

Kenya: Prosecute Perpetrators of Post-Election Violence Human Rights Watch 9
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Four years after the 2007-2008 post-election violence, the Kenyan police and judicial system have failed to adequately investigate and prosecute crimes and to ensure justice for victims, Human Rights Watch said in a report released today. While the International Criminal Court (ICC) has taken on a handful of key cases, Kenya should establish a special judicial mechanism in its justice system to bring broader accountability, Human Rights Watch said. It should also provide compensation for victims, starting with the 21 or more victims of police shootings who have won civil suits against the Attorney General, but to whom the government has failed to pay court-ordered compensation.

The 95-page report, “‘Turning Pebbles’: Evading Accountability for Post-Election Violence in Kenya,” examines the police and judicial response to the violence following the 2007 elections, which pitted ruling party supporters and the police against opposition-linked armed groups and civilians. Human Rights Watch found that of the 1,133 or more killings committed during the violence, only two have resulted in murder convictions. Victims of rape, assault, arson, and other crimes similarly await justice. Police officers, who killed at least 405 people during the violence, injured over 500 more, and raped dozens of women and girls, enjoy absolute impunity. (...)

Human Rights Watch identified the principal weaknesses in the criminal justice system that have contributed to the paltry number of convictions. Police officers have been unwilling to investigate and prosecute their colleagues, the general quality of investigations has been poor, and some police prosecutors have proven incompetent, Human Rights Watch said. Political influence and corruption subvert the judicial process; and Kenya lacks an operative witness protection system. (...)

The call for a special tribunal within Kenya – first issued by the Waki Commission of Inquiry into Post-Election Violence in October 2008 – remains relevant and urgent, Human Rights Watch said. That is especially true given concerns about the independence and competence of the Kenyan justice system, the evidence Human Rights Watch has documented, and the fact that the ICC is likely to only take on a small number of cases. (...)

Kenya should move forward on establishing a special judicial mechanism locally while continuing to cooperate with the ICC, Human Rights Watch said. A special mechanism would bridge existing gaps if it is insulated from political interference and equipped with the necessary expertise through a mix of national and international professionals. Kenya should also undertake efforts to improve police investigations and to recruit and retain highly qualified civilian prosecutors.

The government should immediately release full funding for the Witness Protection Agency, which was launched earlier in 2011 but has not yet protected a single witness. It should pay out compensation to victims who have already won civil cases against the government for police shootings during the post-election violence. The government should settle other civil suits that remain in progress, and establish a comprehensive reparations policy for victims of human rights violations. (...)

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