights Watch and the Kenya Human Rights Commission interview with a witness of the Mpeketoni attack, October 27, 2014, Mpeketoni.

<sup>82</sup> State of The Nation Address, President Uhuru Kenyatta Speech on Mpeketoni Attack, June 17, 2014, State House, Nairobi <https://www.youtube.com/watch?v=btDlclqnSrY>.

<sup>83</sup> “IPOA Report Following Mpeketoni Attacks,” Redacted Version, Independent Policing Oversight Authority, September 2014 section 5.0.5. <http://reliefweb.int/sites/reliefweb.int/files/resources/MpeketoniAttackMonitoringReport.pdf>.

<sup>84</sup> “IPOA Report Following Mpeketoni Attacks,” Redacted Version, Independent Policing Oversight Authority, September 2014, section 5.0.5.

<sup>85</sup> *Ibid.*

bordering Somalia.<sup>86</sup> Yet the attacks in those locations lasted until early morning without response from security agencies, according to witnesses.<sup>87</sup> The IPOA report states that soon after the Mpeketoni attacks, officers failed to pursue the attackers as they haggled over allowances before they could accept the mission.<sup>88</sup>

In the attack on Kakate village on June 23, attackers remained in the village from 8:30 p.m. to 3 a.m. according to a resident. Some people could have been evacuated safely had the security officers responded promptly, a survivor told researchers.<sup>89</sup> Residents said they had informed senior police officers at Witu station, just three kilometers away, of the attack as it unfolded, but they did not respond until 6 a.m. when the GSU showed up, followed by the regular police at 7 a.m. The officers, according to the villagers, collected bodies and left.<sup>90</sup>

In Hindi and Gamba police station, both attacked on July 5, security officers again failed to respond in a timely way despite the fact that attacks lasted several hours.<sup>91</sup> In Hindi, villagers said attackers started selecting and killing victims around 8:30pm.<sup>92</sup> Family members of the victims, some of whom were present at the time of the attack and others who heard about the attack as it unfolded, said they called police officers in Hindi, asking for help.<sup>93</sup> The attackers left at 3 a.m., but the Kenyan security forces did not arrive in the affected villages until 11 a.m. the next day.<sup>94</sup>

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<sup>86</sup> “Kenya Beefs Up Security Following Mpeketoni attack,” *Mail and Guardian*, June 16, 2014. <http://mg.co.za/article/2014-06-16-kenya-beefs-up-security-following-mpeketoni-attack>.

<sup>87</sup> Human Rights Watch and the Kenya Human Rights Commission interviews with multiple sources in Witu and Mpeketoni, October 25 and 27, 2014.

<sup>88</sup> “IPOA Report Following Mpeketoni Attacks” Redacted Version, Independent Policing Oversight Authority, September 2014 Section 5.0.6.

<sup>89</sup> Human Rights Watch and the Kenya Human Rights Commission interview with a survivor of the Kakate attack, October 26, 2014.

<sup>90</sup> Human Rights Watch and the Kenya Human Rights Commission interview with family members of the survivor as well as the survivor himself of the Kakate attack, October 26, 2014, Lamu County.

<sup>91</sup> Alphonse Gari, “More than 21 people killed in Hindi, Gamba twin attacks,” *The Star*, July 6, 2014 <http://www.the-star.co.ke/news/article-174679/more-21-people-killed-hindigamba-twin-attacks#sthash.TnzNYGqR.dpuf>.

<sup>92</sup> Human Rights Watch and the Kenya Human Rights Commission interview with a survivor cum victim of the Hindi attack, October 28, 2015.

<sup>93</sup> Human Rights Watch and the Kenya Human Rights Commission interview with a mother of four who was spared by the Hindi attackers, Hindi, October 28, 2014, Lamu County.

<sup>94</sup> Human Rights Watch and the Kenya Human Rights Commission interviews with multiple residents of Hindi town, October 28, 2014, Lamu County.

In Gamba, the attackers struck the police station directly. They escaped after killing a police sergeant at the front desk and hijacking a bus. Researchers were told by a man who witnessed part of the attack that other officers attached to the station failed to come to the aid of the officer at the front desk.<sup>95</sup> The Gamba attack was also widely reported in the local media which indicated that some officers had gone into hiding during the attack.<sup>96</sup>

In the attack on Pandanguo village on July 9, the attackers had time to give a speech in the mosque after disarming Kenya Police Reservists, burn several houses in Pandanguo Primary School and, on the way out of the village after six hours of holding the residents hostage, took maize from two large farms, before leaving at about 3 a.m. KDF officers arrived in the village around 5 a.m. while police failed to arrive at all, according to residents.<sup>97</sup> The researchers were unable to verify whether police ever came. The village is a 20-minute drive from Witu town on a rough road.

## Contradictory Public Statements

While the attacks were ongoing in Lamu and Tana River, public officials made contradictory statements about the attacks and who was responsible for them that may have impeded or undermined effective criminal investigations.

Residents in Lamu partly blamed the delayed response and failed investigations on, among others, contradictory statements and disorganization within government, while the IPOA report blamed confusion caused by conflicting orders and lack of a clear command structure at the County level.<sup>98</sup>

On June 16, Joseph Ole Lenku, then-cabinet secretary for interior and national coordination, described the attackers as “bandits” and said government had enhanced security in Lamu

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<sup>95</sup>Human Rights Watch and the Kenya Human Rights Commission interview with a former government official and resident of Tana River, October 24, 2014.

<sup>96</sup> Gabe Joselow, “Gunmen Kill 22 in Attacks Near Kenya Coast,” *Voice of America*, July 6, 2014 <http://www.voanews.com/content/eighteen-killed-in-attacks-in-kenya/1951691.html> (accessed February 10, 2015).

<sup>97</sup> Human Rights Watch and the Kenya Human Rights Commission interview with two village elders and a survivor of the attack, Pandanguo village, October 26, 2014.

<sup>98</sup> “IPOA Report Following Mpeketoni Attacks” Redacted Version, Independent Policing Oversight Authority, September 2014 Section 5.0.2.

and Tana River.<sup>99</sup> He said that security forces had chased the attackers north into a remote forest that borders Somalia.<sup>100</sup>

On June 17, President Kenyatta blamed “local political networks,” saying, “The attack in Lamu was well planned, orchestrated, and politically motivated ethnic violence against a Kenyan community, with the intention of profiling and evicting them for political reasons. This therefore, was not an Al-Shabaab terrorist attack.”<sup>101</sup> Kenyatta’s statement was widely interpreted to mean that the government was blaming the political opposition for the attacks.

However, on June 19 the Kenyan military and the National Security Intelligence Service (NIS) released a statement to the media (also posted on the KDF website) that Al-Shabaab was responsible for the attacks.<sup>102</sup> When the NIS Director, Michael Gichangi, stepped down in August 2014, the media quoted an unnamed State House source blaming him for insisting that Al-Shabaab was behind the Mpeketoni attacks and thus openly contradicting the President.<sup>103</sup>

On July 8, the deputy inspector General of Police, Ms. Grace Kaindi, blamed the attacks on the local secessionist group, Mombasa Republican Council (MRC),<sup>104</sup> further adding to the confusion.<sup>105</sup> MRC officials refuted the claims and expressed fears that police wanted to use the attacks to target MRC members and officials.<sup>106</sup>

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<sup>99</sup> “Kenya Beefs Up Security Following Mpeketoni Attack”, *Mail and Guardian*, June 16, 2014, Johannesburg <http://mg.co.za/article/2014-06-16-kenya-beefs-up-security-following-mpeketoni-attack>.

<sup>100</sup> Ibid.

<sup>101</sup> State of The Nation Address, President Uhuru Kenyatta Speech on Mpeketoni Attack, June 17, 2014, State House, Nairobi, <https://www.youtube.com/watch?v=btDlclqnSrY>.

<sup>102</sup> Xinhua, “Kenya Defense Forces Kill Five Suspects Behind Mpeketoni attack,” *The Coastweek*, June 19, 2014, <http://www.coastweek.com/3725-latest-news-Kenya-Defense-Forces-soldiers-kill-five-suspects-behind-Mpeketoni-attack.htm>.

<sup>103</sup> Isaac Ongiri, “This is Why Gichangi Had To Go,” *The Daily Nation*, August 15, 2014, <http://mobile.nation.co.ke/news/This-is-why-Michael-Gichangi-had-to-go/-/1950946/2420600/-/format/xhtml/-/s7wd4fz/-/index.html>.

<sup>104</sup> MRC is a secessionist movement formed in 2009 by the local communities at the Kenyan coast, alleging neglect and marginalization of the region by the successive central governments of Kenya since independence See also Andrew McGregory, “Kenya’s Coast Province and Mombasa Republican Council: Islamists, Separatists or Political Pawns,” The James Town Foundation, November 2, 2012, [http://www.jamestown.org/single/?no\\_cache=1&tx\\_ttnews%5Btt\\_news%5D=40056#.VWgvuLcw\\_IU](http://www.jamestown.org/single/?no_cache=1&tx_ttnews%5Btt_news%5D=40056#.VWgvuLcw_IU)

<sup>105</sup> Goodman David, “Lamu Terror Attacks Blamed on Mombasa Republican Council Militants”, *The Intelligence*, July 8, 2014, <http://www.intelligencebriefs.com/lamu-terror-attacks-blamed-on-mombasa-republican-council-militants>.

<sup>106</sup> See Daniel Tsuma Nyassy, “MRC Deny Role in Lamu, Tana Delta Killings”, *Daily Nation*, July 8, 2014, <http://mobile.nation.co.ke/news/MRC-deny-role-in-Lamu--Tana-Delta-killings/-/1950946/2376372/-/format/xhtml/-/8y89lq/-/index.html>.

Al-Shabaab eventually claimed responsibility for four of the attacks.

## Failure to Effectively Investigate and Prosecute Suspects

Police failed to investigate the attacks properly, according to research by Human Rights Watch and the Kenya Human Rights Commission. An employee of the Kenya Red Cross who witnessed the killings in Mpeketoni, and became deeply involved in the subsequent relief efforts, noted: “No one here has recorded a statement with police because the police have not asked for statements. We don’t know how they are carrying out investigations if they cannot talk to those who saw the attackers or the survivors.”<sup>107</sup>

Some other victims and witnesses of attacks in Tana River and Lamu counties concurred: three victims of the Mpeketoni attack, for example, said they had not been questioned or recorded statements with police and were unaware of any fellow victims recording statements with police.

Similar sentiments were expressed by victims and witnesses of the attacks in other locations. A 33-year-old woman who lost her husband during the attack on Hindi said police had not asked for statements from her or any of the other victims, most of whom were her neighbors.

The IPOA report found that police failed to gather evidence left by attackers in Mpeketoni, adding that it “raises concerns as to the quality of the police investigation.”<sup>108</sup> The failure of the police to interview witnesses to the attacks underscores that concern.

Even when police made arrests, they lacked evidence necessary for the individuals to be fairly prosecuted. In Witu and Mpeketoni, police arrested 41 people in connection with the attacks. They charged seven people with various counts ranging from being members of Al-Shabaab to participating in the Mpeketoni attacks, releasing others without charge after

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<sup>107</sup> Human Rights Watch and the Kenya Human Rights Commission interview with a witness of Mpeketoni attacks, Mpeketoni, October 27, 2014.

<sup>108</sup> IPOA report, section 5.o.13.

detaining them between three days and two weeks.<sup>109</sup> In mid-August, police dropped charges against the seven for lack of evidence and released them.<sup>110</sup>

On June 25, police also arrested and charged Lamu Governor Issa Timamy with murder, forceful mass transfer of people and terrorism for the Mpeketoni attacks,<sup>111</sup> but the charges were dropped on September 9 for lack of evidence.<sup>112</sup>

There is at least one ongoing case relating to the Mpeketoni attack. In June 2014, police arrested and charged with murder Dyana Salim Suleiman, the driver of the van that was hijacked by the Mpeketoni attackers.<sup>113</sup> In Criminal Case number 23 of 2014, Dyana Salim Suleiman and another man were charged on July 2 in a Mombasa court with 12 counts of murder, which was later that month increased to 60 counts of murder. The accused were freed on bond worth Ksh 500,000 (\$5,130) or surety of the same amount and at this writing the case had yet to move to a full hearing.<sup>114</sup>

It is unclear whether there have been internal investigations into the government's response into the Mpeketoni or other attacks in Lamu and Tana River counties in June and July 2014 separate from the IPOA investigation.<sup>115</sup> Human Rights Watch and KHRC sent letters to the Inspector General of the Kenya Police Service, the Chief of General Staff of the Kenya Defense Force and the Director General of Kenya Wildlife Service inquiring about the security forces' response to the attacks and any investigations, but had not received a reply at the time of writing (see annex).

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<sup>109</sup> Human Rights Watch and the Kenya Human Rights Commission interviews with three victims of police brutality who had, together with others, been jointly charged with offences relating to Mpeketoni attacks, Witu town, October 26, 2014.

<sup>110</sup> Ibid.

<sup>111</sup> "Lamu Governor Charged with Murder, Terrorism over Mpeketoni," *Capital FM*, June 26, 2014, <http://www.capitalfm.co.ke/news/2014/06/lamu-governor-charged-with-murder-terrorism-over-mpeketoni>.

<sup>112</sup> "Kenyan Court Dismisses Charges Against Lamu Governor," *Sabahi online*, September 11, 2014, [http://sabahionline.com/en\\_GB/articles/hoa/articles/newsbriefs/2014/09/11/newsbrief-01](http://sabahionline.com/en_GB/articles/hoa/articles/newsbriefs/2014/09/11/newsbrief-01).

<sup>113</sup> Galgalo Bocha, "Did Police Arrest Innocent Man?," *The Daily Nation*, June 20, 2014 <http://mobile.nation.co.ke/news/Did-police-arrest-innocent-man-over-Mpeketoni-killings/-/1950946/2356424/-/format/xhtml/-/wj5vp5z/-/index.html>.

<sup>114</sup> The Nation Correspondent, "Matatu Driver Given Ksh500,000 Bond," *The Daily Nation*, July 7, 2014 <http://mobile.nation.co.ke/news/Matatu-Driver-Dyana-Salim-Suleiman-Mpeketoni/-/1950946/2375580/-/format/xhtml/item/o/-/lljrqqz/-/index.html>.

<sup>115</sup> See Human Rights Watch and the Kenya Human Rights Commission letter to KDF, Kenya Police, and KWS, April 27, 2015 (see annex).

## IV. Security Operations in Tana River and Lamu Counties

The Kenyan government conducted abusive operations in Tana River and Lamu counties in the aftermath of the attacks, during which security forces targeted Muslim and ethnic Somali men and boys for beatings, arrest, theft of property, and detention.

Researchers interviewed 47 victims and witnesses of security force abuses in Tana River and 22 in Lamu County. In Tana River County, witnesses said a mixed group of security forces carried out operations on July 8 and July 30, 2014 in Ngumu village and on July 8 in Maziwa “B” village. During the two July 8 operations, forces told the villagers they were looking for guns, Al-Shabaab suspects, and an injured man they said was part of the gang that attacked Gamba Police station on July 5.<sup>116</sup>

Witnesses to the July 8 operations in both villages told researchers that security officers targeted ethnic Somali communities for searches and arrests. The forces beat villagers with gun butts, sticks and whips; kicked, slapped, stole from them; and arrested men and boys from their houses, inside the mosques and on the road.

In Ngumu village, witnesses said all the villagers, including women and children, were rounded up and held in an open field within the village, during the operations. Men and boys were beaten. A 38-year-old man in Ngumu village told researchers that, along with three other men, he was isolated by the security officers and beaten repeatedly.<sup>117</sup> After several hours, 41 males were selected in no clear order and transported to police cells, the witnesses said, while women and other males were released.<sup>118</sup>

On July 30, 2014, a similar search operation was carried out in Ngumu village at night during which officers conducted house-to-house searches, forcing residents out of their homes. They stole money and other valuables from residents, but there were neither beatings nor arrests.

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<sup>116</sup> Human Rights Watch and the Kenya Human Rights Commission multiple interviews with residents of Ngumu and Maziwa “B” villages in Tana River, October 22-24, 2014.

<sup>117</sup> Human Rights Watch and the Kenya Human Rights Commission interview in Ngumu village, Tana River County, October 24, 2014.

<sup>118</sup> Human Rights Watch and the Kenya Human Rights Commission multiple interviews with villagers and Imams in Ngumu and Maziwa villages, Tana River County, October 22-25, 2014.



Witnesses said hundreds of officers took part in the July 8 and July 30 operations. Different witnesses mentioned the Rapid Deployment Unit, ATPU, Kenya Wildlife Service rangers, KDF, regular police, Administration police, the GSU, CID, Road Border Patrol Unit and county administration officials.<sup>119</sup> Residents told researchers they were able to identify various units involved in the operation based on the well-known and distinct attire worn by each unit and the marked vehicles used during the operation.

In Lamu County, the officers from a variety of units carried out several similar operations in Mpeketoni area, Witu town and Hindi area on various dates in June, July and August.<sup>120</sup> Different witnesses identified the following units as having been involved: the regular police, Administration police, the GSU, Road Border Patrol Unit, the CID and KDF.<sup>121</sup> The most abusive operation in Lamu appears to have been in Witu town on July 31. In these operations, officers searched premises, beat villagers, arrested men and boys and stole money and other valuables from villagers.

In both counties, villagers were rounded up and detained for periods ranging from a few hours to many days, exceeding the 24 hour legal limit, and held in extremely poor conditions. Former detainees told researchers they were badly beaten while they were being taken to detention, and sustained serious injuries as a result.

In some areas, security officers, in the course of their delayed response to the attacks, appeared ignorant of the right to a peaceful learning environment for children. In Pandanguo, for instance, researchers found Kenya Defense Force officers camping at the local Pandanguo Primary School, where they had erected tents and occupied some of the classrooms for months. A school official complained about the tense atmosphere resulting from the presence of the military officers in the school. “This is clearly not a conducive environment for learning, but what can we do? The pupils were scared, especially with the officers questioning and searching everyone, but they are now getting used [to it].”<sup>122</sup>

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<sup>119</sup> Human Rights Watch and the Kenya Human Rights Commission multiple interviews with villagers and Imams in Ngumu and Maziwa villages, October 22-25, 2014, Tana River County.

<sup>120</sup> A similar operation was carried out in Mokowe area according to human rights officials in Lamu County and contacts in Mokowe, but researchers did not visit or interview residents from Mokowe.

<sup>121</sup> Human Rights Watch and the Kenya Human Rights Commission interview with multiple witnesses and victims in Tana River and Lamu counties in October 2014.

<sup>122</sup> Human Rights Watch and the Kenya Human Rights Commission interview with an official of Pandanguo Primary School, October 26, 2014.

The Kenyan Constitution guarantees freedom from all forms of inhuman and degrading treatment or punishment, freedom from arbitrary arrest and detention, and protection from arbitrary interference with their property and privacy without discrimination on the grounds of national origin or any other status.<sup>123</sup>

## Round-Ups and Beatings during the Operations

In both Tana River and Lamu counties, security forces beatings of men and boys during the operations caused bleeding and loss of consciousness, according to the witnesses.

### *Tana River*

During the July 8 operation on Ngumu village, which started at 5:30 a.m. and ended at 11 a.m. and Maziwa “B” village, which started at 1 p.m. and ended at 3 p.m. the officers rounded up ethnic Somali men and school children from their houses or mosques, severely beating nearly all the men in the village caught up in the operation with gun butts, whips, iron bars and sticks. They detained more than 41 people from Ngumu and 26 people from Maziwa “B” and stole property (see section on theft and looting below).

In both villages, the security officers moved from house to house and mosque to mosque arresting people. All of the victims and witnesses interviewed told researchers the forces accused them of being Al-Shabaab members and “shifita” (a pejorative term used to refer to ethnic Somali Kenyans).<sup>124</sup> Witnesses recounted how the security forces demanded villagers to turn over guns, and to tell them the whereabouts of an alleged terror suspect with gun-shot wounds they accused the villagers of hiding.

A 53-year-old man, also a resident of Ngumu, recalled: “They asked the children as young as five years where their fathers’ guns were. Children were given hoes and asked to dig around the compound and find the guns.”<sup>125</sup>

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<sup>123</sup> The Constitution of Kenya, 2010, Part 2, Rights and Fundamental Freedoms.

<sup>124</sup> The term “shifita” stems from the separatist war in northeast Kenya in the 1960s. It has since acquired negative and derogatory connotations for the Somali. For more background information on the conflict, see John Ringquist, “Bandit or Patriot: The Kenya Shifita War 1963-1968,” The International Relations and Security Network, 2011, <http://www.isn.ethz.ch/Digital-Library/Publications/Detail/?id=136881>.

<sup>125</sup> Human Rights Watch and the Kenya Human Rights Commission interview in Ngumu village, October 23, 2014.

Many of those interviewed said they were badly beaten during their arrest. A 38-year-old man from Ngumu village recalled how the security officers separated him and three other young men from the other villagers and started beating them, saying they were the chief suspects:

They took four of us aside and started beating us at random. One of them hit my leg with a big stick. It caught the tarsal of my right leg and I continue to feel a lot of pain to this day. They never told us why we were being beaten. I only heard later from my fellow villagers that they were looking for Al-Shabaab.

A 27-year-old man in Ngumu village, who showed researchers medical records of treatment of his injuries, said he sustained fractured ribs after he was beaten by three regular police officers during his arrest at his home:

Two of them started beating me. One kicked me in my ribs. It pains me up to now. They then led me to an open field where they were holding people after which they put me into the big police truck and detained us at Gamba police station until the next day.<sup>126</sup>

A 60-year-old man, also from Ngumu, told researchers he was beaten during the operation in the village together with his two sons, one of whom still cannot walk because of the beating. “One of my sons sustained an injury in the spinal cord and was taken to Garsen Hospital for treatment but he still cannot walk due to the pain,” he said.<sup>127</sup> He showed researchers medical records consistent with the account of his son’s injury.

A 26-year-old man from Maziwa “B” village told researchers that a group of security officers forced their way into the village mosque on July 8 where he was doing lunch time prayers, forced people outside and started beating them. He was beaten so badly he lost consciousness:

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<sup>126</sup> Human Rights Watch and the Kenya Human Rights Commission interview in Ngumu village, October 22, 2014.

<sup>127</sup> Human Rights Watch and the Kenya Human Rights Commission interview in Ngumu village, October 22, 2014.

They asked us to lie down and they started beating us. They beat me so hard with their clubs and sticks, injuring my head and back. I passed out and when I came back to consciousness, I was inside Gamba Police Station cells with other villagers.<sup>128</sup>

The man was released the next day without charge or being interrogated; he has since continued to feel sharp pain in the head, he told researchers.

Also among those who were beaten in Maziwa “B” was a 60-year-old man who told researchers he was in poor health at the time of the operation. He said the security officers kicked and slapped him several times when he said he did not have a gun.<sup>129</sup>

The security forces also beat children and men aged between 10 and 29 years old, witnesses said. A 69-year-old man from Maziwa “B” told researchers his 14-year-old son sustained a fracture in his right hand from beatings:

They found my son in the house and just started beating him. They took him to Gamba police station where he was kept until the next day. They did not bother to treat him for the injuries he sustained during the beatings. They did not even take a statement from him nor did they charge him.<sup>130</sup>

In both villages, those interviewed believed they were singled out because of their religion (Islam) and ethnicity (Somali), especially as the security forces did not visit the homes of the non-Somali communities (largely ethnic Pokomo) living in the two villages.<sup>131</sup> Many residents recounted verbal harassment and threats. “They asked us why Muslims like killing Christians and threatened us with unspecified consequences for killing Christians,” recalled one elder from Ngumu.<sup>132</sup>

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<sup>128</sup> Human Rights Watch and the Kenya Human Rights Commission interview in Maziwa “B” village, October 23, 2014.

<sup>129</sup> Human Rights Watch and the Kenya Human Rights Commission interview with a 60-year-old man in Maziwa “B” village, October 24, 2014.

<sup>130</sup> Human Rights Watch and the Kenya Human Rights Commission interview in Maziwa “B” village, October 24, 2014.

<sup>131</sup> Human Rights Watch and the Kenya Human Rights Commission interview with a village elder cum government official in Ngumu Village, October 22, and another interview with a village elder in Maziwa “B” village, October 24, 2014, Tana River County.

<sup>132</sup> Human Rights Watch and the Kenya Human Rights Commission interview in Ngumu village, October 23, 2014, Tana River County.

## *Lamu County*

On July 31, Kenyan security forces conducted an operation in Witu town between 3 p.m. and 5 p.m.

The forces targeted Muslims, witnesses said, going from house-to-house searching for weapons and Al-Shabaab suspects. The forces beat residents and accused them of either being Al-Shabaab members or aiding in the Mpeketoni and Witu attacks.<sup>133</sup>

During the operation, security forces arrested over 30 Muslims from different ethnic backgrounds from their houses, the streets in town, shops and restaurants within Witu town. The group of men, all between 22 and 50 years of age, were taken to Mpeketoni Police station where they were held for between three days and two weeks.<sup>134</sup>

Those arrested interviewed by researchers described harsh beatings and verbal harassment by police before being booked and detained.

A 42-year-old college teacher who was arrested from his house in the outskirts of Witu town told researchers that officers from the GSU, regular police, Administration Police, Rapid Deployment Unit, Road Border Patrol Unit and the CID arrested him and 29 others, and beat them along the way to Mpeketoni Police station and continued to beat them for an hour outside the station before locking them up.

They took turns to beat us, as they shouted ‘Terrorists! Terrorists!’ They stopped after more than an hour when they were all tired from beating us. I think they only stopped beating us because they were tired, otherwise they would have continued. After seven days in detention I was charged together with six others with belonging to Al-Shabaab and participating in attacks on Mpeketoni and Hindi. Police withdrew the charges after six days for lack of evidence and we were released.<sup>135</sup>

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<sup>133</sup> Human Rights Watch and the Kenya Human Rights Commission interviews with multiple victims of the Witu operation, October 25-26, 2014, Lamu County.

<sup>134</sup> Ibid.

<sup>135</sup> Ibid.

A second victim, a 30-year-old man who was among the 30 people rounded up in Witu town, described being beaten by officers at the Mpeketoni station on July 31. He said that the beating took place just before they were officially booked in and taken to the cells:

They beat us until they got tired, and that was after an hour of beatings in the corridors of the station premises. We were made to jump, amid whips, from the truck and then lie flat on the stomach on the corridors of the premises at the police station. I still feel pain in the ribs and the chest up to now. I was held for 13 days without medication.<sup>136</sup>

A third victim, also among the group of 30, described similar beatings on the corridors of Mpeketoni Police station before being officially booked into the cells. The man, who was also detained but later acquitted of charges, told researchers that he was so badly beaten that he feels pain when urinating but has not received adequate medical attention both due to lack of funds and for fear of traveling out of town lest he be arrested again.<sup>137</sup>

## **Arbitrary Detention and Ill-treatment in Police Custody**

Researchers found that, in both Tana River and Lamu counties, the mixed forces arbitrarily detained dozens of men at local police stations. Many were either released without charge, or were charged and the charges were dropped by the police within two weeks for lack of evidence.

Kenyan law allows police officers to arrest and detain a person only if they have reasonable grounds for suspecting them of having committed an offense.<sup>138</sup> International law requires that anyone who is arrested shall be informed, at the time of arrest, of the reasons for their arrest and shall be promptly both informed of any charges against them and be brought before a judge.<sup>139</sup> Detention before trial shall be the exception rather than rule and anyone in pre-trial detention is entitled to trial within a reasonable time or to release.

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<sup>136</sup> Human Rights Watch and the Kenya Human Rights Commission interview with a former detainee at Mpeketoni Police station, October 24, 2014, Lamu County.

<sup>137</sup> Human Rights Watch and the Kenya Human Rights Commission interview with a victim of security force beatings and detention, Witu town, October 25, 2014, Lamu County.

<sup>138</sup> The Constitution of Kenya, 2010, Article 29; Laws of Kenya, The Criminal Procedure Code, section 29(a), <http://www.kenyalaw.org/Downloads/Acts/Criminal%20Procedure%20Code.pdf> (accessed May 1, 2015)

<sup>139</sup> International Covenant on Civil and Political Rights, article 9.

All the 87 detainees in Tana River County were taken to Gamba police stations while the majority of the detainees in Lamu County (41) were taken to Mpeketoni police station.

In Tana River County, dozens of detainees were released within hours, but the majority were held overnight, slightly over the legal limit of 24 hours. The detainees who spent the night told researchers that officials did not tell them why they were arrested and did not interrogate them.

In Lamu County, researchers found at least 41 males were detained at Mpeketoni police station for between three days to two weeks, and interviewed 14 of these former detainees. Most were released after several days without charges. Seven of the detainees, charged with various offences after one week in total contravention of Kenyan law, were held for two weeks but the charges were dropped and the seven released within days.<sup>140</sup>

All of the 10 former detainees interviewed told researchers they had been seriously beaten during arrest and transport to the police station (see above). Upon arrival at the police station, they all said they were interrogated by officers who identified themselves as CID officers about which Islamic sect they belong to; whether they believed in violence; whether they were involved in the attacks in Lamu; whether they supported Al-Shabaab and whether they were terrorists. Some detainees described ill-treatment contrary to the Kenyan constitution and Kenya's international human rights obligations.<sup>141</sup>

Two detainees in Lamu County interviewed by researchers also recounted being blindfolded while in detention. One of the detainees, a 35-year-old man who was arrested from his house in Witu on the night of July 27, was blindfolded several times and held for more than a week. During that period he said he was driven around to places he could not identify due to being blindfolded during the journey and throughout the detention period.

One 32-year-old man from Hindi said police and military officers arrested him on July 5 from his home in Hindi and held him blindfolded continuously during the 13 days he was in detention and moved to various unknown locations by helicopter. He told researchers that the officers

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<sup>140</sup> Human Rights Watch and the Kenya Human Rights Commission interviews with three former detainees, Witu town, October 25, 2014.

<sup>141</sup> The Constitution of Kenya, 2010, Article 29. ICCPR, article 7.

kicked, slapped, and beat him with gun butts, sticks and whips many times, and interrogated him about the terrorist attacks. The beating resulted in injuries that caused him difficulties with his vision for days after being released. He was later released without charge.<sup>142</sup>

A 29-year-old man from Witu town, who was among the group of 30 men arrested en masse and transported to Mpeketoni, told researchers how they were beaten even after arrival at the Mpeketoni police station: “My head was in great pain by the time they stopped beating us. Some of the officers kept hitting my head with gun butts and kicks. I still feel pain up to now.”<sup>143</sup>

All of the detainees also said they were denied medication while in detention and access to lawyers or family members.<sup>144</sup> A middle aged father of six who says he suffered injuries to his urinary system after beatings at Mpeketoni Police station did not get medical attention while in detention for 13 days despite informing the court of his condition on the day he was detained.<sup>145</sup>

## Poor Detention Conditions

In both Tana River and Lamu counties, police detained people under dirty, overcrowded and unsanitary conditions in police cells at Gamba and Mpeketoni stations, which all lacked adequate, clean and safe water and toilet facilities for detainees. Based on the descriptions given by detainees, the detention conditions in Mpeketoni and Gamba stations during these periods amounted to inhuman or degrading treatment, contrary to the Kenyan constitution and Kenya’s international human rights obligations.<sup>146</sup>

During the operation in Tana River, 26 men of varied ages from Maziwa “B” were held for a night with another 29 men between the ages of 18 and late 20s from Ngumu village at Gamba police station. The two groups were held in two small cells each meant for no more

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<sup>142</sup> Human Rights Watch and the Kenya Human Rights Commission interview with a victim of security force beatings and detention, Witu town, October 25, 2014, Lamu County.

<sup>143</sup> Human Rights Watch and the Kenya Human Rights Commission interview with a 29-year-old victim of security force beatings and detention, Witu town, October 25, 2014.

<sup>144</sup> Ibid.

<sup>145</sup> Human Rights Watch and the Kenya Human Rights Commission interview with a victim of security forces abuses in Lamu County, October 25, 2014.

<sup>146</sup> The Constitution of Kenya, 2010, Article 29; ICCPR, article 7.



than six people.<sup>147</sup> They told researchers that the cells were filthy and cold, and none was given a bed or a blanket for the night.

Former detainees told researchers that they were not able to sleep due to the cold and lack of space. One 23-year-old man who was detained at Gamba described the conditions to researchers: “Some would stand for some time while others sit down on the cold floor. We would then alternate after some time.”<sup>148</sup>

One of the cells at Gamba had a leaking roof according to some of the detainees who talked to researchers.<sup>149</sup> Detainees said they were not provided with food for around 24 hours during their detention at Gamba and for up to three days for those detained in Mpeketoni.

In Lamu, the 41 detainees were held at the Mpeketoni station. The 14 interviewed by researchers said they were kept in small over-crowded police cells at Mpeketoni where they could not sleep or sit down. One of the men, a 35-year-old Muslim who said he was named as one of the prime suspects in the Mpeketoni attack but charges were dropped for lack of evidence, recollected: “The floor was cold and it felt like it was drizzling because the roof was leaking. We had no blanket or mattress, the floor was dirty and smelly.”

The detainees also reported they were not allowed to clean the cells or the containers that served as their toilets until after an official investigation team from IPOA visited Mpeketoni police station on their third day in detention.

From then onwards, the buckets that served as their toilets inside the cells would be emptied only when full. Inmates were not provided any supplies to clean the buckets.<sup>150</sup> Two men said they contracted diarrhea in detention while another man said he still experiences breathing difficulties after being exposed for several days to the stuffy detention conditions for 13 days.<sup>151</sup>

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<sup>147</sup> Human Rights Watch with five former detainees at Gamba Police station, Ngumu village, Tana River, October 22 and 23, 2014.

<sup>148</sup> Human Rights Watch and the Kenya Human Rights Commission interview at Ngumu village, October 23, 2014.

<sup>149</sup> Human Rights Watch and the Kenya Human Rights Commission multiple interviews with residents in Maziwa, October 24, 2014.

<sup>150</sup> Human Rights Watch and the Kenya Human Rights Commission interviews with multiple victims of security force abuses in Mpeketoni police cells, Lamu County, and Gamba Police station, Tana River County, October 2014.

<sup>151</sup> Human Rights Watch and the Kenya Human Rights Commission interview with a former detainee, Witu town, October 25, 2014.

## Theft by Security Forces During Operations

In both Tana River and Lamu counties, members of the security forces stole and destroyed property from villagers during the counterterrorism operations, often ransacking residential and business premises and taking money and electronic valuables.<sup>152</sup> In some cases, witness said officers reached into the pockets of the villagers and took money and phones before either subjecting them to beatings or arrests or both.

In Tana River County, all 47 people interviewed by researchers complained that security officers had stolen from them during the operations, in each case taking valuables from their pockets or from premises. A teenage boy in Ngumu village said the security officers raided his house and took sugar, batteries and fresh fruit juice he had processed for sale as part of his income to support his family.<sup>153</sup> A 26-year-old man in Maziwa “B” village said the security officers took Ksh 4,000 (\$43) from his house and then detained him at Gamba Police Station for one night.<sup>154</sup> He was not required to record any statement and was released without charge.

A 33-year-old man in Maziwa “B” village said security officers stole Ksh 3,000 (US\$32)<sup>155</sup> and a 48-year-old man in Maziwa village lost Ksh 5,500(\$59). An 80-year-old grandfather saw GSU officers remove Ksh 5,000 (\$54) from under his mattress and leave with it after beating him.<sup>156</sup>

Based on the descriptions given by 26 villagers interviewed in Ngumu and 21 in Maziwa, researchers believe that the money and valuables stolen from detainees could amount to one million Kenya shillings (\$10, 753).<sup>157</sup> Researchers were not able to estimate how much other villagers could have lost during the operation by security forces.

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<sup>152</sup> Article 40 of the Kenyan 2010 Constitution guarantees the right to property and prohibits the state, including state agencies such as the police, against arbitrarily depriving any person of property.

<sup>153</sup> Human Rights Watch and the Kenya Human Rights Commission interview with an 18- year-old man in Ngumu village, October 23, 2014, Tana River county.

<sup>154</sup> Human Rights Watch and the Kenya Human Rights Commission interview with a victim of security beatings and theft, Ngumu village, October 23, 2014, Tana River County.

<sup>155</sup> Human Rights Watch and the Kenya Human Rights Commission interview with a victim of security force theft and beatings, Maziwa village, October 24, 2014, Tana River County.

<sup>156</sup> Human Rights Watch and the Kenya Human Rights Commission interviews with victims of security force brutality and theft, Maziwa village, October 24, 2014, Tana River County.

<sup>157</sup> Human Rights Watch and the Kenya Human Rights Commission interviews with victims of security force theft in Ngumu and Maziwa villages, October 22 – 24, 2014, Tana River County.

The residents of Lamu County narrated similar experiences. The researchers talked to 10 men in Witu town and two in Hindi who accused security officers of either forcefully taking property from them or stealing their money.

A 42-year-old man from the outskirts of Witu said the officers took his telephone and other valuables during arrest in the house and refused to return them when he was released. A 35-year-old medical practitioner in Witu said police from the Road Border Patrol Unit went to his house on the night of July 31, 2014, searched his house without a search warrant and carried away a pile of medication and professional tools and refused to return them.

### **Lack of Accountability for Abuses by Security Forces**

The Kenyan authorities have a responsibility under international law and Kenyan law to investigate alleged abuses by members of the security forces, including beatings in detention, theft and extortion, and hold those responsible to account.<sup>158</sup> Primary responsibility for accountability for security forces abuse lies with the Kenya Police Service and the office of the Director of Public Prosecutions, and with the Kenya Defense Force for KDF abuses, while the Independent Policing Oversight Authority and the Kenya National Commission on Human Rights also have a mandate to carry out such investigations.<sup>159</sup>

Researchers found that none of the victims of security abuses during the operations in Tana River and Lamu counties reported the abuses to authorities. When asked why they had not reported the abuse, they gave a number of explanations: some said they were threatened by security officers or they were ordered out of the office and threatened with arrest when they tried to voice concerns about the abuse. Others said that they did not report the abuses because they do not believe they can obtain justice for abuses at the hands of the government.

As one 55-year-old father of six in Ngumu village said, “The law requires us to report such incidents to the nearest police station, yet these are the same people who were in the

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<sup>158</sup> ICCPR article 2. UN Human Rights Committee, General Comment No. 31 makes clear that governments must ensure that victims have “accessible and effective remedies” to vindicate their rights under the treaty. Article 244 of the Kenyan 2010 Constitution lists “accountability” and “compliance with constitutional standards of human rights and fundamental freedoms” among the objects and functions of the Kenya Police Service.

<sup>159</sup> See the Kenya National Commission on Human Rights Act, 2011; the National Police Service Act 2011 and the Independent Policing Oversight Authority Act, 2011. See also Kenya Defense Forces Act 2012.

operation here.” He added: “This was a government operation. They cannot take action against themselves.”<sup>160</sup>

A middle-aged man who was beaten in Ngumu village together with his son said he had considered launching a complaint at Minjila police station, Tana River, but refrained out of fear of being branded a terrorist since the police commander who led the operation was attached to Minjila police station. “Where do we go now? This is not how to fight terrorism.”<sup>161</sup>

Two elders in Ngumu village and three elders in Maziwa “B” village told researchers that local government officials in Tana River County were unapologetic when confronted by villagers about the abusive operations and refused to record and investigate complaints from villagers.<sup>162</sup> The police officers in Tana River and Lamu even threatened those who tried to report, according to victims of abuses in Lamu and Tana River counties, thus discouraging legitimate complaints about security force abuses.<sup>163</sup>

An elder from Ngumu village, who said he was part of a delegation of elders and political leaders that went to government offices in Minjila, the headquarters of Tana Delta Sub County, to seek answers about the abusive operations two days later, said that the County Commissioner ordered them out of his office, and warned that he would not entertain questions about the operation.”<sup>164</sup>

In Hindi, the 32-year-old man who was detained and blindfolded for 13 days in various locations told researchers that he was intimidated and warned by police officers at Mpeketoni Police Station against complaining or taking any legal action for the abuses.<sup>165</sup>

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<sup>160</sup> Human Rights Watch and the Kenya Human Rights Commission interview with village elder, Ngumu village, October 23, 2014, Tana River County.

<sup>161</sup> Human Rights Watch and the Kenya Human Rights Commission interview a victim of security force brutality, Ngumu village, October 23, 2014, Tana River County.

<sup>162</sup> Human Rights Watch and the Kenya Human Rights Commission interview with two elders in Ngumu Village, October 23, 2014, and three elders in Maziwa “B” village, October 24, 2014.

<sup>163</sup> Human Rights Watch and the Kenya Human Rights Commission interviews in Tana River, October 24, and Lamu, October 27, 2014.

<sup>164</sup> Human Rights Watch and the Kenya Human Rights Commission interview with two elders from Ngumu village who were both beaten by security officers and visited Tana Delta County Commissioner in Minjila, October 23, 2014.

<sup>165</sup> Ibid.

Three of the ten victims of security forces abuses from Witu said they feared for their lives after having been branded terrorists by the government. As one 22-year-old man said: “What concerns me most at the moment is my security. It is not possible to get justice in Kenya under these conditions. Terror suspects either disappear or get shot, you know, and nothing happens.”<sup>166</sup>

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<sup>166</sup> Human Rights Watch and the Kenya Human Rights Commission interview in Witu town, October 25, 2014.

## Acknowledgements

This report was jointly researched and written by Otsieno Namwaya, researcher at Human Rights Watch's Africa division and Roland Ebole, a program advisor at the Kenya Human Rights Commission. Holliness Lumbi, an intern at the Kenya Human Rights Commission provided support with initial project planning and field research. The report was edited by Jehanne Henry, senior researcher in the Africa division, Leslie Lefkow, deputy Africa director, Benjamin Ward, acting senior legal adviser at Human Rights Watch, Babatunde Olugboji, deputy program director at Human Rights Watch, Atsango Chesoni, Executive Director at the Kenya Human Rights Commission and Davis Malombe, deputy director at the Kenya Human Rights Commission. Julianne Kippenberg, senior researcher in the Children Rights Division, and Letta Tayler, senior researcher on terrorism and counter terrorism at Human Rights Watch also reviewed the report.

Joyce Bukuru, associate in the Africa division, provided editorial and production assistance. Kathy Mills, publications specialist, and Fitzroy Hepkins, administrative manager, provided production assistance.

Human Rights Watch and the Kenya Human Rights Commission would like to thank the victims of the attacks and security forces abuses in Lamu and Tana River counties who shared their experiences, and others in the two counties who assisted in various ways, including helping researchers identify relevant locations, and the human rights activists who initially assisted these victims.

Human Rights Watch and the Kenya Human Rights Commission acknowledge the government officials who shared details about government's responses and security forces operations in the two counties.

## Annex: Letter to Kenyan Security Forces

Joseph Kipchirchir Boinet  
The Inspector General  
Kenya Police Service



General Julius Waweru Karangi  
The Chief of General Staff  
Kenya Defense Forces  
The Director General

Mr William Kibet Kiprono  
The Director General  
Kenya Wildlife Service

April 27, 2015

Dear Sirs,

We are writing on behalf of Human Rights Watch and the Kenya Human Rights Commission. The two organizations have conducted joint research into the nature and extent of the attacks in Lamu and Tana River counties in June and July 2014, and into the government's responses to the attacks.

We would like to share aspects of the preliminary findings in order to seek clarification from you on a number of points and also to give you an opportunity to respond.

Human Rights Watch is an independent, non-partisan, international organization conducting research and advocacy on human rights in 90 countries worldwide. The Kenya Human Rights Commission is a respected Kenyan non-governmental organization that has been working both at the national and community levels, including in Lamu and Tana River counties, to promote human rights.

As you are all aware, heavily armed men carried out a series of attacks on villages, police stations and town centers in Lamu and Tana River counties in June and July 2014. The attacks began with the killings in Mpeketoni, Lamu County on June 15, 2014. According to our research, the attackers killed at least 87 people, mostly non-Muslims, destroyed buildings and vehicles. The attackers either shot their victims at close range or slit their throats using daggers, according to witnesses. Most of the attacks happened between 8:30 p.m. and 3 a.m.

Al-Shabaab has taken responsibility for attacks in Mpeketoni, the villages of Poromoko and Mapenya, and the July 18 bus attack near Witu. Attackers in Pandanguo identified themselves as Al-Shabaab, according to witnesses.

### **Delayed and Insufficient Responses by the Security Forces**

Our research indicates that the response of security forces to the June and July attacks was often delayed and ineffective. These findings are consistent with those of the Independent Police Oversight Authority.

All the attacks in Lamu and Tana River counties in June and July happened either close to police stations or targeted police stations. Each lasted between four to seven hours. In each case, witnesses indicated that the security forces arrived only after the attacks had ended or, in case of attacks on police stations, failed to respond with force.

In Hindi, the attackers left at 3 a.m. after killing 13 people and burning houses but the security officers did not arrive until 11 a.m. that day to collect bodies. In Mpeketoni, which has several police stations, the attackers were in the town between 8:30 p.m. and 3 a.m., but police only arrived after the attackers had left. In all the attacks, the pattern of response by security forces was the same as Hindi and Mpeketoni.

Our research shows that this late response was the pattern in all seven attacks on eight villages in Lamu and Tana River counties, including where villagers had informed station commanders of an ongoing attack.

We are aware of one investigation by the Independent Policing Oversight Authority into the government response to the attacks at Mpeketoni, but it is unclear whether there have



been internal investigations into the government's response into the Mpeketoni or other attacks in Lamu and Tana River counties in June and July 2014.

- We would welcome information as to why there were delays in the security forces responding to the each of the attacks?
- Were any members of the security forces disciplined for failing to respond adequately to the attacks?
- What steps are being taken to implement the recommendations on delayed response contained in the IPOA report on Mpeketoni?
- Have any internal investigations been carried out to look at the shortcomings of the security operations during the Lamu and Tana River attacks in June and July 2014? If so, what was the outcome of those investigations?
- What measures if any have since been put in place to ensure prompt and effective response to attacks?

### **Police Investigations into Attacks**

Our research indicates that the police have not adequately investigated the attacks in a manner that would help to bring the perpetrators to justice through a fair and transparent process.

Where police did make arrests, our research indicates that the arrests appeared unconnected to specific evidence of involvement in the attacks. Detainees were held in poor conditions, in some cases subject to ill treatment, and were subsequently released without charge or the charges were later dropped (discussed in more detail below). In most cases, the security forces did not follow the law or due process in the course of the operations, arrests and detentions. The arrests were arbitrary and most detentions were beyond the allowed legal limit of 24 hours.

We would appreciate your perspective on these findings and we would also like to understand the status of criminal investigations into the attacks. In particular, we would appreciate your response to the following questions:

- What is the status of police investigations into the identities of the perpetrators of the June to July 2014 attacks in Lamu and Tana River?

- Have any individuals been prosecuted for the attacks? If so, have any individuals been convicted?

### **The Wider Security Forces Response to the Attacks**

Our organizations heard credible allegations from witnesses that Kenyan security forces committed serious human rights violations against residents of villages in Tana River and Lamu counties in their wider response to the attacks.

In Tana River County, we found that the security forces conducted two separate operations. The first operation of concern was on July 8, 2014, on the villages of Ngumu and Maziwa “B” of Tana River County. The second operation was on the night of July 30 in Ngumu village.

Witnesses and victims told researchers that the government officers and security agencies or units that participated in the operations at Ngumu and Maziwa “B” villages were members of the regular police; the administration police; the Criminal Investigations Department officers; the General Service Unit officers; the Anti-Terrorism Police Unit; Kenya Wildlife Service rangers; Road Border Patrol Unit; Rapid Deployment Unit; Kenya Defense Forces and officials of the county Administration.

In Lamu County, security forces conducted abusive operations in Hindi area on July 5 and in Witu town and the surrounding villages on July 31. Witnesses and victims told researchers that the same forces as in Tana River, excluding Kenya Wildlife Service and county administrators, participated in the operations in Hindi area, Witu town and the surrounding villages.

During these operations, witnesses told us that the security forces are alleged to have rounded people up and arrested them arbitrarily. In Ngumu and Maziwa “B” villages, security forces arbitrarily targeted villagers during abusive operations, the witnesses said. In all locations, they allegedly beat people during arrest and in many cases, stole personal property such as money and mobile phones, according to witnesses.

In both counties, the forces detained dozens of men at local police stations in poor conditions of detention, without informing them of the charges against them or allowing them access to lawyers or family members. Many of the detainees were either released without charge or the charges were dropped by the police within two weeks for lack of

evidence, meaning that, consequently, no one arrested during the operations was prosecuted. Our research also found that 41 detainees were subject to ill-treatment in detention in the form of beatings, and that in four cases the ill-treatment may have amounted to torture.

None of the victims of these abuses made formal complaints about their treatment to authorities. Most thought it was pointless to make a formal complaint, as this was a state operation and no investigations would be conducted, while others were afraid of reprisals. Some were reportedly threatened by security officers against making a formal complaint. One group of political leaders and elders that went to a government office in Tana River to express concerns was ordered out of the office and threatened with arrest.

We are deeply concerned about the abuses reported in the context of these operations, and we would appreciate your response to the following questions:

- Are you aware of allegations of arbitrary arrests and ill-treatment by security forces during operations?
- Have there been any internal investigations by the Kenya Police Service, the KDF and the KWS into any alleged abuses by the officers during these operations and the reports that the villagers were threatened to discourage them from filing complaints?
- Have any officers been held to account for the alleged abuses detailed above?

We would appreciate if you could respond to us by May 20 so that we can ensure that we can include your perspective in our reporting on these important issues. We kindly request responses to be communicated to the following:

[Redacted]

[Redacted]

We would also welcome the opportunity to discuss these matters with you in person.  
Please do not hesitate to contact us should you have any questions or require clarification.

Yours sincerely,



Daniel Bekele  
Executive Director  
Africa Division  
Human Rights Watch  
New York



Atsango Chesoni  
Executive Director  
Kenya Human Rights Commission  
Nairobi



## INSULT TO INJURY

### The 2014 Lamu and Tana River Attacks and Kenya's Abusive Response

During five weeks between mid-June through July 2014, armed gunmen who in most cases claimed to be part of the Somalia-based armed Islamist group Al-Shabaab, attacked a passenger bus and at least eight villages in the Kenyan coastal counties of Lamu and Tana River. The attackers killed 87 people including four security officers, and destroyed approximately 30 buildings and 50 vehicles.

Kenyan security forces were slow to respond to the attacks, leaving villages unprotected and when they eventually responded, their actions were often discriminatory, beating, arbitrarily detaining and stealing personal property of Muslim and ethnic Somali communities in the two counties.

Based on joint research by Human Rights Watch and Kenya Human Rights Commission, *Insult to Injury* documents both the initial attacks by Al-Shabaab and the Kenyan government's response, including the abusive operations by the security forces in the aftermath of the attacks.

Contradictory public statements made about the attacks may have impeded or undermined effective criminal investigations. One year on, Kenyan authorities have yet to credibly investigate the attacks or subsequent security force abuses described in this report, while Kenyan security forces continue to conduct abusive operations in response to Al-Shabaab attacks. The government should take urgent steps to ensure its response protects human rights and the rule of law, including by holding abusive security personnel to account, and a firm commitment to security sector reforms.

These steps can help build the confidence of victims and others in the communities most affected by these attacks that the government is able to offer them protection against possible future attacks and bring perpetrators of abuses to justice.

*(above) The wreckage of burnt vehicles along the main road to Lamu from the Kenyan coastal town of Mpeketoni after an attack on Mpeketoni, Lamu county, on June 15, 2014. At least 49 people were killed and many others wounded when the gunmen attacked the town in the first of a series of attacks in Lamu and Tana River counties.*

*(front cover) Kenya police officers on patrol in the coastal town of Lamu in June 2014 in the wake of a series of attacks in Lamu and Tana River counties. Kenyan security forces responded to the attacks with abusive operations targeting Muslims and ethnic Somali Kenyans in the two counties.*

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