Unlawful Killings in Africa

a study prepared for the UN Special Rapporteur on extrajudicial, summary or arbitrary executions

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The Centre of Governance and Human Rights (CGHR), launched in 2009, draws together experts, practitioners and policymakers from the University of Cambridge and far beyond to think critically and innovatively about pressing governance and human rights issues throughout the world, with a special focus on Africa. The Centre aims to be a world-class interdisciplinary hub for fresh thinking, collaborative research and improving practice.

Since 2011 CGHR has collaborated with the UN Special Rapporteur on extrajudicial, summary or arbitrary executions, providing research support to his mandate. In 2012 a team of researchers produced a “Research Pack” on the threats to the right to life of journalists for an Expert Meeting held in Cambridge, ultimately contributing to the Special Rapporteur’s report that year to the Human Rights Council. In 2013 work began on a broader collaboration studying violations of the right to life across the African continent.

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Cover image: Police from Abyei en route to Tajalei, a village burned to the ground allegedly by northern People’s Defence Forces and troops from the Sudan Armed Forces (Tim Freccia, 12 March 2011). Licensed under Creative Commons by the ENOUGH Project.
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Preface by the Director of the Centre of Governance and Human Rights

As a young interdisciplinary research centre, drawing together academics across Cambridge (and beyond) on pressing themes of governance and human rights, I am delighted that CGHR have published this Report. Our work with the UN Special Rapporteur on extrajudicial, summary or arbitrary executions, Prof. Christof Heyns represents the Centre’s most long-standing initiatives in policy-collaboration. The project is linked with an academic partnership with the University of Pretoria, generously supported by the David and Elaine Potter Foundation.

I want to pay tribute to the CGHR Research Team that was coordinated by Dr Thomas Probert. Including both undergraduates and post-graduate students across at least three different faculties, their commitment to this project drove it throughout, and allowed the Centre to contribute usefully and meaningfully to the work of the Special Rapporteur.

This study on the nature and incidence of unlawful killings in Africa helps address a particular hole in the knowledge base of human rights institutions, activists and researchers, who seek to tackle an unmistakably alarming phenomenon in many African countries: the State’s direct and indirect role in violations of the right to life of African people. The study provides a unifying framework for rigorously sourcing, monitoring and analysing the many ways in which unlawful killings are perpetrated and perpetuated, and it provides an important evidentiary basis for building more systematic efforts to identify, prioritise and target entry points for action. By synthesising and organising the ongoing reporting work of diverse organisations, the study is a foundational contribution to more sustained and sustainable efforts by other institutions and individuals, more directly and operationally seized of this issue. It is also my hope that CGHR will continue to support their work in the coming years.

Dr Sharath Srinivasan
Director, Centre of Governance and Human Rights
University of Cambridge
Note on Sources

In many cases the information contained particularly in the “Geographical Distribution” sections of this study has been drawn from the annual reporting of various actors and agencies that monitor human rights on the ground.

Amnesty International publishes Annual Reports generally in May, concerning events in the previous calendar year (so the 2014 report covers events from January-December 2013). Annual Reports, along with all other Amnesty reporting, can be downloaded from the Library available here: http://www.amnesty.org/en/library.

Likewise, Human Rights Watch publishes its annual World Report generally in February. As with Amnesty, these reports concern events in the previous year. Previous Human Rights Watch World Reports can be downloaded here: http://www.hrw.org/node/79288.

The U.S. State Department’s Country Reports on Human Rights Practices are made public in February and can be accessed here: http://www.state.gov/j/drl/rls/hrrpt/. It should be noted that these reports were not paginated until 2010.

The research contained in this study was undertaken by the CGHR Research Team largely between November 2013 and March 2014. Links to digital material—unless otherwise labelled—can be taken to have been accessed at that time.
Executive Summary

This study presents the work of a Research Team convened by the Centre of Governance and Human Rights (CGHR) at the University of Cambridge. This team was tasked with surveying events and reporting from the African continent germane to the mandate of the UN Special Rapporteur on extrajudicial, summary or arbitrary executions, a mandate focused upon violations of the right to life contrary to international law. This mandate, together with the framing of the right to life itself, establishes a category of violations that will here be referred to as “unlawful killings”.

While there are many organisations monitoring and reporting on killings both globally and with particular African focus, most do so with the objective frame of reference of violence. The purpose of this report is to narrow that focus to the (international) legal frame of unlawful killing. This is undertaken with a view to increasing attention to the right to life, but also as a means of assisting the Special Rapporteur in prioritisation over the coming years.

Since the international human rights framework, of which this mandate is part, speaks primarily to states or state-like actors and not to private individuals—the category of unlawful killings does not include every act of killing, however illegal in domestic law.

However this is not to say that the international legal definition of an unlawful killing cannot accommodate killings which are not perpetrated by a state actor. The state’s dual obligation both to respect and to protect the right to life places certain types of killing by non-state actors within the scope of the mandate and therefore of this study. *Unlawful Killings in Africa* draws attention to the fact that both the level of state control (both direct and indirect) over the act of killing and the scale of the incidence of the killing can be relevant to determining whether that loss of life can be regarded from within the international human rights system.

Associated with this is the problem of impunity: a prevailing climate within a particular state or part of a state which takes hold when a particular form of violation is allowed to continue without state response. While not every case of a high incidence of killing necessarily implies a culture of impunity, it would suggest that the state’s chosen response is ineffective and ought to be supplemented or revised. One of the clear conclusions of this report is that, because of the irreversible nature of a violation of the right to life, the state’s protection role must very often be primarily through the means of strong accountability mechanisms.
This study therefore employs a working definition along the following lines: “killings threatened or committed either with explicit or implicit official sanction, or within a context of impunity, which bring into question the state’s upholding of its obligations to respect and to protect the right to life.”

*Unlawful Killings in Africa* adapts from the OECD a variant of its “Armed Violence Lens” – and examines issues of violence across the continent through two dualities. First, there is the victim/perpetrator classification, which orientates a certain type of killing around a particular group of the general population. Second, there is the interaction of social norms and structural factors, which highlights certain features of the normative landscape or pertinent structural pressures which might cause particular types of killing, or limit the state’s capacity to respond.

The report is broken down into eight substantive sections each of which address a particular type of killing. Each includes a geographic survey, highlighting those states in which that type of killing is recognised to be a particular concern, or in some cases conducting a comprehensive continental overview. There then follows an analysis of particular victims and perpetrators, followed by description of relevant structural factors or social norms. Each section concludes with a brief suggestion of “best practices”.

In the section on *Excessive Use of Force*, the report details deaths that occur both in the context of the policing of mass demonstrations and during the routine work of the police in arresting suspects (including counter-terrorism operations). The survey demonstrates that the use of force surrounding demonstrations is a pervasive threat across the continent, not only in the North African states during the so-called Arab Spring. The victims tend to be young and politically engaged. The structural causes of the demonstrations themselves should be considered, but the cause of unlawful killing in the context of demonstrations can be attributed largely to the resources and training of the security forces, as well as, in some instances, failures of command structures. The attitude of the state toward political dissent is obviously also relevant. In recent years there has been a good deal of exchange between those working on the right to peaceful assembly and those working on the right to life.

The survey of deaths caused by police action during arrest or at other times draws attention to the number of individuals (usually men, often young men) who are killed by police officers often with no investigation or accountability. It highlighted the particular threat posed by special task forces, which can operate outside ordinary command hierarchies. This section of the report also includes what information is available with respect to custodial deaths – a serious problem in Africa and one which also touches upon the issue of conditions of detention. It is also a problem, taking place often far from the public eye, which may well be underreported in many states.

Not all use of force by the state is employed in circumstances where a certain amount of force might legitimately be used. In the section on *Political Killings*, the report discussed both targeted political assassinations and the particular phenomenon of election-related violence. In both cases the line between this and the discriminatory application of excessive force by law enforcement personnel can be blurred. It is shown that in some instance this politicisation of violence can become cyclical. This form of violence can be particularly prevalent around the time of elections, and so a separate section of the study is dedicated to that context. This section demonstrates the extent to which the incumbents’ asymmetric control of security personnel leads to the disproportionate victimisation of opposition supporters. However it also demonstrates that many victims are not in fact active supporters of opposition candidates but instead are perceived as such on the grounds of an identity group. This section of the report also suggests that the extreme centralisation of power in many African states, and the exclusionary nature of politics, may be
structural cause of these killings, as it increases the incentives for violence, with elections construed as zero-sum games.

There are a small group of states on the African continent which still apply the death penalty for certain crimes. While statistically accounting for only a small number of deaths on a yearly basis, the very direct state control over these deaths, and the symbolic pertinence of the state deliberately taking life, makes it germane. The section on the Arbitrary Application of the Death Penalty discusses various concerns among which are the imposition of death sentences on civilians by military tribunals and the imposition of death sentences from crimes which do not meet the threshold of “most serious”. This section also presents statistics regarding the number of people actually executed over the last seven years. It touches upon factors of victimisation such as poverty, and structural debates such as that concerning deterrence and crime rates which are far from unique to the African context.

The report then turns to address those killings committed by non-state actors, whether private individuals or small groups, or larger, more co-ordinated organisations like private companies or organised criminal gangs. The section on Conditioned Homicide addresses a number of violent phenomena conditioned by social or cultural influences. These include infanticide, baby-dumping, witch-killing, ritual killings, the targeting of persons with albinism, honour killings and discriminatory hate crime.

It is in these contexts that the nexus between scale of incidence and level of state control becomes most relevant. The geographic surveys within this section demonstrate that the scale of incidence of such killings can vary widely across the continent. From type to type, the victimisation and structural and normative determinates also differ. The state’s responses however (established in the various “best practices” sections) can predominantly be grouped into “promotional” and “punitive”: ensuring that such killings are understood to be violations of a fundamental human rights, and where the killings continue, that the perpetrators are found and prosecuted to the fullest extent. It is only if the state is failing in one or both of these endeavours, in the face of a manifest pattern of killing (the high scale of incidence qualification) that the state might be understood to be failing in its responsibility to protect and ensure the right to life.

The following two sections examine those killings committed by larger, and more organised groups. These Mass Actor Killings and Organised Actor Killings are not necessarily conditioned by the same social or cultural norms, but engage a state responsibility by virtue of the semi-organised nature of the perpetrator. The state cannot exercise the full responsibilities of a state, including the protection of the right to life, if it tolerates (or in some cases informally condones) the behaviour of such groups. These sections address killings by informally organised groups such as vigilante gangs as well as those by private security companies and criminal organisations (such as pirates and traffickers).

The final two sections of the report address killings that might be committed by state or non-state actors but which can be categorised either by the character of the victim or by the context in which they take place. In both cases, there is a heightened a priori threat to the right to life, thus demanding greater focus upon the state’s obligations. The first examined the Targeted Killing of Vulnerable Groups—including journalists, human rights defenders, and humanitarian aid workers. These are groups whose vulnerability is determined by their profession, whereas those vulnerable groups defined by some kind of real or imagined identity are discussed above under discriminatory hate crime.

Finally the Report addresses Unlawful Killings in Armed Conflict and Ungoverned Spaces. In this section the primary focus is on the targeting of civilians during armed conflict (or intercommunal
strife), but also addresses situations of insecurity where the state cannot claim a monopoly on force and thereby a protection of the right to life.

It is important to re-emphasise that none of the forms of unlawful killing detailed above are in some way unique to Africa. These are problems which the Special Rapporteur encounters throughout the world. However there is a need for a more holistic view of the problem on the continent. While the research presented in this study is derivative (no events are reported here which have not been reported somewhere else), the net has deliberately been cast wide so as to capture the broad variety of actors working in this field, and so as to centralise information. The lack of official record-keeping with respect to life and death across Africa means that unlawful killings may well be under-reported.

While Unlawful Killings in Africa represents the findings and conclusions of a Research Team, it is at the same time both a trial and a call for further work. It is a trial in that, as is demonstrated in the Introduction, no single group is bringing together reporting on the right to life in an holistic way. By examining the problem in the round on a continent where it is widely perceived to be under threat this report offers a first draft of a systematised analysis of the phenomenon of unlawful killings.

It has proved that adopting a lens through which killings are considered both by their proximity to a state actor and through their scale of incidence can be a helpful way in which to assess violations of the right to life relevant to the mandate of the Special Rapporteur. The taxonomy upon which it is based is not perfect: in the concluding section, on the continuation of the work, these shortcomings are discussed and possible revisions contemplated. The report represents a call for further work, which in certain respects will hopefully be taken up by a new project, an Unlawful Killings Unit based at the Centre for Human Rights in Pretoria, with which CGHR will actively be collaborating over the coming years.
Introduction

The Special Rapporteur and the Right to Life

The position of the Special Rapporteur on extrajudicial, summary or arbitrary execution was created by ECOSOC in 1982, the second of what would become known as the “thematic” special procedures mandates. During the early 1980s various international bodies had expressed concern at the incidence around the world of summary or arbitrary executions, as well as executions widely regarded as having been politically motivated.

The mandate extends to the protection of the right to life and violations of this right in all circumstances, during peace as well as armed conflict. Since 1989, the mandate has been guided by the UN Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, which made clear that exceptional circumstances including a state of war or threat of war, internal political instability or any other public emergency may not be invoked as a justification of unlawful killing. In 2005 the Human Rights Council adopted Resolution 17/5, setting out the current scope of the mandate and calling for “effective action to combat and eliminate the abhorrent practice of extrajudicial, summary or arbitrary executions, which represent a flagrant violation of the inherent right to life.” The Resolution states that the mandate is aimed against such executions ‘in all their forms’ and implores the mandate holder to “continue to examine situations of extrajudicial, summary or arbitrary executions in all circumstances and for whatever reason.”

The Special Rapporteur has primarily three procedures at his disposal: Firstly, direct communications to State Parties, requesting further information or expressing concern with regard to a particular incident or trend. Secondly, fact-finding country visits, to investigate a situation or context of killing. Thirdly, the Special Rapporteur makes “thematic reports” to the Human Rights Council or to the General Assembly on particular issues of relevance to the mandate.

Since its inception in 1982, the Special Rapporteur has made 38 country visits to 29 countries. In Africa, he/she has visited the Democratic Republic of Congo (twice), Nigeria (twice), Central African Republic, Kenya, Sudan, and Burundi.

In recent years, the Special Rapporteur’s thematic reports have been on the following topics:

- 2013: Lethal autonomous robots (A/HRC/23/47); Drones (A/68/382)
- 2012: Journalists (A/HRC/20/22); Issues of concern regarding the death penalty (A/67/275)
- 2011: Policing demonstrations (A/HRC/17/28); Excessive use of force (A/66/330)

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4 HRC Res. 17/5 (1 July 2011) preamble, ¶ 1, 3, 7(a)
2010: Police oversight/election-related violence/targeted killings (A/HRC/14/24); Lethal robotics (A/65/321)

2009: Reprisals/executing juveniles/witches/use of force (A/HRC/11/2); Vigilante killings (A/64/187)

2008: Commissions of inquiry/commutation of death sentence/prisons, (A/HRC/8/3); Impunity—witness protection/military justice (A/63/313)


The Right to Life

The operating norm of this mandate—and of this study—is that of the right to life.5 The Human Rights Committee has described the right to life as “the supreme right.”6 While its exact scope can be contested, there is no serious challenge to the foundational status of this right. The prohibition of arbitrary killing has been described as a rule of customary international law, as well as a general principle of international law and a rule of jus cogens.7 It is included in the UDHR—widely regarded as establishing rules of general international law—in a broad fashion, with no provision made for questions such as the death penalty, abortion, or euthanasia.8 The ICCPR confirms respect for the right to life as a primary obligation, stating that “[e]very human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.”9 At the regional level, the African Charter on Human and Peoples’ Rights similarly recognise the importance of the right to life, describing human beings as “invulnerable”.10 The Protocol on the Rights of Women in Africa and the African Charter on the Rights and Welfare of the Child both also mandate protections of the right to life.11 Certain violations of the right to life are considered to be war crimes or crimes against humanity.12

The right to life is recognised in the constitutional and other legal provisions of States and through a wide range of domestic and international actions and practices: the killing of one individual by another is universally criminalised. The legal framework for the protection of the right to life thus exists at both the international level (globally and regionally) and the domestic level. It rests at an intersection of international human rights law, international humanitarian law, international criminal law and domestic law (both constitutional and criminal). Since most incidences of arbitrary deprivations of life by governments would amount to murder—or a similar crime—under

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6 CCPR General Comment no.6: The Right to Life (Article 6) (30 April 1982) ¶ 1. Christof Heyns has also described it as ‘the ultimate metaright, since no other right can be enjoyed without it’ see Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions (9 August 2012) [A/67/275] ¶ 12.
7 CCPR General Comment no.24: Reservations to the Covenant (2 Nov. 1994) [CCPR/C/21/Rev.1/Add.6] ¶ 10. Nigel Rodley has noted that most of the arguments sustaining the classification of the prohibition against torture as jus cogens apply equally if not more forcibly to the arbitrary deprivation of the ‘supreme’ right to life; see Treatment of Prisoners Under International Law (Oxford: OUP, 2009) p.250. The Human Rights Committee has affirmed that the prohibition of torture and arbitrary deprivation of life are among the rights than cannot be reserved against, both because of their non-derogable status and ‘because of their status as peremptory norms’, see CCPR General Comment no.24: Reservations to the Covenant or Optional Protocols (4 Nov. 1994) ¶10.
8 Article 3.
9 Article 6(1).
10 ACHPR Art.4. Other regional mechanisms also include protections of the right to life, see ECHR (Art.2) and ACHR (Art.4).
11 Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (Art. 4(1)); African Charter on the Rights and Welfare of the Child (Art. 4(2)a),b),e) and j) as well as 5(1) and 5(3)).
12 See generally Prosecutor v Mile Mrkšić and Veselin Šljivančanin Case No. IT-95-13/1-A
the national laws of the countries in which they occur, the prohibition against government involvement in or failure to protect from such killing is arguably consistent with what the Statute of the International Court of Justice refers to as “general principles of law recognised by civilised nations.”

The first Special Rapporteur described that the right to life as “the most important and basic of human rights... the fountain from which all human rights spring. If it is infringed the effects are irreversible.” Christof Heyns, the current Special Rapporteur, has noted that “[t]he primary purpose of the recognition of the right to life is to protect people from being killed by the State, the entity that claims and, to a large extent, exercises monopoly on the use of force.” However, crucially, it should be recognised that the right to life has two components: prevention and accountability. The irreversible character of a violation makes accountability all the more important. The two components are mutually reinforcing: accountability is widely seen as a mechanism for ensuring prevention.

**Violations of the Right to Life**

The direct action of execution or killing is central to the scope of the mandate and this study. Holistically conceived, the right to life can suggest a whole range of socio-economic responsibilities, which, though significant, are not germane to the way the right to life is conceptualised under the mandate or in this study. Similarly, issues of abortion and euthanasia are excluded.

The types of violations of the right to life deemed to fall within the mandate were enumerated by Special Rapporteur Asma Jahangir in 2002. They included: (a) genocide; (b) violations of the right to life during armed conflict, especially of non-combatants, contrary to international humanitarian law; (c) killings by security forces of the State, or by groups cooperating with or tolerated by the State; (d) deaths due to the excessive use of force by law enforcement officials; (e) deaths in custody due to torture, neglect or other life-threatening conditions of detention; (f) death threats and fear of imminent extrajudicial executions by State officials; (g) expulsion, refoulement or return of persons to a country or a place where their lives are in danger; (h) deaths due to acts of omission on the part of the authorities, including mob killings, where the State fails to take positive measures of a preventive and protective nature; (i) breach of the obligation to investigate alleged violations of the right to life and to bring those responsible to justice; (j) breach of the...
additional obligation to provide adequate compensation to victims of violations of the right to life; and (k) violations of the right to life in connection with the death penalty.\(^{17}\)

Other international actors have previously defined elements of the problem in more general terms. For example Amnesty International described extrajudicial killings as “killings which can reasonably be assumed to be the result of a policy at any level of government to eliminate specific individuals as an alternative to arresting them and bringing them to justice.”\(^{18}\) The US State Department’s annual *Country Reports on Human Rights Practices* include an explicit section on “Arbitrary or Unlawful Deprivations of Life”. These are defined, slightly more broadly, as “killings ordered by governments or committed by government without due process of law or where there is evidence of a political motive [as well as] killings by police or security forces and actions that resulted in the unintended death of persons without due process of law.”\(^{19}\)

The most straightforward examples of killings germane to this mandate are killings by the state during peacetime. Alston made clear that human rights standards concerning the use of force by the state derive from the understanding that the irreversibility of death justifies stringent safeguards for the right to life, especially in relation to due process.\(^{20}\) However, any full definition of an unlawful killing must extend to armed conflict.\(^{21}\) That the mandate of the Special Rapporteur incorporates armed conflict was demonstrated by Philip Alston in a series of communications with the US Government.\(^{22}\) Both the Human Rights Commission and the General Assembly have endorsed the principle that that “international human rights law and international humanitarian law are complementary and not mutually exclusive.”\(^{23}\) In recent years, reports of the Special Rapporteur have emphasised the right to life of vulnerable groups in the context of armed conflict.

However, it is important to emphasise that states are obliged under international law to do more than merely refrain from killing. A significant category of killings understood as within the mandate of the Special Rapporteur, is killings by non-state actors and the associated violation by the state of its affirmative responsibilities. The ICCPR requires states “to respect and to ensure” the right to life.\(^{24}\) Significantly, the general principle of law, asserted in the first instance by the Sixth UN Crime Congress, concerned murders “committed or tolerated by Governments”.

Impunity is a concept integral to the modern human rights apparatus, and to this mandate.\(^{25}\) In the case of the right to life the term most frequently used in international legal instruments to


\(^{18}\) Amnesty International *Israel and the Occupied Territories: Israel Must End its Policy of Assassinations* (4 July 2003).


\(^{21}\) Christof Heyns *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions* (13 Sept. 2013) [A/68/382] ¶ 26-7; also see General Assembly Res. 67/168 preamble & ¶ 16.


\(^{24}\) Article 2 and 6(1). Similarly the African Commission found that states do not give effect to Article 4 unless they undertake to ‘respect, protect, promote, and fulfil’ that right, see *SERAC v. Nigeria* 2001 AHRLR 60 (ACHPR 2001) paras 44-7.

\(^{25}\) In 2005 the UN endorsed an ‘Updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity’ [E/CN.4/2005/102/Add.1], based on the report of an independent expert, Diane Orentlicher.
characterize the State’s affirmative responsibility is “due diligence”. As Alston has noted since the end of his term as Special Rapporteur, “international law has achieved a major breakthrough by holding the relevant governments liable in situations in which they have not shown ‘due diligence’ in carrying out their own obligations to investigate, prosecute, and punish those who commit such crimes.” This study will further examine the concept of impunity, and measures which might be taken to combat it with respect to the right to life.

The definition of an unlawful killing which has guided this study is thus: “killings threatened or committed either with explicit or implicit official sanction, or within a context of impunity, which bring into question the state’s upholding of its obligations to respect and to protect the right to life.”

26 Philip Alston Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions (22 December 2004) [E/CN.4/2005/7] ¶ 73. Its substance was formulated in considerable detail more than 25 years ago in a report to the General Assembly by Abdoulaye Dieye of Senegal in his capacity as an expert in relation to the situation in Chile. He examined in depth the responsibility of States for acts such as disappearances which are not committed by government officials or their agents. He observed that a State is responsible in international law for a range of acts or omissions in relation to disappearances if, inter alia, the authorities do not react promptly to reliable reports, the relevant legal remedies are ineffective or non-existent, the State does not act to clarify the situation in the face of reliable evidence, or it takes no action to establish individual responsibility within the national framework [A/34/583/Add.1] (21 Nov. 1979) ¶ 172-5. This approach was confirmed, almost a decade later, by Velásquez Rodríguez v. Honduras, Annual Report of the Inter-American Court of Human Rights, OAS/Ser.I./V./III.19, doc. 13 (1988), 28 ILM (1989) 291.

Measuring Global & African Violence

This section will briefly survey available material from other international organisations aimed at statistically capturing levels of violence. This is in no way a proxy for unlawful violence, but it offers a helpful perspective both on priorities and on the difficulties inherent in a statistical approach to human rights.

Statistical Research & Other “Coded” Measures

The World Health Organisation (WHO) is responsible for assessing causes of death on a global scale. Using a universal classification, the International Classification of Disease (ICD-10), the WHO produces Global Burden of Disease, or Global Health Estimates (GHE). The most recent available country-by-country estimates is now quite dated, compiled in 2008. A more updated dataset, also based on ICD-10, was published in 2013, but this contrasts regions.

The ICD-10 classification accommodates categories of ‘Assault’ (X85-Y09), and ‘Legal Intervention and operations of war’ (Y35 and Y36). These are condensed into two GHE codes, ‘Interpersonal Violence’ and ‘Collective Violence and Legal Interventions’ (GHE(2012)#158 & #159). The most general background measure of violent death can therefore be deduced by combining these two.

<table>
<thead>
<tr>
<th>Region</th>
<th>2011</th>
<th>2000</th>
<th>% Change</th>
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<tr>
<td></td>
<td>Inter-personal Violence</td>
<td>Collective Violence</td>
<td>Violent Death Rate</td>
</tr>
<tr>
<td>World</td>
<td>486,493</td>
<td>86,307</td>
<td>8.26</td>
</tr>
<tr>
<td>High-income countries</td>
<td>27,208</td>
<td>1,140</td>
<td>2.59</td>
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<td>East Asia &amp; Pacific</td>
<td>62,313</td>
<td>4,276</td>
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<td>Europe &amp; Central Asia</td>
<td>27,377</td>
<td>2,397</td>
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<td>Latin America &amp; Caribbean</td>
<td>154,224</td>
<td>3,966</td>
<td>26.85</td>
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<td>Middle East &amp; North Africa</td>
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<tr>
<td>Sub-Saharan Africa</td>
<td>128,623</td>
<td>15,795</td>
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</table>

Table 1: Violent Deaths by [World Bank] Region, 2000-2011 (WHO)

The number of violent deaths and the violent death rate (per 100,000) in various regions of the world are contrasted (for 2011 and for 2000) in Table 1. There is a great deal of heartening information to draw from these statistics: the headline figure being the reduction of global levels of violence—in real terms—by nearly a fifth. The reduction in Sub-Saharan Africa has been at more than double the global rate (though a significant proportion of the “collective violence” deaths in Middle East & North Africa in 2011 should be attributed to North African states).
However the significant increase in incidence of interpersonal violence in Africa is a cause for concern, and requires further exploration.

The great advantage of the GHE is that it places violent deaths within the context of all deaths. In a consideration of threats to life (more holistically conceived than this study of killing) it would be worth drawing attention to the fact that in 2011—globally—more than twice the number of people killed by interpersonal or collective violence, some 1¼m, died as a result of road injuries (GHE(2012)#153).

One very important caveat to bear in mind with respect to WHO figures, however, is that they rely upon national reporting. Where this reporting is weak (such as in many parts of Africa) the WHO must rely upon statistical modelling.¹

The Geneva Declaration Secretariat produces a study on the Global Burden of Armed Violence (GBAV 2011). This computed a smaller figure (for a slightly different time period) of 526,000 deaths each year as a result of lethal violence. This figure is composed of roughly 55,000 direct conflict deaths, 396,000 intentional homicides, 54,000 so-called “unintentional” homicides, and 21,000 ‘killings during legal interventions’.² These proportions are illustrated in Figure 1.

These numbers draw attention to the fact that the problem of homicide is by far the greatest interpersonal threat to life, and arguably should be taken seriously in a discussion of the right to life.

This being the case, reference can be made to statistics gathered by the UN Office of Drugs and Crime (UNODC), which surveys the incidence of homicide worldwide. According to the definition currently used by UNODC, intentional homicide is the “unlawful death purposefully inflicted on a

person by another person”. This definition contains three elements characterizing an intentional homicide:

1. The killing of a person by another person (objective element).
2. The intent of the perpetrator to kill or seriously injure the victim (subjective element).
3. The intentional killing is against the law, which means that the law considers the perpetrator liable for the unlawful death (legal element).

The data is compiled primarily from state reporting procedures such as the UN Crime Trends Survey. Alternatively, information might be sought from Interpol. This collection process relies heavily upon states reporting their statistics. In a large proportion of cases in Africa, states cannot or do not provide sufficient information. In these circumstances the UNODC adopt figures from the WHO. As noted above, these figures themselves may well be formed on the basis of statistical modelling.

This data compiled in 2013 suggests a global homicide rate of 5.8/100,000. The variation of this rate across regions is illustrated in Figure 2. As can be seen, the homicide rate in Africa is 11.4/100,000 compared with a figure of 4.9/100,000 for the rest of the world. The national rates for all African states are described in Table 2.
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*Table 2: African States by Homicide Rates (UNODC)*
In general with respect to statistical studies of killing in Africa, it should be stressed that the quality of reporting is very poor. This in and of itself reflects a lack of accountability, and thus a general violation of the right to life (as discussed above). Either governments have the information and choose not to share it through health or crime surveys, which is a problem; or they simply don’t know how people are dying within their jurisdiction, which is arguably worse.

It should be noted in this connection, that the Strategy for Harmonisation of Statistics in Africa (SHaSA), a collaboration between the African Development Bank the African Union Commission and the Economic Commission for Africa, looks to enable statistical analysis of all aspects of political, economic, social, and cultural life across Africa.

In the case of conflict-related deaths there are various groups that focus on producing statistics on global levels of violence. The Heidelberg Institute for International Conflict Research documents and analyses national and international political conflict (understood as a clash of interest, not necessarily escalating into violence). They publish an annual “Conflict Barometer” that describes recent trends. The Human Security Report Project in Vancouver analyses trends in organised violence around the world. They are primarily credited with establishing that conflict numbers have diminished since 1992. The Uppsala Conflict Data Program has recorded ongoing violent conflicts since the 1970s. Its data is one of the most often-used sources on global armed conflict.

Another category of statistics that can be presented around questions of human rights violations are those based on the coding of different evaluations of governing practice. In these instances the numbers (or sometimes “scores”) attributed to different countries do not represent a number of victims. For example, the Cingrinnelli-Richards (CIRI) Human Rights Data Project compiles data on the number of countries around the world in which extrajudicial killings take place. They categorise countries as places where extrajudicial killings occur frequently (0), occasionally (1), or not at all (2).

Freedom from bodily attack (by state actors) is a constituent part of several other indices of governance, such as the Political Terror Scale (PTS). Two of the World Bank’s Worldwide Governance Indicators include various measures of freedom from violence (‘Rule of Law’ and ‘Political Stability and Absence of Violence’). Likewise the Ibrahim Index of African Governance (IIAG) includes “Physical Integrity Rights” (from CIRI) and the “Political Terror” (from PTS) in addition to commissioning an index on “Safety of the Person” and “Violent Crime” from the Economist Intelligence Unit. The Minority Rights Group produces a Peoples Under Threat dataset, the 2014 version of which shows three African states in the top four, and eleven in the top twenty.

The Limits of Statistical Measurement

Regrettably, the world is not yet universally at a stage whereby each individual life is equally well-tracked: just one of many ways in which the ideal of fundamental equality of life remains distant. Working from the normative basis of the right to life, however, leads to the assertion if not the reality that in order to protect the right to life, states need to treat any loss of life (whether a homicide, other interpersonal violence, during armed conflict, or during a “legal intervention”) as a significant event worthy of official record. From this point, the requirements of transparency dictate that information about loss of life be shared with intergovernmental organisations such as the WHO and UNODC.

Realistically, it is unlikely that human rights violation such as unlawful killings will ever be fully captured by a system reliant on state reporting. This aside, it is also worth reflecting on the value
of approaching violations of the right to life from the quantification of “life” rather than the recording of “violation”. While statistics about loss of life can be a useful guide for prioritisation, and at times a useful advocacy tool, they can also mask low-level yet pernicious state practice. As will be discussed in the next section, the incidence of certain types of killings—particularly those committed by non-state actors, is an important aspect of the decision as to whether the state’s response falls within the scope of this study.
Studying the Incidence of Unlawful Killings

The Armed Violence Matrix

This study will examine unlawful killings from four perspectives in order to determine which provide the better entry-points for efforts at prevention. The resulting matrix is loosely based upon the OECD’s “armed violence lens”.¹ The four perspectives are:

- **the perpetrator** – the individuals or groups directly responsible for the physical killing (as well as those directing or commissioning the action) and their motives
- **the victim** – particular types or groups of victim vulnerable to a particular kind of killing
- **structural factors** – such as the availability of small arms; endemic corruption in government, inefficiencies of justice that might lead to impunity
- **social/cultural phenomena or norms** – social or cultural habits or traditions which unacceptably endanger the right to life (both in terms of prevention and accountability)

This model incorporates the OECD lens, but by combining formal institutions with the otherwise reductionist category of “instruments” to make “structural factors”, it leaves space for greater elaboration of social and cultural factors that can play a significant role in determining patterns of violence, as well as accountability.

Categories of Unlawful Killings

This sections of this study will each examine a particular category of unlawful killing, but they can be separated into three broad parts: the first will look at killings in which the state is directly responsible; the second will look at the acts of non-state actors, both individually and as groups, for which the state assumes some form of indirect responsibility; the third will look at particular victim groups and contexts of killings, particularly armed conflict. Each section will follow the same basic format, based on the Armed Violence Matrix introduced above. They will begin with a geographic survey of the incidence of that type of unlawful killing across the continent, followed by an analysis of victims and perpetrators. Then there will be a discussion of structural and social or cultural factors which influence the incidence or accountability with respect to the particular type of killing, followed, finally, by brief suggestions or examples of best practice.

I. State Actors

Aside from the fact that the human rights framework speaks primarily to states, it is also the case that, through their law enforcement and security officials, states typically have extensive and

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¹ OECD Armed Violence Reduction: Enabling Development [Conflict and Fragility Report] (Paris: OECD, 2009) ch.3. The lens emphasises people, agents (perpetrators), instruments and institutional factors, while also highlighting that these risk factors exist and interact at different levels, from local to global.
Indeed superior access to the use of force. Unlawful killings by state actors fall into three broad categories. The first of these, which will be discussed in Chapter 2, is Excessive Use of Force. Killings in this category are, in statistical capture, generally referred to as “deaths during legal interventions”. As the Special Rapporteur’s most recent report points out “the modern State, which has to deal with a range of challenges, cannot function without the police. The human rights system as such also cannot be effective without the police and, in some cases, without the use of force.”

Rules concerning use of force need to be derived from principles of proportionality and necessity. As Alston established, under human rights law, a state killing is legal only if it is required to protect life (making lethal force proportionate) and there is no other means, such as capture or nonlethal incapacitation, of preventing that threat to life (making lethal force necessary). The proportionality requirement limits the permissible level of force based on the threat posed by the suspect to others. The necessity requirement imposes an obligation to minimize the level of force used, regardless of the amount that would be proportionate, through, for example, the use of warnings, restraint and capture.

The international standards on the use of force are established in the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1990). These make clear that, both during arrest and during demonstrations, law enforcement officials shall not use firearms against persons except in self-defence or defence of others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger and resisting their authority, or to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives. In any event, intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life.

Unlawful killings occur when law-enforcement actors, whether policemen or (as is common in many parts of the world—including Africa) military personnel conducting police function, during the routine conduct of police affairs, either while effecting an arrest or while policing a demonstration, overstep these guidelines. This can be for a variety of reasons, (including individual error), deliberate (individual) vicious intent, unprofessional negligence, poor training, lack of proper accountability mechanisms leading to a culture of impunity, or direct state policy.

More perniciously, it can also include circumstances where the use of lethal force is not a tactical (if misguided excessively) escalation, but rather a strategic policy decision. This type of killing, often referred to as “encounter killing”, describe extrajudicial executions of suspected criminals subsequently staged as shootings in self-defence.
The final sub-group of what might be thought of as law-enforcement-related if not judicial state killing is the killing of an individual once he or she is in custody. These can take various forms, ranging from excessive force to deliberate deprivation, but may also involve the contravention of a positive state obligation. Alston has observed that

[w]hat makes “custodial death” a useful legal category is not the character of the abuse inflicted on the victim but the implications of the custodial context for the State’s human rights obligations … When the State detains an individual, it is held to a heightened level of diligence in protecting that individual’s rights. When an individual dies in State custody, there is a presumption of State responsibility. These interlocking implications produce the legal specificity of custodial death as a human rights violation. 8

The second broad category of state killing is comprised of Politically Targeted Killing, which will be discussed in Chapter 3. Such killing may be in the form of directly targeted killing. The political character of these killings and the direct proximity of a state actor bring them very clearly within the range of this study. In some circumstances these might be conducted by law-enforcement personnel, and framed as an “encounter” as described above. In other cases, the killing (often preceded by threats to the victim and often also to their family) is executed by a different proxy. In either case, because of the proximate state direction, the chance of a meaningful investigation or subsequent mechanism of justice is minimal.

According to David Bruce, “For a killing to be ‘political’ it must be motivated by or connected to contestation or rivalry, either regarding access to political power, or conflict over the way in which the individual targeted (or a group aligned with that individual), is exercising his or her political power.”

It is worth noting that states can also unlawfully engage in political violence in a less targeted fashion: typically around elections. The threat or use of violence to intimidate the population into a certain political choice, where it escalates to the use of lethal force, would be a clear breach of the state’s obligation to respect the right to life.

The third type of state killing which will be considered in this Report, in Chapter 4, is the Arbitrary Application of the Death Penalty. This is probably the most obvious state interference with the right to life of its citizens, and the one most popularly conjured by the term “executions” rather than “killings”. The ICCPR makes explicit provision for countries which had not already abolished the death penalty, but in Article 6 establishes the stringent conditions under which it could continue. 10 The Special Rapporteur has contended that by stating clearly that its provision for the death penalty as an exception to the right to life should in no way be ‘invoked to delay or to

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10 Articles 6(2), 6(4)-(6).
Unlawful Killings in Africa | Introduction

prevent the abolition of capital punishment’, the ICCPR envisages the death penalty’s progressive restriction. He further noted that as a general rule State practice supports this trajectory.11

In those countries where the death penalty has not yet been abolished, the requirement of non-arbitrariness has both a procedural component, centred on the requirements of legality and fair trial, and also a substantive component entailing imposition only for the most serious crimes, minimum standards of protection for vulnerable groups, and equality and consistency.12

A judicial execution would hence be “unlawful” in the sense of this study where: (i) it is conducted as part of a sentence for a crime which does not meet the threshold of “most serious crimes”; (ii) it concerns a juvenile, or someone who is mentally ill; (iii) there has not been a fair trial (or other elements of due process such as a right to appeal); (iv) the death sentence was mandatory; or (v) other safeguards (such as the protection of pregnant women) have been contravened.13

According to research by Death Penalty Worldwide, presented in the Special Rapporteur’s 2012 report to the General Assembly, all retentionist States and all but two de facto abolitionist States have legislation on the statute books permitting the death penalty for non-lethal crimes. A total of 38 of 44 retentionist States and 33 of 49 de facto abolitionist States have legislation prescribing the death penalty for crimes resulting in death but where there was no intent to kill. As the Special Rapporteur pointed out, this apparent discrepancy necessitates a closer consideration of the basis for the international standard that only intentional killing fits the definition of “most serious crimes”.14

II. Non-State Actors

As was pointed out above with respect to the way in which the right to life can be considered part of the corpus of general international law, the act of killing another human being is universally considered illegal in domestic law. While, as was noted above, the human rights framework is directed toward states, the responsibilities it places upon them include (in the language of the ICCPR) those both to respect and to ensure the right to life.15 This means that states are required to refrain from violating the right to life and also that they must adopt the necessary legislative, judicial, administrative, educative and other measures to guarantee that the right to life is respected within their territory or areas under their control.16

15 ICCPR Article 2 and 6(1) [emphasis added]. The ECHR (Article 1) requires states to ‘secure to everyone within their jurisdiction the rights and freedoms’ defined in it [emphasis added].
This relates to probably the most complex of the state’s obligations with respect to the right to life, that of “due diligence”. In its General Comment No. 31, the Human Rights Committee has observed that

the positive obligations on States Parties to ensure Covenant rights will only be fully discharged if individuals are protected by the State, not just against violations of Covenant rights by its agents, but also against acts committed by private persons or entities that would impair the enjoyment of Covenant rights. There may be circumstances in which a failure to ensure Covenant rights as required by article 2 would give rise to violations by States Parties of those rights, as a result of States Parties permitting or failing to take appropriate measures or to exercise due diligence to prevent, punish, investigate or redress the harm caused by such acts by private persons or entities.

The fact that international law can hold states liable in situations in which they have not fulfilled their obligations to investigate, prosecute, and punish those who commit crimes has been described as ‘a major breakthrough’ by former Special Rapporteur Philip Alston.

In the African context, the foundational case was **SERAC vs. Nigeria**, in which the African Commission found that states do not give effect to Article 4 of the ACHPR unless they undertake to ‘respect, protect, promote, and fulfil’ that right. With respect to “protect” this judgement found that

the state is obliged to protect right-holders against other subjects by legislation and provision of effective remedies. This obligation requires the state to take measures to protect beneficiaries of the protected rights against political, economic and social interferences. Protection generally entails the creation and maintenance of an atmosphere or framework by an effective interplay of laws and regulations so that individuals will be able to freely realise their rights and freedoms. This corresponds to a large degree with the third obligation of the state to promote the enjoyment of all human rights. The state should make sure that individuals are able to exercise their rights and freedoms, for example, by promoting tolerance, raising awareness, and even building infrastructures

The state’s responsibility for safeguarding the right to life involves a certain number of preventative actions before the event of a killing, as well as, importantly, a number of procedures after a killing, with respect to accountability. This in turn plays a fundamental preventative role. The two components are mutually reinforcing, with accountability widely seen as perhaps the most important mechanism to ensure prevention. As the Special Rapporteur has explained, ‘The modern concept of human rights is based on the fundamental principle that those responsible for

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17. Its substance was formulated in considerable detail more than 25 years ago in a report to the General Assembly by Abdoulaye Dieye of Senegal in his capacity as an expert in relation to the situation in Chile. He examined in depth the responsibility of States for acts such as disappearances which are not committed by government officials or their agents. He observed that a State is responsible in international law for a range of acts or omissions in relation to disappearances if, inter alia, the authorities do not react promptly to reliable reports, the relevant legal remedies are ineffective or non-existent, the State does not act to clarify the situation in the face of reliable evidence, or it takes no action to establish individual responsibility within the national framework (21 Nov. 1979) [A/34/583/Add.1] ¶ 172-5. This approach was confirmed, almost a decade later, by Velásquez Rodríguez v. Honduras, Annual Report of the Inter-American Court of Human Rights, OAS/Ser. I./IV./III.19, doc. 13 (1988), 28 ILM (1989) 291.


violations must be held to account. A failure to investigate and, where applicable, punish those responsible for violations of the right to life in itself constitutes a violation of that right.”

Where the state fails to fulfil its positive obligations with respect to the right to life, particularly when it fails to respond to a breach with proper investigation and subsequent accountability, the result is the gradual deterioration into a culture of impunity. The concept of impunity is one that is achieving great salience in policy discussions, and one which has become something of a vogue topic for international lawyers. It is sometime unclear what exactly is meant by the term, but here it is taken to mean the negation of accountability, and thus potentially of a whole range of different human rights.

This section will discuss killings committed by non-state personnel which take place in a climate of impunity. It is worth noting from the outset that such killings involve a degree of the public as well as the private: the “normative environment” in which these killings take place is central to understanding trends in their incidence, as well as appreciating the role that the state could—should—be playing in their reduction.

The first broad sub-category, discussed in Chapter 5, will be killings perpetrated by a private individual, so-called Conditioned Homicide. These include two broad types: intimate-killings and identity-killings. Death in the former category could be understood as the most severe instance of what Bonita Meyersfeld has referred to as “systemic intimate violence”. She argues that violence is “systemic” where “it occurs in a society in which the state in question has omitted to satisfy the standards that will help to remedy such violence.”

Alternatively, killings in this sub-group may reflect not a personal relationship but a group identity. Various motivations can lead to a killing that would fall into this group: suspicion of witch-craft; involvement with ritual (such as muti-killing or the killing of albinos); or a particular kind of social prejudice (such as the killing of migrants, minority ethnic groups or sexual orientations). This category attracts a separate set of human rights interests. As with domestic violence, killings of this character reflect the extreme end of a spectrum of (unlawful) discriminatory practice, which—separate from the killings themselves—the state has a responsibility to address. It is in the sense of this separate responsibility that the state is made more proximate to killings of this character.

A second sub-group within non-state actors, discussed in Chapter 6, are killings that do not necessarily have individual perpetrators or individual victims: Mass Actor Killings. Vigilante killings are those undertaken by individuals or groups who “take the law into their own hands”. They are killings carried out in violation of the law by private individuals with the purported aim of crime control, or the control of perceived deviant or immoral behaviour. Alston has noted that

Very often, conceptions of vigilantes paint them as individuals or groups acting privately to provide justice where the State fails to do so. States also commonly deny any official involvement in vigilante killings. However ... a more accurate accounting of vigilante killings must take cognizance of not only fully private vigilante acts, but also a spectrum of State involvement. ... [C]overt or overt official involvement in or encouragement of

vigilante killings is actually quite common, and perhaps more common than might otherwise be assumed given that the justification generally given for vigilantism is that it is necessary in lieu of effective State power.\textsuperscript{25}

An additional sub-division of mass actor killings, discussed separately in Chapter 7, are those perpetrated by \textit{Organised Actor Killings}. These include threats to the right to life posed by private security guards, as well as organised criminal groups such as pirates or traffickers. The state cannot exercise the full responsibilities of a state, including the protection of the right to life, if it tolerates (or in some cases informally condones) the behaviour of such groups.

III. Victim Orientated Contexts

There are certain groups within societies who tend to be more vulnerable to violations of human rights—in this case the right to life—than others. The first victim-orientated study, in Chapter 8, will examine the \textit{Targeted Killing of Vulnerable Groups}. It will focus on the threat faced by journalists, human rights defenders, humanitarian aid workers and others. These are groups whose vulnerability is determined by their profession, whereas those vulnerable groups defined by some kind of real or imagined identity are discussed above under discriminatory hate crime.

The group identity of the victims make a coherent and actionable state response more imaginable. Where states fail to act against violations and allow impunity to develop there is a clear cause for concern. Moreover the implications of attacks on these vulnerable groups for other human rights can make them of particular interest to human rights observers.

The final chapter of the report will consider \textit{Unlawful Killings in Armed Conflict}. The ICCPR’s prohibition of arbitrary deprivation of life cannot be derogated from, which means that the permissibility of lethal force depends on what is considered to be “arbitrary”.\textsuperscript{26} In the context of warfare, this question has been addressed by the International Court of Justice in its opinion on the nuclear weapons, when it observed that ‘In principle, the right not arbitrarily to be deprived of one’s life applies also in hostilities. The test of what is an arbitrary deprivation of life, however, then falls to be determined by the applicable \textit{lex specialis}, namely, the law applicable in armed conflict which is designed to regulate the conduct of hostilities. Thus whether a particular loss of life, through the use of a certain weapon in warfare, is to be considered an arbitrary deprivation of life contrary to Article 6...can only be decided by reference to the law applicable in armed conflict and not deduced from the terms of the Covenant itself.’\textsuperscript{27}

Hence, in the case of armed conflict, the distinction and proportionality requirements of IHL exist \textit{alongside} human rights requirement to establish how the definition of arbitrariness might be applied. Broadly, if a target can be distinguished as an enemy combatant engaged in “the conduct of hostilities”, he or she may lawfully be killed. The obligation of due process in peacetime may be

\textsuperscript{25}Ibid \¶ 53. ‘The State’s role can exist on a continuum from being non-existent; to failing effectively to prevent the killings and prosecute perpetrators; to implied approval or tacit support for killings; to active encouragement, including official verbal support for killings; and overt direct State involvement, including official assistance in the formation of vigilante groups and their activities, and official participation or collusion in vigilante activities. Often, one or more of these levels of involvement can co-exist.’ (¶ 54).

\textsuperscript{26}By contrast the ECHR’s prohibition of “intentional” deprivations of life permits derogations within the limits of “lawful acts of war” (Article 15(2)).

\textsuperscript{27}ICJ \textit{Legality of the Threat or Use of Nuclear Weapons} (1996) ¶ 25.
thought to have been substituted for the obligation of distinction. The principles of proportionality and necessity that concern the use of force in peacetime are during armed conflict combined in the (broader) principle of proportionality under IHL (with the necessity of the military operation being a question for a broader body of law about war and peace).

The targeting of civilians or non-combatants or the use of force in such a fashion as directly to lead to disproportionate “collateral damage” would constitute an unlawful killing. As would any other lethal action constituting a war-crime. These norms apply equally to all parties to an armed conflict, whether insurgent non-state groups or private military contractors employed by state actors. As Philip Alston noted in his report on Sri Lanka,

Common article 3 prohibits the murder of persons taking no active part in hostilities. This prohibition is both more limited than sometimes hoped and more expansive than sometimes realized. It leaves the use of lethal force in the midst of combat—the “conduct of hostilities”—largely unregulated. However, in other contexts, it protects combatants as well as civilians, prohibiting the murder of all “[p]ersons taking no active part in hostilities, including members of armed forces who have laid down their arms and those placed ‘hors de combat’ by sickness, wounds, detention, or any other cause”...The bedrock legal principle that persons who are captured have a right to humane treatment should not be obscured by any implication that their execution is worse if they are civilians.

It is also worth noting, in the context of what will follow, that armed conflict can lead to a large number of deaths of non-combatants that are not the result of direct action. Deaths due to conflict-induced famines or poor sanitation in refugee camps create a complex web of responsibilities, and not all of them pertain to the conflicting states. For the purposes of this study, examining the act of unlawful killing rather than holistic fulfilment of the right to life, deaths in the context of armed conflict caused by deprivation or disease will not be considered.

**Incidence & Control**

Since the human rights framework, and the mandate which is part of it, speak primarily to states or state-like actors and not to private individuals—the category of unlawful killings does not include every act of killing, however illegal in domestic law.

However this is not to say that the international legal definition of an unlawful killing cannot accommodate killings which are not perpetrated by a state actor. The state’s dual obligation to both respect and protect the right to life places certain types of killing by non-state actors within the scope of the mandate and therefore of this study.

Unlawful Killings in Africa draws attention to the fact that both the level of state control (both direct and indirect) over the act of killing and the scale of the incidence of the killing can be relevant to determining whether that loss of life can be regarded from within the human rights system. In cases where the state is the perpetrator of the killing, its control is by definition “high”. In those situations where it is not the perpetrator it is therefore important to assess not only the incidence of killing, but also the level of (indirect) control the state has. The purpose of the

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28 It has been suggested that in “new wars”, fought often for the sake of identity politics, population displacement and other violence against civilian populations is employed as a means of controlling territory rather than engaging against enemy forces. See generally Mary Kaldor ‘In Defence of New Wars’ Stability 2 (2013) pp.1-16.

29 With respect to private military and security companies in the context of armed conflict, the Montreux Document (Sept. 2008) establishes pertinent international legal obligations.

sections on structural factors and social or cultural norms is to identify causes underlying a pattern of killing. The extent to which a climate of impunity is allowed to prevail with respect to a particular type of killing can be interpreted as a failure to exercise control.

The interaction of scale of incidence and level of state control is made clearer in Figure 3. It illustrates that the mandate and this this are clearly interested in situations where a large number of killings over which the state has significant control are taking place. However it also make clear that the Special Rapporteur should be interested in not only those types of state killing which do not occur very often, but also (less obviously) in killings over which the state has little direct control but which are occurring in large numbers. In those cases, the existence of a pattern of killing triggers a positive state responsibility to take action. In each state different types of killing would occupy different coordinates on this graphic. For example the arbitrary application of the death penalty is something over which the state has almost complete control, and while it may kill only one person in a given year in a particular country it would still be of interest. By contrast, witchcraft-related killings, over which the state has only weak indirect control (through effective promotional measures and strong investigation and accountability), may occur in certain states at alarmingly high levels. This too is therefore a form of unlawful killing of relevance to this study and to the continued work of the Special Rapporteur.
Excessive Use of Force

Mass Demonstrations

This section explores unlawful killings arising within the context of mass demonstrations. While it was mostly police and security forces who were responsible for the killings, the perpetrators also included pro- and anti-government activists, militia and vigilante groups.

The policing of mass demonstrations has received considerable media attention more recently, not least due to the Arab Spring. From the time of Mohamed Bouazizi’s act of self-immolation in December 2010, the protests and uprisings that spread across North Africa have seen authoritarian regimes toppled in Tunisia, Egypt and Libya. The influence of the Arab Spring was also evident in some countries in Sub-Saharan Africa. Beyond the Arab Spring, there have also been mass demonstrations across Africa against price hikes, austerity measures, privatization, corruption and high income inequality. The past decade also witnessed protests against poor study conditions, as in Sudan, Burkina Faso and Malawi; against forced evictions, as in Angola, Nigeria and Kenya; and in the context of elections, as in Guinea, Zimbabwe and South Africa.

While law enforcement agencies understandably struggle with the challenges mass demonstrations present, their responses have often exhibited little self-restraint with regard to the use of force. Frequently, force used has been neither necessary nor proportionate and resulted in injuries and deaths. Moreover, the responses often appeared to have been driven with the aim of forcibly quelling demonstrations irrespective of their nature, rather than facilitating the peaceful exercise of the right to the freedom of assembly. It is not uncommon for heavily-armed security personnel to be dispatched to control relatively peaceful crowds or for security personnel to be poorly equipped with non-lethal weapons. This section will describe several instances when security personnel used non-lethal weapons to lethal effect or even used firearms arbitrarily, without initial warning, without resorting to non-violent means first and where there was no imminent threat of death or serious injury – thus, engaging in unlawful killings.

Often, a clear command and control system appeared to have been absent, along with a uniform understanding of the use-of-force continuum and adequate coordination between multiple agencies engaged in joint operations.

Providing an overview of unlawful killings resulting from the use of excessive force to police mass demonstrations has not been a straightforward task. As the use of force may have been warranted during outbreaks of violence, and even lethal force was justified in the face of imminent threat of death or serious injury, it can be difficult to determine whether or not killings were unlawful. Besides, estimates of fatalities could vary significantly and not clearly indicate how many were killed by police and security forces or did engage in life-threatening acts of violence.

Then, of course, there were numerous instances wherein the force used may have been excessive, leading to injuries, but not necessarily lethal, resulting in killings. Hence, while killings must serve as an important indicator of violence by police and security forces during demonstrations, other indicators, such as arbitrary arrests and detentions, use of torture, deaths in custody, and numbers of those injured, must also be considered. One must also bear in mind that, in some violent protests, police and security officials as well may have been killed.

1 The principal researcher on this section was Dwayne Menezes.
It should be noted that there is significant cross-over with the chapter on political killings (especially the section on election-related killing), a reflection of the extent to the police and the security forces act as the direct interaction between the state and its people.

**A: Geographical Distribution**

Given the particular circumstances of the “Arab Spring”, this survey has been divided between North and Sub-Saharan Africa. Because of the close interaction between the right to life in the context of demonstrations and the right to freedom of assembly and expression, most of the case studies described in the geographical survey below will include a brief introduction to the state of the freedom of protest.

**I. North Africa**

**Algeria**

The state of emergency imposed in 1992 and renewed indefinitely in 1993 allowed the government to curtail the freedom of assembly and association; and a 2001-decree banning demonstrations in Algiers and 1991-decree requiring prior approval for public meetings outside Algiers remained in effect even in 2010.2

In January 2011, Algerians had already been protesting against price hikes, high unemployment, corruption and other political and economic problems when the events in Egypt and Tunisia provided the protests further impetus. In the early-January protests, at least 5 people (4 protesters and 1 police officer) were killed: on 6 January, Azzedine Lebza was shot and killed by police in M’sila, while Ak Richie Abdelfattah died in Bou Smail on being struck by a can of tear gas; on 8 January, a man preventing looters from entering his father’s business died from being shot in the head; and on 9 January, a taxi driver in Annaba died by inhaling tear gas fired by police.3 Following Mubarak’s resignation in February, thousands of Algerians gathered in pro-reform demonstrations in Algiers and other cities, prompting large numbers of police (30,000 just in Algiers) to be despatched to prevent or contain the demonstrations.4

Between 12 February and late-April 2011, security forces routinely prevented protestors associated with the National Co-ordination for Democracy and Change (CNDC) from staging their Saturday marches.5 On 5 March, protests organised by CNDC in Algiers were violently suppressed by pro-government youths.6

In 2012 and 2013, authorities continued to heavily restrict the freedom of assembly. On 20 April 2012, police arrested 10 activists of the Youth Action Rally (Rassemblement Action Jeunesse) while

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they were heading to meet a French journalist. 7 On 24 April, judicial clerks participating in a sit-in protest over working conditions were reportedly beaten and arrested by security forces. 8

Years previously, local press reports alleged that between 60 and 80 people were killed in the Algerian-Berber region during the Kabylie Riots of 2001. The riots were sparked by the death in custody of Massinissa Guermah (who died from injuries after being shot 12 times with a machine gun which authorities later claimed had gone off after being dropped). This acted as a trigger for long-harboured resentment of the gendarmerie in the area. Authorities say that 42 were killed during the ten days of rioting when security forces opened fire on the demonstrators. 9

Egypt

On 25 January 2011, partly inspired by recent events in Tunisia, several thousand Egyptians in various cities took to the streets in protest against President Mubarak’s regime. The demonstrations were largely facilitated by the use of mobile phones and social networking sites such as Facebook and Twitter; in the days prior, over 90,000 people signed up to a Facebook page for the “Day of Revolution” organised by opposition and pro-democracy groups to coincide with National Police Day. Despite their initial restraint, police and security forces eventually responded with excessive force, using tear gas, water cannons, concussion grenades, rubber bullets and live ammunition, to prevent protesters from gathering in central squares. 10

The protests, however, took a heavy toll: aside from leaving over 6,000 injured, the Ministry of Health reported that 846 persons died in the protests in January and February, most of whom were killed on 28-29 January. Several journalists covering the demonstrations were also arrested, and instances of torture were numerous: on 9 March 2011, the military disrupted a peaceful sit-in in Tahrir Square and arrested 174 protesters, many of whom they beat severely, whipped and tasered in the precincts of the Egyptian Museum. The military and Central Security Forces also used excessive force to suppress the many other demonstrations organised in 2011, firing tear gas, rubber bullets and live ammunition as well as arresting and tasering protesters. 11

On 9 April 2011, at least 71 protestors were wounded and 1 killed in clashes with the military, while on 28 and 29 July 2011, 1,114 were reportedly injured in clashes with the Central Security Forces. 12 On 9 October 2011, while dispersing a protest by Coptic Christians outside the Maspero television building in Cairo, at least 24 were killed, of whom at least 17 were apparently run over by military vehicles. 13 In November 2011, when security forces fired tear gas, shotgun pellets and live ammunition at crowds over 5 days of clashes near the Interior Ministry building in Cairo, over 51 were killed, and over 3,000, injured. In a similar episode in December 2011 near the ministerial Cabinet building, at least 17 were killed, and around 100, injured or arrested. 14

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11 Ibid.
13 Ibid.
Even after Mubarak was succeeded in February 2011 by the Supreme Council of the Armed Forces (SCAF) headed by Mohamed Hussein Tantawi, protests continued, with security forces responding with the use of excessive force.\textsuperscript{15}

Also, as the 31-year state of emergency was to expire in May 2012, the Ministry of Justice, seeking to retain some exceptional powers, gave military and intelligence officers powers to arrest, a move also overturned by an administrative court. Most protests in early-2012 were against military rule. Between 2 and 6 February 2012, security forces used lethal force without warning to disperse protesters, killing 16 in Cairo and Suez, while between 28 April and 4 May 2012, at least 12 people were killed by men in plain clothes during a sit-in protest in Abbaseya Square (Cairo), with security forces not intervening, indicative of complicity.\textsuperscript{16}

On 17 June 2012, the SCAF expanded its own powers, limiting those of the incoming administration. Following Mohamed Morsi’s election as president less than 2 weeks later, demonstrations were held by his supporters and opponents, with security forces largely absent. On 12 August, Morsi announced that he had overturned the SCAF’s new powers, but no police reform was initiated and security forces continued to use excessive force against protesters. On 22 November, Morsi decreed that the courts could not challenge his decisions nor hear lawsuits against the Constituent Assembly (which finalized the draft Constitution 8 days later), leading to nationwide protests, a judges’ strike and violence between Morsi’s supporters and opponents. On 5-6 December 2012, at least 10 were killed outside the Presidential Palace in Cairo, following which Morsi partially lifted his decree on 8 December. Protesters continued to be arbitrarily arrested and detained, ill-treated, tortured and even killed.\textsuperscript{17}

In January 2013, after 2 policemen were killed during a demonstration outside a prison, police in Port Said killed 46 people over 3 days; over 2 months, police shot dead at least 22 anti-Morsi protesters in Cairo, Mansoura and Mahalla. On 3 July 2013, Morsi was deposed by General Abdel Fattah el-Sisi and replaced by Adly Mansour as interim president, but even thereafter, the police continued to use excessive force, killing over 1,300 persons and arresting over 3,500 Brotherhood supporters at protests. In the week of the coup, at least 54 people were killed in clashes between pro- and anti-Muslim Brotherhood protesters that week, and on 8 July, the military disrupted a Muslim Brotherhood sit-in outside the Republican Guard headquarters, killing 61 after protesters pelting stones and firing at them resulted in 2 security officers being killed. On 27 July 2013, police clashed with a pro-Brotherhood march, killing 95 protesters, while on 14 August, police disrupted 2 Brotherhood sit-ins in Cairo, killing approximately a thousand people. Some protestors at one sit-in responded with gunfire, killing 7 policemen. Soon, the police arrested most of the mid- and high-level leadership of the Brotherhood and arrested thousands of demonstrators.\textsuperscript{18}

After his resignation in February 2011, Mubarak was summoned to a Cairo court in August 2011 to stand trial for corruption and ordering the killing of protesters.\textsuperscript{19} Along with former Minister of Interior Habib el-Adly and 11 other police officials, he was tried from 2 August 2011.\textsuperscript{20} In June 2012, Mubarak and el-Adly were sentenced to life imprisonment, though the 6 senior security officials were acquitted as failure of the General Intelligence and Ministry of Interior to cooperate resulted in lack of evidence. Most police officers tried for killings during the 2011-uprising were also acquitted, with courts declaring the evidence insufficient or ruling that the use of lethal force was justified.\textsuperscript{21} In July 2012, Morsi established a fact-finding committee to identify perpetrators of

\textsuperscript{15} Amnesty International \textit{Annual Report} 2012 pp.43, 134.
\textsuperscript{16} Amnesty International \textit{Annual Report} 2013 p.86f.
\textsuperscript{17} Ibid.
\textsuperscript{18} Human Rights Watch \textit{World Report} 2014 p.532ff.
\textsuperscript{19} Amnesty International \textit{Annual Report} 2012 p.43.
\textsuperscript{20} Human Rights Watch \textit{World Report} 2012 pp.545-6.
\textsuperscript{21} Amnesty International \textit{Annual Report} 2013 p.87.
killings and injuries during both the 2011-uprising and SCAF rule. In January 2013, he received a report from the committee, but refused to make its findings public. The Court of Cassation also overturned the conviction of Mubarak whose retrial began in May. In July 2013, the interim government set up a Ministry for Transitional Justice, which took no steps towards accountability, and the government under Mansour also failed to set up a fact-finding committee.

Libya

Colonel Gaddafi’s security and armed forces used lethal and disproportionate force against demonstrations that broke out in February 2011, firing live rounds from automatic weapons at unarmed demonstrators. Around 170 people were killed and more than 1,500 injured in Benghazi and al-Bayda between 16 and 21 February. Protests in Tripoli on 20 February and its suburbs were also met with live fire by security forces, leading to many deaths.

The use of military tactics to besiege and shell cities moved the later development of the uprising against Gaddafi out of the scope of this section. Since the installation of the new regime, however, there have been several instances of unlawful killings of demonstrators.

In June 2013, more than thirty protesters, some armed, were killed during clashes outside the Benghazi headquarters of the Libya Shield Forces militia (which was aligned with the government). The protesters were demonstrating against the militia’s presence in city and its alleged abuses, such as arbitrary detentions. In November 2013 militias mainly from Misrata attacked overwhelmingly peaceful protesters in Tripoli. In ensuing clashes, 51 people died and more than 500 were injured.

Sudan

In Sudan, in early 2011, inspired by popular uprisings in Egypt and Tunisia, thousands of people (mostly students) in Khartoum and elsewhere in the north took to the streets in protest against the National Congress Party regime and price hikes. The protesters used Facebook and other electronic media to organise the protests in public places and university campuses in Khartoum, Omdurman, El Obeid and other towns. Some pelted rocks at the police, but the protests were generally peaceful. In response to the protests, the government deployed armed riot police and national security forces who often used pipes, sticks and tear gas to forcefully disperse the protesters, arresting over 100 people in just the first 2 days.

Following the secession of South Sudan on 9 July 2011, Sudan witnessed sharp inflation, currency depreciation and loss of oil revenues, and its problems only grew worse with the shutdown of South Sudanese oil production in January 2012. Amidst the deteriorating economic climate since the oil shutdown, June and July 2012 witnessed an increasing number of large-scale student and youth-led protests. These began at Khartoum University on 16 June 2012 where students

protested against price increases and austerity measures to alleviate the country’s US$2.4-billion deficit. By 22 June 2012, the protests spread to other locations in Khartoum, Omdurman, Madani, Sennar, Gedaref, Port Sudan, Hasahisa and other towns, with protesters demanding the end of the existing regime. In a display of excessive force, riot police used sticks, batons, rubber bullets and even live ammunition to suppress the demonstrations, and groups of pro-government students with sticks and iron bars also appear to have joined the security forces in beating and arresting demonstrators.29

Then again, on 31 July 2012, after a demonstration of high school students in Nyala increased in scale, security forces shot tear gas, rubber bullets and live ammunition at the crowds, killing at least 12 protestors (including a 16-year-old boy, a 17-year-old girl and 4 other teenagers) and injuring around 100. Hundreds were arrested, both protestors and those who did not participate, but were suspected of playing a role.30 Though many were released within days, a large number remained in National Security Service (NSS) custody for weeks or months, with dozens subjected to severe beatings, sleep deprivation and other forms of torture.31 On 2 August 2013, the Justice Minister set up a committee to investigate the killings in Nyala, but Sudan repeatedly failed to investigate and prosecute those responsible for violations in Darfur.32

In May 2013, security forces shot at students at El Fashir University in North Darfur to disperse student protests, injuring eight.33 By mid-September 2013, the increasing presence of government-backed militia in Nyala, South Darfur, led to widespread discontent against the central government; and the killing of Ismail Ibrahim Wadi, a prominent Zaghawa businessman, by militia on 18 September 2013 led to thousands in Nyala taking to the streets in protest. While the protests sometimes turned violent, with protestors setting cars alight, the police and security forces responded with excessive force, shooting tear gas and live ammunition, killing 7 people (including 2 boys aged 11 and 12).34

Soon thereafter, on 23 September 2013, a day after President al-Bashir announced an end to fuel and other subsidies, a wave of protests that started in Wad Madani spread also to Khartoum, Omdurman, Port Sudan, El Obeid, and other towns.35 Again, the protests often turned violent as protestors set gas stations and police stations alight and threw stones at police and security forces, who responded with excessive force, firing tear gas, rubber bullets and live ammunition at the protestors. Over 175 protestors were killed as a result, and hundreds were detained, often for weeks without charge.36

On 1 November 2013, a group of 11 civil society organisations petitioned the African Commission on Human and Peoples’ Rights to condemn the excessive use of force against protestors and send a fact-finding mission to investigate the killings of at least 170 people (210, according to the Sudanese Doctors’ Union) and the detention of more than 800 since the protests of September

31 Many were coerced into revealing their Facebook and email address passwords, and those released had to renounce their activism or work instead as informants for NSS, see Human Rights Watch World Report 2013 p.176. Amnesty International further reported that women were subjected to repeated “virginity tests”, while plain-clothed security officers arrested suspected demonstrators seeking treatment in hospitals, see Amnesty International Annual Report 2013 (London: Amnesty International, 2013) p.252.
32 Human Rights Watch ‘Sudan: Police fatally shoot Darfur protestors’ (3 August 2012).
35 Human Rights Watch ‘Sudan: Dozens killed during protests’ (27 September 2013).
2013. The Sudanese government, however, has taken great effort to suppress information, with officials from the National Intelligence and Security Service (NISS) confiscating 3 national newspapers in Khartoum on 19 September 2013, arresting journalists covering the protests in Wad Madani, and reportedly shutting down Internet access for several hours across Sudan.

Tunisia

On the morning of 17 December 2010, a municipal inspector in Sidi Bouzid, charged with dispersing illegal street vendors, confiscated the merchandise and electronic scales of a young fruit vendor, Mohamed Bouazizi. On heading to the municipal building to retrieve his property, Bouazizi was beaten and refused an audience at the governor’s office. In frustration and protest, the young vendor set himself alight before the governor’s gate, suffering severe burns from which he died on 4 January 2011. His self-immolation sparked a wave of protests that spread from city to city, growing into riots and then revolution. The protests reflected the deep grievances that prevailed against a repressive regime that stifled dissent and routinely restricted the freedom of expression, association, and assembly. Though the protests were largely peaceful, some protesters pelted rocks and even Molotov cocktails, and security forces responded with the use of lethal force. Over 230 protesters were killed and 1,464 injured during the protests, and over 70 prisoners died in prison later.

In February, 3 people reportedly died when security forces dispersed a peaceful sit-in in Kasbah. In March, Mohamed Sidki Hlimi alleged to have been summoned to an army camp in Kasserine and raped and tortured by police officers after accusing a senior police officer for deaths during the protests against Ben Ali. In May, security forces beat and restricted activities of journalists covering dispersal of protests in Kasbah.

Then, on 6 May 2011, after a protest, a 17-year-old student Fouad Badrouci was arrested by masked police officers in Tunis and severely beaten before being detained with other young protesters in Bouchoucha Prison, where they were tortured before being released the next day. The Interior Minister apologized, but security officers again used excessive force to thwart a planned sit-in in Kasbah on 15 July 2011, arresting at least 47 who were allegedly beaten at the time of arrest. Two days later, a 13-year-old bystander in Sidi Bouzid was shot dead by a stray bullet.

On 14 September 2011, the office of the military prosecutor announced that charges had been filed against Ben Ali, 2 Interior Ministers and 40 high officers. In May 2012, the fact-finding commission (Bouderbala Commission) issued its report, listing the names of those killed and injured, but failing to identify those responsible for the use of lethal force. Although authorities provided financial compensation and medical care to victims and their families, they were criticized for not attending to the severity of injuries and other factors, with some families, hence, refusing compensation. In July 2012, Ben Ali received a life sentence after the Tunis Military
Tribunal convicted him in absentia over the killing and injuring of protesters, and 39 members of his security forces were sentenced to 20-years imprisonment. The process was questionable, not least because the trials were held before military tribunals, not civilian courts.\(^{45}\)

2012 and 2013 witnessed protests against the slow pace of reform and harsh living conditions and for greater rights and freedoms. On 9 April 2012, as demonstrators protested against the Interior Minister’s decision to ban demonstrations on Avenue Habib Bourguiba indefinitely, security forces used force to dispersed the protests, injuring some protesters.\(^{46}\) Then, between 27 and 29 November 2012, when police in Siliana violently repressed demonstrations, nearly 300 protesters and bystanders were reportedly injured.\(^{47}\) On 19 May 2013, security forces fired live ammunition and birdshot at protestors in Intilaka and Cite Ettadhamen, killing 1 and injuring 4, and in July 2013, during protests following the assassination of Mohamed Brahmi, security forces used excessive force, killing 1 person and injuring others.\(^{48}\)

Moreover, after National Constituent Assembly (NCA) elections in October 2011, Moncef Marzouqi was elected President and Hamadi Jebali appointed Prime Minister in December.\(^{49}\) In August 2012, NCA issued an initial draft of the constitution, criticised on human rights grounds.\(^{50}\) Its improvised draft of June 2013 still lacked a clause clearly incorporating human rights (as per international law) into national legislation, potentially allowing arbitrary restrictions on freedom of expression, association and assembly.\(^{51}\) On 26 January 2014, NCA finally passed the new constitution.\(^{52}\)

\section*{II. Sub-Saharan Africa}

\subsection*{Burkina Faso}

In Burkina Faso, although government authorisation is not required for political parties and labour unions to convene meetings and demonstrations, organisers are required to notify the government in advance if the demonstrations might disturb public order or impact traffic.\(^{53}\) In 2010 and 2011, there were several cases when excessive force was used to repress demonstrations, but the situation significantly improved over 2012 and 2013.

In 2010 there were violent demonstrations in Gaoua in the days following the death in custody of Da Arnaud Somé, with demonstrators protesting against torture in custody, and the demonstrations were often repressed by the police with the use of excessive force. On 1 July security forces used live ammunition to disperse a crowd after the demonstrations grew violent,

\begin{itemize}
  \item \(^{45}\) Amnesty International  \textit{Annual Report 2013} pp.272f.
  \item \(^{47}\) Amnesty International  \textit{Annual Report 2013} p.272.
  \item \(^{48}\) Human Rights Watch  \textit{World Report 2014} p.620.
  \item \(^{49}\) Amnesty International  \textit{Annual Report 2012} p.338.
  \item \(^{50}\) Amnesty International  \textit{Annual Report 2013} p.271.
  \item \(^{51}\) Human Rights Watch  \textit{World Report 2014} p.616.
  \item \(^{52}\) BBC News ‘Tunisia assembly passes new constitution’ (27 January 2014) [http://www.bbc.co.uk/news/world-africa-25908340].
  \item \(^{53}\) U.S. Department of State  \textit{Country Reports on Human Rights Practices for 2012: Burkina Faso} (2012) p.10. If the demonstrations turn violent and lead to injuries to persons or damage to public property, the organizers could be heavily penalised, with 6-months’ to 5-years’ imprisonment and CFA 100,000-2,000,000 in fines, which, furthermore, would be doubled, if the demonstration was unauthorised. It was not uncommon for government agents to infiltrate political meetings or limit communications by disabling text messaging service on telephone networks.
\end{itemize}
killing 2 people (17-year-old Boureima Sie Kambou and Etienne Da) as a result; yet, official reports present their causes of death as “accidental”.  

In February 2011, Burkina Faso began to witness increasing unrest, with demonstrations in Ouagadougou and 10 other cities over rising prices, following which the President’s armed guard and other soldiers mutinied in Ouagadougou over unpaid housing subsidies on 15 February.  

The anti-government protests were fuelled further after a student (Justin Zongo) died in police custody at Koudougou, allegedly after being severely beaten by police officers. The death sparked massive protests in Koudougou and elsewhere in the country, with the protests sometimes turning violent. During the clashes, security forces fired live ammunition at the demonstrators, killing 5 civilians (who were hit by stray bullets in separate incidents) and wounding hundreds: among the fatalities were Wendkouni Kissou, Assad Ouedraogo and Issa Bado who died on 23 February following clashes in Koudougou, and students Ahmed Zougba and Michael Bouda who died on 24 February at Poa and Kindi respectively. Another fatality was a policeman lynched by a mob of retaliating protesters.  

The incidents in Poa, Kindi, and Koudougou were treated as separate events and tried in the Criminal Chamber of the Court of Cassation. In relation to Koudougou, 2 individuals were charged and jailed; in relation to Poa, a policeman and 2 civilians were detained on charges of murder and destruction of personal and public property; while with regards to Kindi, a police assistant was arrested.  

Over March and April 2011, protests continued to wage across Burkina Faso, whether against rising food prices and cost of living or demanding President Compaoré’s resignation. On 28 April, 4 student protesters rallying outside a police station against a police mutiny were injured when police fired tear gas and live ammunition to disperse the demonstrators. The protests continued in May and June 2011. On 24 May, another 3 people were killed and at least 136 injured in daylong protests in Ouagadougou. On 3 June, at least 7 (including a 14-year-old girl) were killed as pro-government forces repressed the mutiny in Bobo-Dioulasso.  

**Burundi**  

On 6 October 2008, the Interior Minister finalised a decree that opposition parties could only hold meetings at designated times and with permission from the local administration to whom they had to put forward a formal request in writing. The local administration was granted powers to reject requests if they deemed the meetings would disturb “order and public security.” These restrictions were tightened in the run-up to the 2010 elections, with frequent bans on public meetings. In May 2009, the authorities, citing security concerns as a reason, banned at short
notice a march organized by civil society groups for justice following the killing of human rights
defender Ernest Manirumva.65

On 12 March 2013, police fired live ammunition into a large crowd of worshippers gathered at
Kigarama, killing 9 people, 6 of whom died on the spot, while 3 died in hospital later of injuries
sustained.66 The worshippers belonged to an informal spiritual movement whose followers
undertook pilgrimages to Businde in Kayanza province on the 12th of every month. There, they
believed, the Virgin Mary communicated with them through a young woman named Eusébie
Ngendakumana and other visionaries. Although the “followers of Eusébie” regarded themselves
as Roman Catholics, the Catholic hierarchy in Burundi distanced itself from the group; and the
government, aligning itself with the church, instructed Ngendakumana to create a formal,
separate organisation if the movement wished to continue its activities.67

Since 2012, “followers of Eusébie” frequently clashed with clergy, government officials and police
who tried to prevent their gatherings. On 25 October 2012, the governor of Kayanza
communicated his decision, supported by the National Security Council and Interior Ministry,
ordering Ngendakumana to stop her activities in Businde and calling on administrative and security
authorities to take sanctions against those who did not comply.68

On the mentioned instance of 12 March 2013, around 500 worshippers who had journeyed
overnight towards Businde reached Kigarama by around 5 a.m., where they saw police gathered.
After praying for a few minutes, the worshippers left, only to be followed by the police who
accused them of disobedience to church and state and hurled insults and threats at them. When
the police asked the worshippers to stop, they refused in fear, and some threw stones, while the
police fired live ammunition into the crowd, killing 3 women, 4 men and 2 young girls. Later, they
lined up the worshippers on the basis of gender and beat them systematically and severely. The
police were assisted by young men in civilian clothes, described as imbonerakure who were
members of the youth league of the ruling party.69

Bosco Havyarimana, a first-class police officer, supervised, abetted and participated in the
violence, which stopped only when the regional police commissioner, Eustache Ntagahoraho,
arrived. On 16 March 2013, the prosecutor of the appeal court at Ngozi ordered the arrest of
Havyarimana and two other officers, though the 3 were provisionally released from detention on
29 May.70

Cameroon

While the law in Cameroon requires organizers of demonstrations to notify officials in advance,
government approval is not necessary, and the government is not authorised to suppress
assemblies it has not approved. Yet, the government has claimed that the law implicitly requires
organisers to obtain its permission and has frequently prevented assemblies on that basis or
refused to grant permits to its critics. Security forces have often used excessive or lethal force to

68 Ibid. Since November 2012, police were stationed at the site and frequently arrested followers without due process.
Over 200 people arrested in March and April 2013 were tried summarily on the day of their arrest, without defence
counsel, and received sentences of 3-5-years’ imprisonment if adults, and 18-months, if children. On appeal, their
sentences were reduced to a fine, and almost all were released.
69 Human Rights Watch ‘Burundi: Shot, Beaten Near Prayer Site’ (26 July 2013)
70 Human Rights Watch World Report 2014 p.86.
suppress demonstrations, for example in the case of the student strikes of 2005 and 2006 and the infamous February riots of 2008.\textsuperscript{71}

The 2005 and 2006 strikes by University of Buea (UB) students, precipitated by unsatisfactory living and study conditions and the university’s draconian management, reflected the marginalisation sensed by Anglophone students in the predominantly-Francophone state. When UB was founded in 1993, modelled on the Anglo-Saxon education system and as Cameroon’s first English-speaking university, it was welcomed by Anglophone Cameroonians who hoped it would be more democratic and have greater freedom and autonomy. However, they soon found that the government sought UB to be more akin to universities within the Francophone system, with centralised, authoritative management that ensured loyalty to the government.\textsuperscript{72}

On 27 April 2005, UB students joined the second wave of strike action demanding better living and working conditions that started in the University of Yaoundé and spread to 5 of 6 state universities (including UB, where it grew violent). As several students were injured and arrested in clashes with security forces, the demonstrators responded more aggressively, damaging vehicles and university property. The security forces retaliated with disproportionate force, severely beating and arresting students as well as entering student hostels and destroying property. 2 students, Aloysius Amboeur Duhuanja and Gilbert Nforlem Forbi, were shot dead by the police.\textsuperscript{73}

Demonstrations resurfaced on 5 and 24 May 2005. In the latter instance, fearing a loss of control when students rallied at the university gates, the South West Governor ordered the security forces to disperse the assembled, triggering a violent outburst that the security forces then sought to quell with live ammunition, wounding students and killing a passing taxi driver.\textsuperscript{74}

On 27 November 2006, UB students went on strike again, when, after the Vice-Chancellor signed a list of 127 high-scoring candidates (incidentally Anglophone) for admission to the oral examination of the Medical School, the Minister of Higher Education imposed a new list of 153 candidates on UB authorities, which included 26 Francophone candidates who had not fared as well in the preceding written examinations. The ensuing clashes with security forces grew violent: on 29 November, after heavily-armed police beat students and used tear gas, some students responded by pelting stones, following which the police opened fire. 2 students (Ivo Obia Ngemba and Momba Bennet) were killed, and many wounded, though the regime sought to justify the use of excessive force with the self-defence argument.\textsuperscript{75}

No formal investigations were undertaken into the November 2006 killings, and in 2007, the perpetrators were not brought to justice. Moreover, on 9 November 2007, a demonstration over lack of electricity at a school in Kumba led to the detention of some students, which triggered further demonstrations in which 1 student (Ngome Nkwele Herbert) was killed.\textsuperscript{76} On 17 November 2007, 2 high school students (Marcel Bertrand Mvogo Awono and Jean Jores Shimpe Poungou Zok) were shot dead by a senior divisional officer and his deputy at Abong-Mbang while protesting


\textsuperscript{72} Piet Konings 'University Crisis and Student Strikes in Africa: The Case of the University of Buea (Cameroon)' \textit{JHEA/RESA} 7 (2009) pp.213, 218.

\textsuperscript{73} Ibid. pp.218-22.

\textsuperscript{74} Ibid. p.223. In April 2006, several university student leaders in Yaoundé received suspended prison sentences for their role in the November 2005 clashes, see Amnesty International \textit{Annual Report 2007} (London: Amnesty International, 2007) p.79.

\textsuperscript{75} Konings 'University Crisis' pp.226-228.

against a 4-month lack of electricity in their town, but even by June 2010, there were no new developments in the case.\textsuperscript{77}

From 25 to 29 February 2008, the so-called “Hunger Riots” broke out across Cameroon over rising prices of fuel and food and the proposed amendment to the Constitution that would allow President Biya to run as a presidential candidate in 2011.\textsuperscript{78} Soon after the strike was called by transporters’ unions, people (particularly the young) took to the streets in major cities across Southern Cameroon (including Douala and Yaoundé). Heavily-armed security forces were deployed in large numbers to quell the demonstrations by mostly-unarmed people.\textsuperscript{79} In the ensuing clashes, the government claimed 40 were killed, though human rights organisations presented the number of fatalities as more than 100; the National Human Rights Observer estimated at least 139 were killed.\textsuperscript{80} While some were killed by bullets, at least 20 bodies were recovered from the Wouri River, into which some demonstrators in Douala jumped while trapped on a bridge with security forces at both ends throwing tear gas at them.\textsuperscript{81} Also, many with gunshot wounds died after being denied medical care.\textsuperscript{82}

The government has seldom investigated human rights violations perpetrated by members of the security forces, established a commission of enquiry or punished officials concerned.\textsuperscript{83} Several journalists covering the protests were assaulted by security forces, and human rights defenders who criticised the government were harassed.\textsuperscript{84}

Over the next years, organisers of demonstrations continued to be greeted with prohibitions, harassment, arrests and detentions; few of these resulted in deaths. Demonstrations organised to commemorate the February 2008 riots were banned, with anti-riot police in Douala using water-cannon trucks and tear gas to repress one such demonstration on 23 February 2011.\textsuperscript{85}

**Central African Republic**

Although the right of assembly is provided for in the constitution of the Central African Republic, the government routinely restricted this right, requiring that associations intending to hold public political meetings obtain the Ministry of Interior’s approval and frequently refusing requests put forward by political opposition groups.\textsuperscript{86} During 2012, furthermore, members of the security forces – particularly Central African Armed Forces (FACA) and presidential guard – continued to ill-treat and kill civilians (especially suspected bandits and supporters of armed groups) largely with immunity, and among the extrajudicial killings, at least one occurred in relation to a protest gathering.\textsuperscript{87}

On 5 June 2012, while in the market area of PK12 in Bangui, Captain Eugene Ngaikoisset of the presidential guard opened fire at a crowd protesting against his arrest of innocent civilians in

\textsuperscript{80} National Human Rights Observer A Discreet and Bloody Crackdown p.17.
\textsuperscript{81} Tansa Musa ‘Cameroon activists say riots kill more than 100’ Reuters (5 March 2008) [http://www.reuters.com/article/2008/03/05/us-cameroon-protests-idUSL0521512320080305].
\textsuperscript{82} Amnesty International Annual Report 2009 p.97.
\textsuperscript{83} National Human Rights Observer A Discreet and Bloody Crackdown p.5.
\textsuperscript{84} Amnesty International Annual Report 2009 p.97.
\textsuperscript{87} Ibid. p.2.
connection with a violent case of theft. The incident concerned a young man from Kaga Bandoro who was robbed by bandits and fatally stabbed. According to a witness, when the crowd reported the matter, the captain arranged for the body to be loaded into a vehicle so it could be taken to the morgue, but also took 2 young men present on the scene, accusing them of being murderers. When the crowd protested, he opened fire in all directions, shooting in the head a 21-year-old woman, Mijora Delphine Dengwize, who sold items by the roadside and rushed to take refuge. On 7 August 2012, Dengwize died in Bangui Community Hospital from the injuries sustained. Ngaikoisset was not initially charged and remained in his position at the end of 2012. In June 2013, he was arrested in the Democratic Republic of Congo and to be taken to Kinshasa where, reportedly, he was to be punished.

In December 2012, the Séléka, an ‘alliance’ of mainly Muslim rebel groups from the northeast, embarked on a military campaign against the government of President François Bozizé, which it overthrew in March 2013. Soon after the Muslim rebel leader Michel Djotodia was installed as the interim president of the Christian-majority nation, he lost control of the Séléka, many of whom turned rogue; by September 2013, he disbanded the alliance, though the brutal killings, rapes, looting and arson continued. After September 2013, the situation deteriorated further, with the Christian vigilante groups and militias formed in opposition and known as anti-balaka increasingly striking back not just at ex-Séléka forces, but also entire Muslim communities, originally under the pretext of self-defence, though often in retaliation.

More recently, on 22 December 2013, several thousand Muslims – generally Séléka supporters – gathered in Bangui to protest against a disarmament operation conducted by French soldiers deployed to bolster the African-led International Support Mission to the Central African Republic (MISCA). Despite the large number of protesters, the protest that day ended without any signs of violence. The next day, however, witnessed another outbreak of demonstrations, this time by mainly Christian protesters protesting against the deployment of troops from Chad. Chadian troops were accused of siding with Muslim Séléka rebels, many of whom were from Chad. When demonstrators threw stones at their vehicle, Chadian troops opened fire at them, killing one person and wounding 40.

Chad

Soon after Chad gained independence from France in 1960, it saw civil war, torn between a Muslim north and Christian or Animist south and with both inter-group and intra-group tensions. In 1990, after years of civil war, Idriss Déby, a Zaghawa and former army chief of staff, overthrew President Hissène Habré, whom he had helped to power and offered assurances of change.

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However, human rights violations continued to besmirch the state under the Déby regime. Despite the protection for freedom of assembly and expression in Article 27 of the Constitution, demonstrations critical of the government were regularly prohibited. The law also required that organisers notify the government about planned demonstrations 5 days in advance.

Despite there being instances when security forces used excessive force to disperse demonstrators, there were hardly any reports of killings.

In October and November 2011, members of the security forces also beat and detained demonstrators – who included magistrates, teachers and health workers – protesting against low salaries and price hikes in food and fuel. Despite the use of excessive force, no action was taken against the security officials concerned. In November 2011, University of N’Djamena students who had been on strike since 14 September, demanding payment of their grants allegedly 6 months in arrears, marched through N’Djamena to get high school students to join their protest. The ensuing clashes with police resulted in 9 officers and 28 demonstrators injured and 150 people arrested.

Guinea

On 28 September 2009 (a day that would come to be known as “Bloody Monday”) security forces are reported to have killed more than 150 people at and around a stadium in Conakry. At least a further 1,200 people were wounded, and there were widespread incidences of women being stripped and raped in the streets. The crowds (estimated at some 50,000) had been demonstrating against the decision of the head of state, Moussa Dadis Camara to stand in the presidential elections. Soldiers moved to quell the rally with tear gas and baton charges and by firing live ammunition into the crowds.

The following year, during a prolonged and repeatedly delayed election process, police used force to disperse election protests. In late October at least 15 people were shot by security forces, with one person dying as a result of his injuries. Prominent human rights activist Aliou Barry, president of the Observatory for the Defence of Human Rights, was beaten after trying to speak out against the beatings of other protesters.

In February 2010 a domestic panel of judges was appointed to investigate the events of “Bloody Monday”. This panel interviewed more than 300 victims and charges have been filed against Capt. Claude Pivi (minister of presidential security); and Col. Moussa Tiégboro Camara (minister in charge of combating drugs trafficking and organised crime). A Human Rights Watch Report had implicated Tiégboro, as having been at the stadium and in command of the soldiers who committed the killings.

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97 Ibid. p.13.
However, more than four years after the events, the investigation remained incomplete, with lack of political and financial support presenting a major challenge. A request from the judges to interview the former president—now living in Burkina Faso—has been pending for more than two years. Tiégboro Camara and Pivi have not been placed on leave, despite the fact they may be in a position to influence the criminal investigations. In July 2013, questioning of Pivi by the judges was cancelled as his supporters held protests in Conakry, and has still not taken place.\(^\text{103}\)

It should be noted that, as HRW reported, ‘The government and military hierarchy made some progress [in 2012] in ensuring that their subordinates responded proportionately to civil unrest. The army largely remained in their barracks during marches, and there were fewer instances of the use of lethal fire than in past years by those mandated to address crowd control.’\(^\text{104}\) However, in 2013, during the run up to another (delayed) election, in late-February and again in late-May there were incidents of excessive force, with 9 people killed (including a police-officer) and more than 200 wounded in February and at least 12 people killed and a further 89 wounded in May.\(^\text{105}\) The violence has deepened hostility between Guinea’s main ethnic groups, particularly the Malinke and Peuhl, whose members are predominately affiliated with the government and opposition, respectively.\(^\text{106}\)

**Kenya**

The infamous episode of violence that erupted across Kenya in January and February 2008, following the controversial presidential election of 27 December 2007, left at least 1,133 dead and 300,000 internally displaced, according to the Waki Commission.\(^\text{107}\) The violence tragically illustrated how greatly politics in Kenya served as an arena for inter-ethnic competition, and how liberally the security forces used excessive force to suppress mass demonstrations.

During the 2007-campaign, the opposition Orange Democratic Movement (ODM) activists urged violence against Kikuyu residents in case Kibaki proved victorious as it would indicate that the polls were rigged, and when incumbent president Mwai Kibaki was declared the winner on 30 December 2007, protests erupted across Kenya.\(^\text{108}\) ODM-affiliated youth attacked the Kikuyu and other perceived supporters of Party of National Unity (PNU) across the Rift Valley and in urban slums, and the Kikuyu responded by targeting Luo and perceived opposition supporters in the Nairobi slums and also the Rift Valley. Though some acts of violence were spontaneous, most were carefully coordinated.\(^\text{109}\) In response, the Kibaki government imposed a blanket ban on public demonstrations, defending it as necessary to prevent violence, while the police often used excessive force (including live ammunition), leading to at least 400 deaths.\(^\text{110}\)

Investigations by Human Rights Watch revealed that most police killings occurred when police sought to contain in slums those they suspected might join demonstrations. It also found that police often shot unarmed protesters and bystanders (including women and children) without initially using non-lethal force and in situations where no imminent threat to life or property was present.\(^\text{111}\)

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\(^\text{106}\) ‘Serious Concern: Guinea’ R2P Monitor (15 Sept. 2013) p.17


\(^\text{108}\) Human Rights Watch *Ballots to Bullets* pp.4, 26.


apparent. Some police officials even recounted there being an unofficial “shoot-to-kill” policy, though commanders dismissively noted later that police officers were to exercise their own judgement in the use of firearms. Though there were instances where the police intervened to protect, they often appeared to lack the will or capacity to prevent the violence. Moreover, the police appeared to respond differently in different regions, prompting questions about political interference as well as competence and capacity: while police quickly resorted to lethal force in opposition areas in the slums of Nairobi, Kisumu and elsewhere even when there was no obvious risk to life, they hardly intervened when pro-government mobs engaged in killing and burning in Naivasha and Nakuru.

The post-election violence was replaced by relative calm once UN Secretary-General Kofi Annan brokered a National Dialogue and Reconciliation Accord, leading to a government of national unity. In October 2008, the Commission of Inquiry on Post Election Violence (CIPEV), formed to investigate the conduct of state security agencies and chaired by Justice Waki, accused senior politicians from both parties of inciting and abetting the violence and the police of using excessive force. It recommended individual criminal responsibility of the alleged culprits, the incorporation of the Rome Statute of the International Criminal Court (ICC) into domestic legislation, and police and constitutional reforms, the key recommendation being the establishment of a Special Tribunal to investigate and prosecute culprits. Should the government not comply, the Commission recommended the Panel of Eminent African Personalities forward a confidential list (including 10 senior politicians) to the ICC.

Where police reform is concerned, the need was again strongly felt. In February 2009, Philip Alston, the UN special rapporteur on extrajudicial, summary, or arbitrary executions, released a report accusing Kenyan police of frequently executing individuals with almost-absolute impunity and noting the presence of police death squads operating on orders of senior police officials. Although the Kenyan government rejected the findings and filed a protest with the UN, the Ministry of Internal Security apparently acknowledged in a 2009-letter to the Kenya National Commission on Human Rights that police had killed 308 youths in 2008. In August and September 2011, Parliament passed two police reform bills that brought the Kenya Police and Administration Police under a unified command structure and established a civilian National Police Service Commission, while in November 2011, Parliament passed an Independent Policing Oversight Authority Bill to assure accountability.

The judicial and police reforms, Kenyan politicians claimed, ought to allow the cases at the ICC to return to Kenya, but 2012 saw little action taken to bring the perpetrators to justice. In February 2012, the Director of Public Prosecutions established a taskforce to deal with the prosecution of 5,000 pending cases, but in August 2012, it declared that most of the evidence was not of a sufficient standard for trial. In July 2012, the UN Human Rights Committee expressed concern at the lack of investigations and prosecution. While the ICC set April 2013 trial dates in cases against four prominent Kenyans, and the Kenyan government pledged cooperation and committed to national trials of other perpetrators, the government did not create a special mechanism for prosecutions to overcome weaknesses in the existing judicial system.
Liberia

In Liberia in March 2011, students protesting in solidarity with their striking teachers clashed with the police (most of whom were armed with protective shields and improvised batons) as they attempted to march towards the Foreign Ministry office. The police violently dispersed the unarmed student protesters, especially after some students threw stones. The police also pursued fleeing protesters, forcibly entering classrooms, toilets and offices, and arbitrarily beat students. Student sources claim that 60 were wounded, 21 of whom required medical treatment at hospital, and 27 were arrested. 118 Amnesty International presents the number of those needing medical treatment as 17.119 The investigatory committee set up by the President in April confirmed in June that the police had indeed used excessive force and recommended that authorities suspend the Inspector General of the Liberia National Police (LNP) for 2 months and dismiss the Deputy Director of Operations. However, while the Deputy Director was suspended for 1 month, the Inspector General was only given a warning.120

One of the observations in the investigatory committee report held that, on 21 March 2011, on receiving information about the demonstration scheduled for the next day, the Police Director took action by first alerting the Emergency Response Unit (ERU) and later deploying the ERU along with the Police Support Unit (PSU). However, given that the students were unarmed, the more appropriate procedure would have been the Standard Operating Procedure (SOP), where the Patrol Unit would be despatched in the first instance, and only if their efforts fail, and there are threats to the safety of the public and law enforcement officers, that the PSU and later ERU be despatched. The police response, thus, reflected the usual tendency to forcibly repress demonstrations, irrespective of their nature.121

Then, on 7 November 2011, thousands of supporters of the opposition Congress for Democratic Change (CDC) assembled outside the party headquarters to urge voters to boycott the presidential run-off scheduled on 8 November. When CDC supporters left their headquarters to march into Monrovia without a permit, they clashed with the police, who, backed by UN forces, blocked a road to obstruct the march. Some demonstrators grew violent, throwing stones and also exchanging fire with the police, who also used tear gas. However, a police spokesperson claimed that the police had only used tear gas and not live bullets.122 Nevertheless, at least 1 person was killed, and many more, injured.123 On 14 November 2011, the President established a special independent commission of inquiry, which reported on 25 November that the police had indeed used excessive force, following which the Inspector General of the LNP (Marc Amblard) was dismissed as per the commission’s recommendations.124

The government later took disciplinary action and revised procedures to minimise likelihood of death and serious injury from police action in relation to demonstrations. In September 2012, following clashes with CDC supporters assembled for a “Peace and Reconciliation” march that police deemed illegal as it did not have a permit, 2 policemen sustained injuries, while 1 protester

121 Gongloe Report.
was arrested. However, in November 2012, when CDC organised an event to commemorate the November 2011 incident, the police worked alongside CDC cooperatively to facilitate the event without any outbreak of violence.\textsuperscript{125}

Malawi

The year 2011 witnessed the economic and political situation in Malawi deteriorate significantly. By mid-July, the country experienced a severe fuel and forex shortage, stopped receiving budgetary aid from the UK, had President Bingu va Mutharika sign increasingly repressive media and judicial redress legislation and saw two colleges of the University of Malawi shut down due to threats to academic freedom.\textsuperscript{126} By the second week of July, the Human Rights Consultative Committee (HRCC) along with other NGOs, opposition political parties and civic organisations called on Malawians from across the country to participate in the peaceful nation-wide demonstrations scheduled for 20 July. They noted that the demonstrations were being organised to call for an end to the “poor economic and democratic governance being advanced by the current administration.”\textsuperscript{127}

On the eve of the protests, a person believed to be acting on behalf of the government or Democratic Progressive Party (DPP) obtained an injunction against the protests, which many organisers and demonstrators only learnt of on the morning of 20 July. Although lawyers representing the organisers eventually had the injunction lifted, the situation had already grown heated.\textsuperscript{128} On 20-21 July 2011, a coalition of civil society organisations, trade unions and religious and social groups participated in anti-government protests in Karonga, Mzuzu, Blantyre, Lilongwe, Zomba and elsewhere in Malawi.

Instead of using nonlethal means, the police responded using excessive and lethal force, firing live ammunition and tear gas at unarmed protestors and even bystanders as they sought to disrupt the protests.\textsuperscript{129} The Commission of Inquiry appointed by Mutharika in October 2011 established that 20 people (2 in Blantyre, 7 in Lilongwe, 10 in Mzuzu and 1 Karonga) were killed and 58 injured, owing mostly to gunshots or police beatings. Of those killed, 19 died of gunshots, while 1 suffocated to death inhaling tear gas.\textsuperscript{130}

Among the casualties were several people who had not participated in the demonstrations; even otherwise, the Commission of Inquiry agreed that the force used was disproportionate and unnecessary.\textsuperscript{131} Moreover, around 500 people were arrested and briefly detained on 20 July, released later without charge. 22 journalists were reportedly beaten, their cameras and writing materials often seized. Also, 4 independent radio stations covering the protests were temporarily taken off air.\textsuperscript{132}

\textsuperscript{127} ‘Programme of July 20 demonstrations’ Malawi Democrat (14 July 2011) [http://www.malawidemocrat.com/programme-of-july-20-demonstrations].
\textsuperscript{131} Ibid..
On 14 October 2011, 5 activists were arrested for taking part in a demonstration calling on Mutharika to hold a referendum for early elections, and intimidation of government critics continued even in early-2012. Following Mutharika’s death on 5 April 2012, Joyce Banda was sworn in as President, and the rights situation in Malawi improved since. On 10 July 2012, the report of the commission of enquiry into the July 2011-demonstrations was made public, and Banda sought the Attorney General’s advice on whether the findings constituted grounds for criminal prosecutions.

Mali

There were a few isolated incidents of security forces in Mali using excessive force. On 10 November 2008, when protestors ransacked the city hall in Lere and pelted stones at the mayor and his deputy in protest against plans to privatise drinking water distribution in north-western Mali, the national guard shot at the protestors to quell the disorder, injuring 6, 1 of whom (Kassim Sidibe) died later.

On 7 March 2011, police used tear gas to disperse students demonstrating in Koulikoro against how long it was taking the government to build an access road to their high school, resulting in 1 fatality due a student inhaling tear gas.

Mauritania

Mauritania has seen security forces clamp down protests and demonstrations by using excessive and lethal force, including the use of live ammunition. In 2011, several members of the anti-slavery organisation Initiative pour la Résurgence du Mouvement Abolitionniste en Mauritanie (IRA Mauritanie) and human rights movement Touche Pas à Ma Nationalité (Do Not Touch My Nationality) were arrested or even imprisoned for participation in unauthorised gatherings. In addition, security forces used excessive force against peaceful demonstrators in Kaedi, Maghama, Nouakchott and other towns, particularly through the arbitrary use of tear gas and live ammunition, injuring many and killing one. On 27 September 2011, police violently dispersed a demonstration convened by Touche Pas à Ma Nationalité in Maghama by firing live ammunition, shooting dead 19-year-old Lamine Mangane. Two days following the fatality, demonstrators set tires and a vehicle alight in Nouakchott, only to be forcefully dispersed again. Then again on 28 November, 2 protestors were injured after they clashed with the police in Nouakchott.

Nigeria

Every year in Nigeria, the Police Force (NPF) is behind hundreds of extrajudicial executions and other unlawful killings, as well as cases of torture and enforced disappearances, with some brutalities perpetrated in the context of mass demonstrations. However, several cases go unreported, uninvestigated and unpunished, and victims and their families seldom have recourse.

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135 AFP ‘One dead, five hurt after Mali authorities open fire on protest’ (10 November 2008) [http://www.google.com/hostednews/afp/article/ALeqM5hA40p1aCePt__eyliWfiOeq1wH1Qg].
to justice or redress. Even on the rare occasions when investigations are undertaken, these seldom comply with international standards, and perpetrators are rarely prosecuted, but simply sent for training or transferred. According to Amnesty International, the unlawful killings are not random, with those unable to pay bribes at greater risk of being shot or tortured to death by police.

Furthermore, the more liberal use of excessive and lethal force by the Nigeria Police Force than international law and standards permit appears to derive its sanction from Section 33 of Nigeria’s Constitution and Nigeria Police Force Order 237. While Section 33(1) of the Constitution safeguards the right to life, Section 33(2) states that “[a] person shall not be regarded as having been deprived of his life” if his death results from the use of force permitted by law and reasonably necessary “for the purpose of suppressing a riot, insurrection or mutiny” [Section 33(2)(c)]. Moreover, Section 3(d) and 3(e) of the Police Force Order arguably permit police officers to use firearms with impunity on anyone who flees to avoid arrest, while Section 6 instructs police officers that in “riot” situations: “Fire should be directed at the knees of the rioters. Any ringleaders in the forefront of the mob should be singled out and fired on.”

On 28 and 29 November 2008, riots involving Christian “indigenes” from the Berom, Afizere and Anaguta ethnic groups and Muslim “non-indigenes” mainly from the Hausa-Fulani ethnic group as well as the excessive use of force by security forces left over 700 dead in Jos, Plateau State, according to Human Rights Watch. The riots followed a disputed local election in Jos North on 27 November, in which the Christian “indigenes” supported the Christian candidate from the ruling People’s Democratic Party (PDP), while the Muslim “non-indigenes” mostly supported the Muslim candidate from the opposition All Nigeria People’s Party (ANPP). Following allegations of the election results having been rigged by PDP, mobs of young Christian and Muslim men (armed with machetes, knives, petrol bombs, rocks, sticks, hunting rifles, pistols) clashed with each other, killing men, women and children and also burning houses, churches and mosques. Although it is not clear how many perished in the riots, Human Rights Watch noted that Muslim and Christian authorities in Jos had respectively registered 632 and 129 dead.

By noon on 28 November, the Nigerian army was summoned to restore order and somewhat successfully quelled the riots. Following a dusk-to-dawn curfew imposed on 28 November during which security forces were ordered to return “fire-for-fire”, a 24-hour curfew was imposed by the Plateau State Governor Jonah Jang in the most affected areas the next day, with security personnel ordered to “shoot-on-sight” anyone breaking the curfew. According to Human Rights Watch, while most of the violence took place on 28 November, the vast majority of the killings by the police and military came on 29 November, with there being 118 such cases that day. Some senior leaders denied receiving such orders, and many witnesses also believed the killings were

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140 Ibid. p.2.
141 Ibid. p.16.
143 Ibid p.3. Local governments throughout Nigeria generally had the discretion to determine indigeneity and issue “certificates of indigeneity”, and it was consequently this pressing matter as also share of public funds that was at stake in the local elections.
perpetrated by impersonators of security personnel, but Human Rights Watch presented evidence to contradict that claim.\textsuperscript{146}

On 12 October 2009, armed security forces opened fire on demonstrators peacefully protesting against the planned demolition of their homes in the Bundu community in Port Harcourt in the oil-rich Niger Delta, unlawfully killing several.\textsuperscript{147} Government authorities, along with police and members of the Joint Task Force (JTF), had entered the Bundu community to undertake an enumeration and value assessment. However, as with a previous attempt on 6 October, they found residents gathered at the entrance in reportedly peaceful protest. However, between 8.30 and 9.00am, two Mobile Police (MOPOL) armoured personnel carriers and a convoy of around 10 police and army vehicles arrived, with a small armoured vehicle bound for the crowd. Soldiers fired in the air without warning, but when the crowd did not disperse, they repeatedly fired at them, injuring many. Even when some protesters sought to escape, security officials followed and shot at them right to the waterfront.\textsuperscript{148}

According to witnesses, 6 dead bodies were piled at the back of a police pick-up truck. Houses and cafeterias were also robbed, and some women claimed to have been slapped, dragged on the ground, beaten with baton sticks, and flogged with horse whips and cable wire. Despite such unreserved use of excessive and lethal force, the governor of Rivers State informed Amnesty International that there was no firing, shooting or any casualties that day, though in his attempt to justify the use of excessive force, the Rivers State Commissioner for Urban Development resorted to the self-defence argument, stating that government authorities were attacked.\textsuperscript{149}

**Senegal**

Over 2010, thousands of people took to the streets in Senegal in protest over recurrent power cuts, against the erection of the USD-27-million Monument of the African Renaissance and against the erection of buildings in the Hann neighbourhood (Dakar), some of which were banned, rerouted and occasionally even forcibly dispersed.\textsuperscript{150}

Over 2011, a bill proposing changes to the regulation of the presidential election so President Abdoulaye Wade could stand as a candidate for a third term in the 2012 elections provoked large-scale demonstrations (especially in Dakar), leading eventually to the bill being withdrawn.\textsuperscript{151} On 30 May 2011, Malick Ba was killed when the commander of the gendarmes (paramilitary police) in Sangalkam fired live ammunition at demonstrators protesting against a government decision to replace local elected officials with government appointees.\textsuperscript{152}

There were other instances of excessive force in 2011: on 26 May, police used teargas to disperse a meeting organised by the Postal Workers Union (SNTPT) at its Medina office. Then, during the 23 and 27 June protests (against proposed constitutional changes and power cuts respectively)

\textsuperscript{146} Human Rights Watch *Arbitrary Killings by Security Forces* pp.9-10.
\textsuperscript{147} Amnesty International *Nigeria: Port Harcourt Demolitions: Excessive Use for Force against Demonstrators* (London: Amnesty International, 2009) p.5. Back in July 2008, the governor of Rivers State had announced plans to demolish all the waterfront settlements (over 40) built on reclaimed land along the shoreline of Port Harcourt for “urban renewal”. These settlements formed some of the most densely-populated areas of the city, and the demolition of just the Njemanze settlement in August 2009 led to 13,800-19,000 people being forcibly evicted, generally without adequate prior consultation, notice or compensation.
\textsuperscript{148} Amnesty International *Port Harcourt Demolitions* pp.7, 10.
\textsuperscript{149} Ibid. p.11.
\textsuperscript{151} Amnesty International *Annual Report 2012* p.290.
that saw protesters turn violent, police used tear gas, rubber bullets and concussion grenades to repress the protests. The 23 June demonstration also saw 2 prominent human rights activists (Alioune Tine and Oumar Diallo) brutally beaten by youth from President Wade’s Parti Démocratique Sénégalais (PDS).

In 2012, after the Constitutional Council on 27 January validated President Wade’s bid to run for a third term in the presidential elections in February and March, thousands of opposition supporters (often organised by the June 23 Movement) took to the streets in protest. Gendarmes (paramilitary police) often responded using excessive force, firing tear gas and live ammunition, to disperse demonstrators. It is unclear exactly how many were killed in the pre-electoral violence, estimates range between 6 and 9. What can be established from cases is that at least 3 civilians and 1 police officer were killed during demonstrations, while 2 civilians died after being tortured in custody later.

In one instance, on 30 January 2012, a young male student protestor Mamadou Sy and 60-year-old female bystander Bana Ndiaye were killed by live ammunition during a peaceful demonstration in Podor. Four paramilitary officers were later charged with homicide and held in custody in Dakar. In another instance, on 31 January, a 32-year-old student (Mamadou Diop) at Cheikh Anta Diop University was fatally run over by a water-cannon truck attached to the police during a peaceful demonstration at the Place de l’Obélisque in Dakar. While the mentioned committed no acts warranting such disproportionate and unnecessary responses, protesters were not always in the right: on 29 January, protesters hit a police officer (Fode Ndiaye) on the head with a cinderblock, killing him; 5 demonstrators were arrested and charged with murder. Nevertheless, there were 2 students—Ibrahima Fall and Ousseynou Seck—who died in February after being tortured in custody following the demonstrations.

Sierra Leone

In April 2012, police killed an unarmed woman and injured at least 11 others when workers at a mining company held a peaceful demonstration against working conditions and low pay. The national Human Rights Commission investigated the incident and recommended criminal investigations and prosecutions.

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155 Rukmini Callimachi ‘Senegal protests claim another life’ Mail & Guardian (1 February 2012) [http://mg.co.za/article/2012-02-01-senegal-protest-turns-deadly].
162 Ibid.
South Africa

In August 2012 the killing of 34 miners at the Lonmin Platinum Mine at Marikana shocked the country and the international community.\textsuperscript{163} The incident, the most serious use of force by security forces in the country since Sharpeville, led to heightened concerns over police brutality during a time when public protest (particularly over service delivery) has become an ongoing reality.

The killings at Marikana on 16 August came after a protracted stand-off between the miners and combined forces of security guards and police. Over the previous day several individuals had been killed, escalating tensions. However on that afternoon, an elite squad from the South African Police Service opened fire on a large group of people. Sixteen died at the scene, and another fourteen at another location where they had fled to escape the firing. There was evidence that many had been shot while attempting to flee or surrender.\textsuperscript{164} Scores of others were injured (with a further four subsequently dying from injuries sustained).

At a press conference the following day the National Commissioner of Police justified the killings on the grounds of self-defence. Pressure on the government resulted in the establishment of a Commission of Inquiry, the work of which has been met with a great many delays and contestation over funding.

Killings in the context of demonstrations have continued since Marikana however. In a four week period in early 2014 six protesters were killed at three different demonstrations either concerning service delivery or industrial dispute. In one instance, where four were killed, one was allegedly shot with his hands up while trying to help someone who was injured.\textsuperscript{165}

Swaziland

Excessive force was used by security forces in Swaziland to quell demonstrations and rallies in 2010, with the Chairman of the Human Rights and Public Administration Commission observing that police and soldiers appeared to adhere to a “shoot-to-kill” policy.\textsuperscript{166}

In 2011, security forces used excessive force to quash demonstrations with even greater brutality. Amnesty International observed that the government banned protest marches planned by trade unions and other organisations between 12 and 14 April and used arbitrary and secret detentions, unlawful house arrests and other severe measures to crush peaceful anti-government protests.\textsuperscript{167} According to Human Rights Watch, authorities responded to civil society plans for a mass demonstration (against poor economic and human rights conditions) on 12 April by arresting about 150 civil society and trade union leaders.\textsuperscript{168} In one instance, Amnesty International notes, 3 armed police officers confronted a 66-year-old activist (Ntombi Nkosi) of the Ngwane National Liberatory Congress (NNLC) who was on her way home from receiving medical treatment necessitated by tear gas thrown at her. They questioned her about the NNLC-related wording on her t-shirt and headscarf before allegedly pulling them off and “throttled her, banged her head

\textsuperscript{163} Human Rights Watch World Report 2013 p.159.
\textsuperscript{164} Amnesty International Annual Report 2013 p.240.
\textsuperscript{165} Fourth Mothotlung casualty “shot with his hands up” Mail & Guardian (20 January 2014) [http://mg.co.za/article/2014-01-20-fourth-mothotlung-casualty-shot-with-his-hands-up].
\textsuperscript{166} Amnesty International Annual Report 2011 p.308.
\textsuperscript{167} Amnesty International Annual Report 2012 p.320.
\textsuperscript{168} Human Rights Watch World Report 2012 p.187.
against a wall, sexually molested her, bent her arms behind her back, kicked her and threw her against a police truck”, before a passing taxi driver helped her flee.\textsuperscript{169}

Later, when civil society groups planned protest marches in urban centres across Swaziland between 5 and 9 September 2011, the government tried to prevent the marches by taking labour unions to court, but the Industrial Court upheld the right to free assembly.\textsuperscript{170} Nevertheless, on 5 September, when the protests began (with multi-party democracy and release of political prisoners as their demands), the police tried to prevent the deputy president of the Congress of South African Trade Unions (COSATU) from addressing a rally in Siteki and fired live ammunition, rubber bullets and tear gas at crowds, injuring many. The deputy president of COSATU’s international department were later deported. On 7 September, police beat students with batons and fired tear gas at crowds in Mbabane as demonstrators tried to deliver a petition to the Minister of Labour and Social Security; 2 were detained without charge. On 9 September, police sought to prevent Peoples’ United Democratic Movement (PUDEMO) leaders from addressing a rally in Manzini, beating PUDEMO and trade union leaders.\textsuperscript{171}

In 2012, rubber bullets, tear gas and batons continued to be used by security forces to violently repress mass demonstrations seen to be illegal, and in one instance, the Trade Union Congress of Swaziland (TUCOSWA) whose registration had already been confirmed by the Acting Commissioner of Labour was informed that it was unlawfully registered just a day before it was to participate in planned demonstrations. Police disrupted TUCOSWA gatherings, confiscated materials and even threatened, assaulted and arbitrarily arrested TUCOSWA officials and activists.\textsuperscript{172} Then, on 10 February, during a march by street vendors and transport operators, a police officer shot Rose Fakudze at close range, seriously injuring her hand, while in another incident, on 25 February, police prevented a rally of the African Union Democratic Party (AUDP) in Mhlaleni.\textsuperscript{173}

**Togo**

In April 2012, in the context of a 72-hour strike by civil servants, security forces shot live rounds into a crowd of demonstrators in Dapaong in the north of the country, killing a 12-year old child, Anselme Sinadare Gouyano. The following day, during a more violent protest, police officers are alleged to have beaten up a 22-year old student. While the government admits the killing of the girl, it claims the student died from acute peritonitis. Amnesty International has presented medical evidence suggesting the intestinal lesions could only have been cause by beating.\textsuperscript{174}

**Uganda**

Yoweri Museveni of the National Resistance Movement (NRM) party has served as President of Uganda for more than 27 years, over which time the government has frequently suppressed the freedom of assembly. Demonstrations have been tightly regulated and often banned, and the last 5 years (particularly 2009 and 2011) have seen several cases where the force used by security forces to repress demonstrations proved lethal.

\textsuperscript{169} Amnesty International Annual Report 2012 p.321.


\textsuperscript{171} Human Rights Watch World Report 2012 p.186f.

\textsuperscript{172} Amnesty International Annual 2013 p.255.


In February 2009, 2 students (William Byamugisha and Daniel Tumwine) protesting against the quality of meals at their school (Kaloke Christian High School) were allegedly shot and killed by SPC Paul Baita in Nakaseke District, while 4 other students were injured. Baita was charged with attempted murder on 11 March 2009 and imprisoned.\(^{175}\)

Around 7 months later, in September 2009, there were demonstrations in Kampala and elsewhere, this time relating to the planned celebration of National Youth Day in Kayunga district on 12 September 2009. On that day, the Buganda king or kabaka was to make a formal presentation, and a delegation of Uganda’s Buganda kingdom, hence, arrived 2 days early to observe the preparations. However, they were prevented from entering the district by the police, apparently to prevent tensions with the Banyala who did not recognise the kabaka’s authority, prompting Baganda youth to take to the streets in protest.\(^{176}\) The protests turned violent, with some protestors throwing stones or firing weapons at police and members of armed forces; looting stores; burning several vehicles, tires and debris; and setting a fire station and a factory alight.\(^{177}\)

Research by Human Rights Watch indicated that some instances may have warranted the use of firearms by security forces. However, security forces responded with force that was far from proportionate or necessary, with soldiers deployed on foot and in armoured personnel carriers firing tear gas and live ammunition at the crowds, even deliberately shooting and killing or wounding people not actively involved. In some cases, they chased people for hundreds of meters, shot even those who had already entered their homes or workplaces, and fired weapons through locked doors.\(^{178}\) During the demonstrations, at least 40 were killed and many injured.\(^{179}\) At least 1,031 people were reported to have been arrested, of whom 965 were charged with participating in an illegal assembly, rioting, destroying property and inciting violence. 31 of them were also charged with terrorism for burning the Nateete Police Station.\(^{180}\)

Again, on 17 March 2010, after a suspicious fire raged through the Kasubi tombs where some Buganda kings lie buried, there was an outbreak of violence as Museveni visited the site, but was booed by protestors who set up barricades and threw stones at his security guards to prevent him from approaching the tombs. Although security officials claimed they fired into the air, some witnesses claimed that they had trained their rifles on protestors.\(^{181}\) 3 people (Cornelius Kayanja, Haruna Kakumba and an unidentified person) were killed, and 5 injured.\(^{182}\)

On 7 September 2010, police in Hoima sought to end a strike at the British American Tobacco (BAT) Uganda using live ammunition, consequently killing two people (Dennis Bazara and Bernard Byabasaija) and wounding many. The police officers responsible were arrested and charged with manslaughter around a week later. Meanwhile, on 12 September, during the National Resistance Movement primary elections, police in Bugiri fired live bullets to disperse a crowd, killing one person, but no investigation or disciplinary action appears to have been undertaken.\(^{183}\)


\(^{177}\) Human Rights Watch ‘Uganda: Investigate Use of Lethal Force during Riots’ (1 October 2009) [http://www.hrw.org/node/85870].

\(^{178}\) Ibid.


\(^{180}\) Ibid.


\(^{183}\) Ibid. p.2.
In April 2011, following the presidential elections in February in which Museveni was re-elected for another 5-year term, the political pressure group Activists for Change (A4C) invited the public to join walks-to-work in protest against rising fuel and food prices. However, regarding these as unlawful assembly, the government despatched its security forces to quell them. While there were some instances of protestors throwing stones and setting debris alight, state security forces responded with the use of excessive force, firing randomly at the demonstrators and throwing tear gas even into houses. Furthermore, not always did security personnel distinguish between protestors who engaged in violence and those who refrained.184

In April and May 2011, there were at least 6 different occasions when excessive force was used by police and military personnel during demonstrations.185 In April, at least 9 unarmed people (6 in Kampala, 2 in Gulu, and 1 in Masaka) were shot and killed, 2 of whom (including a 2-year-old child in Masaka) were inside buildings. Dozens more were injured, and more than 30 journalists were beaten or shot, with their audio recorders and cameras often confiscated and sensitive images erased.186 In the aftermath, while the death of the 2-year-old child sparked outrage, prompting a criminal investigation and arrest of the reserve police officer involved (Paul Mugenyi), no action was taken against those responsible for the other killings.187 Furthermore, only in some cases, following cursory inquiries, did the government issue grants to victims’ families.188

According to Human Rights Watch, though police and military personnel killed at least 49 people in 2009 and 2011, police have not undertaken any serious or meaningful investigations into these killings.189

Police also arrested police officers Aggrey Arineitwe and James Babaranda for the killing on 11 April 2011 of a young girl in Kabale while seeking to disrupt a strike at a secondary school. While Arineitwe was released on grounds of lack of evidence, the charges against Babaranda were pending at year end.190 On 22 January 2012, Kampala City Council Authority director George Agaba and his bodyguard Police Constable Santos Makmot Komakech were arrested and charged with murder for an incident wherein, during an eviction in Luzira, Komakech fired his gun to disperse an angry crowd, killing John Onyanga. They were later released on bail, but their trial was pending at the year end.191

In August 2013, Parliament passed the controversial Public Order Management Bill, which the President assented.192 Although amended so as to incorporate rights-based language (including right to freedom of peaceful assembly), modify problematic definition of “public meeting” and reduce the notification period from 7 to 3 days, it remained ambiguous.193 Not only did it define “public meeting” with reference to “public interest”, whereby meetings critical of the government could possibly be prohibited in the future, but also established an authorisation procedure for peaceful assemblies that was more bureaucratic. Moreover, it still empowered the Minister of Interior to designate “gazetted” areas where assemblies are entirely prohibited and law enforcement officials to use force to disperse assemblies, not providing guidance as to alternatives.
Zimbabwe

The violence surrounding presidential and parliamentary elections in Zimbabwe during 2008 will be discussed in greater detail below. Throughout the period, police used the repressive Public Order and Security Act (POSA) to arbitrarily limit the rights to free association and assembly, targeting meetings of political opposition parties and their supporters as also human rights activists, especially those connected to Women and Men of Zimbabwe Arise (WOZA and MOZA).194

On 28 May 2008, police in Harare arrested 14 WOZA activists during a peaceful march to the Zambian embassy to petition Zambia, then chair of the SADC, to help end the state-sponsored violence. On 27 October 2008, 42 women involved in a demonstration in Harare organised by Women’s Coalition of Zimbabwe (WcoZ) were arrested by police who also used tear gas and baton sticks to repress the peaceful protest. On 11 November 2008, police again used excessive force to suppress a demonstration highlighting the humanitarian situation and need for a new constitution and arrested 29 members of the National Constitutional Assembly (NCA) in Bulawayo, Gweru, Harare and Mutare.195

On 18 July 2012, the Constitutional Select Committee of Parliament produced a final draft of the new constitution, and a stakeholders’ conference was held from 21 to 23 October 2012.196 The enactment of the new constitution, however, did not result in improving the human rights environment, with ZANU-PF failing to implement the rights provisions. Furthermore, while the new constitution calls for the establishment of an independent and credible human rights commission, the law establishing the constitution states that it can only investigate alleged human rights abuses since February 2009, preventing the commission, thus, from investigating serious crimes committed prior, such as the election-related violence in 2002, 2005 and 2008; as well as the massacre of an estimated 20,000 people in the Matabeleland and Midlands provinces in the 1980s.197

B: Perpetrators & Victims

No survey of mass demonstrations in Africa in recent years can afford to underplay the significance of the Arab Spring that swept across the north since late-December 2010, with its tremors felt even in the rest of the continent. While some of the uprisings succeeded in uprooting the autocratic regimes that long held sway, most took a heavy toll, especially in terms of the loss of human lives during mass demonstrations.

Whether in Tunisia, Egypt, Libya, Algeria or Sudan, civilian casualties often arose due to the use of excessive and lethal force by police and security forces, often without first resorting to adequate non-violent means. While protesters occasionally engaged in acts of violence, such as pelting rocks or setting tyres alight, police and security forces frequently responded with force that was neither proportionate nor necessary. In most cases, police and security forces liberally used non-lethal and less-lethal weapons, such as water cannons, tear gas, rubber bullets, batons, pipes, sticks and

tasers – at times, with lethal effect. Pistol-whipping was not uncommon. In several cases, police also used firearms hastily, unjustifiably, arbitrarily and without prior warning.

In Egypt, in the protests staged against military rule during the SCAF administration and violent clashes between Morsi’s supporters and opponents later, identifying perpetrators has been more difficult. Not always were security forces directly or solely responsible for the killings.

In Egypt, security forces may have been helped by armed men in plain clothes. In the Maspero protests of 9 October 2011, these armed men were thought to be supporters of the ruling SCAF. Even during the violent dispersal of the Abbaseya sit-in in April-May 2012, armed thugs attacked the sit-in at night, while the security forces present did not intervene, indicative of complicity. More so, during the day, the thugs openly assisted the security forces.

As these seemingly-collaborative acts of violence often targeted specific groups, it is easier to identify their victims. In the Maspero protests organised by Coptic Christians during the SCAF administration, over 24 protesters, mostly Coptic Christians, were killed, at least 17 run over by military vehicles. While Coptic Christians remained a target through 2012 and 2013, the Abbaseya episode saw protesters with beards, associated with ultraconservative Salafists, targeted.

Due to the volatile political climate, some groups were both perpetrators and victims over a short period. During the Morsi administration in Egypt, members of the Muslim Brotherhood (Morsi supporters) and the police violently clashed with anti-Morsi demonstrators, resulting in many fatalities. However, once Morsi was ousted, supporters of the Muslim Brotherhood emerged as key victims of the excessive force used by the police that left over 1,300 persons killed in protests by November 2013.

Aside from the Arab Spring, there were protests across Africa for economic and political reform or against price hikes and austerity measures, privatisation schemes, human rights violations and political corruption. In Cameroon, in the riots of late-February 2008, human rights organisations estimated that more than 100 people were killed. In Sudan, more than 175 protesters (mostly teenagers or in their early-twenties) were estimated to have been killed in the protests of September 2013. There were also killings during anti-government protests reported in Burkina Faso, Malawi, Mali and elsewhere. In most cases, the perpetrators were again police and security forces, while the victims were anti-government protesters, opposition activists, government critics, members of civil society organisations, and students.

There were also unlawful killings during mass demonstrations before, during and/or following elections in several countries across Africa (which will be discussed in greater detail below under election-related violence). The perpetrators of the violence may have been supporters and activists of either the incumbent party or opposition parties, or both, and the same held true for the victims. In Kenya, the victory of the incumbent (PNU) president in the 2007-presidential election led to young supporters and activists of the opposition party (ODM) perpetrating violence against real or perceived supporters of the incumbent party, who then retaliated by attacking real or perceived supporters of the opposition. By contrast, the 2008-election violence in Zimbabwe,

203 National Human Rights Observer *A Discreet and Bloody Crackdown* p.17.
which saw the ruling ZANU-PF lose its majority in Parliament for the first time since 1980, witnessed violence perpetrated by activists and supporters of the incumbent party, along with the police and military, against activists and supporters of the opposition (MDC).206

Sometimes, clashes with police and security forces may have taken on a religious tinge. In Central African Republic, Muslim demonstrators complained that French troops protected and armed Christian militias, while Christian demonstrators protested against Chadian troops they accused of supporting Muslim Séléka rebels.207 In Burundi, police routinely restricted activities of an informal spiritual movement. In one instance, police, assisted by young men in civilian clothes (supposedly members of the youth league of the ruling CNND-FDD party), used excessive force to disperse followers of the movement undertaking a pilgrimage, killing nine.208

Another set of victims during demonstrations were students, not least because of the popularity of student protests. Student demonstrators—especially leaders of student unions—were frequently targets of excessive force, as in Cameroon in 2005 and 2006, Zimbabwe in 2009, Burkina Faso, Chad, Liberia, Sudan and Tunisia in 2011, and Chad, Mauritania and Sudan in 2012. In Sudan, in 2011 and 2012, students at universities across the country protested against price hikes, austerity measures, rigging of student elections and the forced displacement of the villagers of the Manseer area. The police and internal security forces not only used tear gas, rubber bullets, sticks, batons and live ammunition to repress the protests, but also entered the campus to arrest students.209 Moreover, in June and July 2012, pro-government students with sticks and iron bars joined security forces in beating and arresting demonstrators.210

Leaders and members of trade unions and participants in strikes were also victims of excessive force during mass demonstrations, as in Algeria, Chad, Senegal, Swaziland, Uganda and Zimbabwe, where the perpetrators were again the police. In Uganda, two were killed when police used live ammunition to forcibly end a strike at British American Tobacco (BAT) Uganda.211 In Algeria, on 24 April 2012, judicial clerks participating in a sit-in protest over working conditions were beaten and arrested by security forces.212 In Chad, senior officials of the Syndicate of Trade Unions of Chad (UST) were accused of incitement to hatred and received suspended prison sentences and fined.213 In Senegal, in 2011, a meeting of the Postal Workers Union (SNPTPT) was forcibly dispersed using tear gas.214

Another group affected during demonstrations across Africa were journalists, with there being cases of journalists killed or assaulted in Libya, beaten in Cameroon, Tunisia and Mali, arrested or having their activities restricted in Senegal and Sudan, or even having their cameras and writing materials seized in Malawi and Swaziland. In some cases, the victims may have been those affected by forced evictions who took to the streets in protest, as with the Bundi community in Nigeria. Bystanders (including minors) were also frequent victims.

In several demonstrations, police officials and military personnel may also have been killed, as in Burkina Faso, where one official was lynched by a mob of retaliating protesters, and Senegal, where a police official was fatally beaten on the head with a cinderblock by protesters.

206 Ibid. p.141.
209 Human Rights Watch ‘Sudan: End Violence Against Peaceful Protestors’ (3 January 2012).
C: Structural Factors & Social Norms/Phenomena

While it is beyond doubt that the Arab Spring has dramatically altered the political landscape of North Africa, the protests it witnessed were far from new. The region had seen a series of protests in preceding years, which reflected increasing discontent with ruling regimes, ailing economies and austerity measures. There were also a number of demographic and economic factors at play. Not least important among these factors was the rapid population growth the region had seen in recent decades, given the high fertility and low mortality. Of particular relevance is the significant youth bulge that also emerged, where the 15-24 age-group is concerned, especially due to high fertility in the region in the 1980s.215

Between 1980 and 2010, the population in Morocco had risen rapidly from 19.8 million to 31.6 million; Algeria, 19.5 million to 37.1 million; Tunisia, 6.3 million to 10.6 million; Libya, 3.1 million to 6 million; Egypt, 44.9 million to 78.1 million; and Sudan, 14.4 million to 35.7 million.216 Furthermore, in 2010, the population under the age of 24 accounted for 47.9% of the total population in Morocco and Algeria; 42.3%, in Tunisia; 48.7%, in Libya; 51.2%, in Egypt; and 61.7%, in Sudan. Moreover, just the 15-24 age-group comprised 19.8% of the total population in Morocco; 20.8%, in Algeria; 18.8%, in Tunisia; 19.3%, in Libya; 19.7%, in Egypt; and 19.6%, in Sudan.217

Moreover, North Africa saw the highest rate of unemployment in the world, with youth particularly affected. While the average youth unemployment rate in the world was 14%, it was roughly 30% in North Africa.218 The youth bulge and high young unemployment rate are deemed to be among the key factors in the protests that marked the Arab Spring.219 While there is no direct causal link between a youth bulge and an increase in violence, a youth bulge was seen to facilitate the political mobilisation of youth as well as their recruitment to radical political and politico-religious movements, especially in societies with high fertility, high unemployment rate and the presence of such radical movements.220 One study has previously shown that having a relatively large number of young men made coalition aggression more probable.221

The region had also witnessed rapid urbanisation: between 1980 and 2010, the proportion of the urban population rose in Morocco from 41.2% to 56.7%; Algeria, 43.5% to 72%; Tunisia, 50.6% to 66.1%; Libya, 70.1% to 77.6%; and Sudan, 20% to 33.1%.222 While this added pressure on cities’ job markets and housing facilities, it also facilitated the organisation of large-scale protests in towns and cities. Poverty and high income inequalities are other factors that set the stage for the

219 Mirkin, ‘Arab Spring’.
Arab Spring: although income poverty in the MENA region is among the lowest in the world, income inequality is high, and the poorest 20% only hold 6.8% of the income share.\(^{223}\)

Poverty and income inequality, price hikes and austerity measures, unpaid housing subsidies, unpaid wage increases, corruption and human rights violations were other factors that caused people to take to the streets in protest across the continent. The issue of forced evictions was often a cause for emotive public demonstration, especially in contexts where evictions occurred without adequate warning, consultation or compensation. The lack of free and fair elections, one-party rule, corruption, cronyism, use of violent means to acquire or retain power and the “permanence” of repressive regimes also fanned the flames of dissent. Likewise, clashes between various social groups or competing political parties may have revealed underlying tensions over ethnicity, indigeneity, tradition, religion and language or frequently gave rise to tensions that took on such a tinge.

With respect to how demonstrations were policed, it was often repressive legislation concerning the right to the freedom of assembly and official attitudes towards demonstrations that served as important factors. In most states across Africa, though the freedom of assembly was recognised in principle, it may have been undermined in practice. Often, the law required organisers to notify the government about planned demonstrations in advance. In most cases, prior authorisation was also required. However, as in Algeria, Burundi, Central African Republic, Chad and Uganda, authorities did not always grant approval, rendering demonstrations unlawful if they went ahead. Such legislation was often used to restrict activities of opposition activists, human rights groups and government critics.

There may also have been designated areas where protests were prohibited, as in Uganda and Algeria. In Algeria, a 1991 decree requiring prior approval before public meetings and 2001 decree banning demonstrations in Algiers remained in effect even after the government lifted the state of emergency in February 2011.\(^{224}\) Thus, though the law allowed Algerians to demonstrate lawfully anywhere in Algeria outside Algiers, it allowed authorities to refuse approval. There may also have been laws prohibiting “incitement” of public gatherings. In Algeria, in 2011, police arrested an activist for distributing leaflets, invoking Article 100 of the criminal code that prevented direct instigation of gatherings using written materials.\(^{225}\)

As in Egypt and Algeria, emergency law could be invoked to suspend the right to the freedom of assembly. In Egypt, emergency law had been enacted in 1958 and remained in force since 1967, with an eighteen-month hiatus in 1980-81, before expiring after more than 30 years on 12 May 2012. The law extended police powers, suspended rights and freedoms and stifled political dissent. Even after Mubarak’s ouster in 2011, the SCAF administration maintained the 30-year state of emergency for over a year, using special courts under Emergency Law and referring over 12,000 civilians to military tribunals.\(^{226}\) Likewise, in Algeria, the state of emergency imposed in 1992 and renewed in 1993 allowed the government to curtail the right to the freedom of assembly.\(^{227}\)

There may also have been other repressive legislation that restricted the freedom of assembly or extended police powers in this regard. In Zimbabwe, legislation such as Public Order and Security

\(^{225}\) Human Rights Watch World Report 2012 p.531.
\(^{226}\) Ibid. p.545.
Act (POSA) and Access to Information and Protection of Privacy Act (AIPPA) were routinely used by the ruling ZANU-PF to harass opposition party activists and supporters and restrict their activities. Not surprisingly, the police never used POSA to block ZANU-PF meetings. In Sudan, though international standards required authorities to press charges soon after an arrest, the National Security Act (2010) gave the National Intelligence and Security Service broad powers of search, seizure, arrest and prolonged detention for up to 4½ months without judicial review.  

Thus, such legislation may have also served to encourage police brutality. In addition, the prevailing understanding among police and security officials of their roles in protest scenarios is also of interest: rather than seeing themselves as facilitators of protests and managers of crowds, they often appear to have seen themselves simply as agents of the state responsible for quelling the protests at all costs. The acceptability among police and security officials of the use of excessive and lethal force, as also torture, is, hence, also of relevance. Factors, such as inadequate training, insufficient resources in terms of non-lethal weapons, and politicisation of police and security officials, may have also served to foster a climate where the use of excessive force was likely, as did the impunity police and security officials often enjoyed in the aftermath.

As seen in Kenya, police resorted to the use of excessive force even where its use was not justified and did so without following prescribed procedures. Not only did they shoot unarmed protesters and bystanders even when no threat to life or property was imminent, but also they did so without resorting to non-violent means first. In both Kenya and Sudan, police were seen to use excessive force outside the context of self-defence, such as when they sought to prevent some civilians from joining protests. As in Kenya and Egypt, there were also times when police and security officials lacked the will and/or capacity to protect victims; and as seen in the Abbasya case, they may have even been complicit in the violence.

All of this indicates the acceptability among certain police and security officials of the use of excessive force as well as torture to quell protests. Whether in Kenya, Nigeria or Swaziland, police and security forces were also known to adhere to a shoot-to-kill policy. In Egypt, many protesters were tasered. As seen, even after the SSI police service was disbanded, the army continued to use torture. In Sudan, it was not uncommon for protesters who had been arrested to remain in custody for weeks or months and be subjected to various forms of torture. Numerous protesters in Sudan were sentenced to lashings. Sexual violence was not uncommon, whether in Libya, Tunisia, Sudan or Swaziland, and could affect both women and men. As in Egypt and Sudan, women may even have been subjected to repeated virginity tests.

Furthermore, corruption and politicisation of police and security officials also featured as factors that led to unlawful killings. In Nigeria, those who could not pay bribes were at greater risk of being shot or tortured by police. In Kenya, as seen, the police appeared to respond differently in different regions, raising questions about political interference as well as competence and capacity. While police quickly resorted to lethal force in opposition areas in the slums of Nairobi, Kisumu and elsewhere even when there was no obvious risk to life, they hardly intervened when pro-government mobs engaged in killing and burning in Naivasha and Nakuru.

Then again, as in Cameroon in February 2008, Nigeria in October 2009 and Sudan in January-February 2011, by sending in armed forces (sometimes heavily-armed and in large numbers) to disperse mostly unarmed and peaceful demonstrators, authorities often provoked or aggravated violence. Their heavy-handed response signalled that their priority was merely to forcibly repress  

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the protests, rather than attend to protesters’ grievances or facilitate their assembly. Their response also suggested that authorities did not necessarily distinguish between peaceful and violent demonstrations before seeking to forcibly repress them. During the March 2011 protests in Liberia, for instance, instead of following the regular operating procedure and sending in the Patrol Unit first, before despatching the Police Support Unit (PSU) and then Emergency Response Unit (ERU) as need arose, the Police Director deployed the ERU and PSU, though the student demonstrators were unarmed.231

A key factor that did not inhibit the use of excessive force was the impunity enjoyed by police and security officials, as well as senior military and government officials. In Liberia, following the protests of March 2011, though the investigating committee found the police guilty of using excessive force and recommended that the Inspector General of the Liberia National Police (LNP) be suspended for two months, and the Deputy Director of Operations, be dismissed, the Deputy Director was only suspended for 1 month, while the Inspector General was only given a warning.232

In Zimbabwe, supporters of ZANU-PF, police and military perpetrated violence with near-complete impunity. In Cameroon, following the February 2008 riots, while the more than 1,500 people arrested were sent to summary trials soon after, human rights violations perpetrated by security officials were seldom investigated and went unpunished.233

D: “Best Practices”

There have been instances when police and security officials were prosecuted swiftly. In Uganda, for example, SPS Paul Baita, who shot and killed two student protesters in February 2009, was charged with murder and imprisoned in March 2009, with further investigations into the case undertaken later.234

Likewise, though rare, there were instances when state authorities disbanded security agencies responsible for grave human rights violations. In March 2011, the interim government in Tunisia commendably disbanded the infamous Directorate for State Security (political police), while the SCAF administration in Egypt dissolved the notorious State Security Investigations (SSI) service.

There were also cases when governments duly formed investigating commissions to look into violence perpetrated by police and security forces. In October 2008, Kenya formed the Commission of Inquiry on Post Election Violence (Waki Commission) to investigate the conduct of state security agencies. The Commission accused senior politicians of both parties of abetting the violence and police of using excessive force.235

In Tunisia, soon after Ben Ali’s ouster, the interim government set up three national commissions: one for investigating violence during the uprisings, another to investigate corruption, and a third

235 Human Rights Watch World Report 2009 p.82.
for political reform. It also amended the Law on Associations to allow the legal registration of previously banned political parties and human rights NGOs.

Furthermore, the National Police Service Commission Act (2011) in Kenya established a National Police Service Commission that enabled civilians to participate in recruiting and training police, monitoring police functioning as well as developing disciplinary procedures, holding disciplinary hearings and taking disciplinary action. Meanwhile, the Independent Policing Oversight Authority Act (2011) established an independent body to investigate police misconduct (especially deaths and serious injuries caused by police actions or in police custody) and, thus, ensure accountability. However, by the end of 2013 both of these legislative achievements were under threat of roll-back in the Kenyan Parliament.

Governments must invest in training police and security forces to a common standard in demonstration and crowd management, with the training emphasising the need for self-control and restraint. The training must ensure a uniform understanding of the rules of engagement, use-of-force policies, arrest and detention procedures, relevant national and international laws, rights and freedoms of demonstrators, and disciplinary procedures in case of non-compliance with the rules of engagement.

Governments should make better tactical plans for the policing of demonstrations. They should review the rules of engagement when policing mass demonstrations, especially in relation to violent clashes between police and protesters. Focus on various force options available, extent of force to be used and level of authorisation required. They should have a clear command and control set-up in place, determining when command and control would transfer to another level, whether decisions would be made by a person or team, and who would be authorised to deviate from pre-determined rules of engagement and when. Governments should devise plans of action, bearing in mind that certain situations (such as when resources available to local agencies prove inadequate or mass demonstrations unfold across multi-jurisdictional spaces) require multi-agency involvement.

In situations when local agencies require to be supported by neighbouring or other agencies, it may be helpful to have a pre-determined understanding of roles and rules for each agency to facilitate multi-agency cooperation. When a multi-agency response proves necessary, it would be helpful for the host agency to establish in advance terminology as well as interpretation of the use-of-force continuum to be used, so officials from various agencies clearly and uniformly understand force options, commands and terminology during joint operations. This may be achieved through written agreements which clearly address regular issues, while also outlining

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239 RPP, CHRI Your Guide to: The National Police Service Act, the National Police Service Commission Act and the Independent Policing Oversight Authority Act (Nairobi: June 2012) p.43.
241 Ibid. p.12.
242 Ibid. p.12, 15.
potential responses to various contingencies. These could include agreements on the use of force.243

There must be a formal data collection system in place, documenting the chronology of the event and decisions made (what, when, why, by whom?), deployment of personnel and resources (including pre-arrest warnings, warnings and use of non-lethal and lethal weapons) and information-tracking mechanisms. Following demonstrations, there must be a report on the use of force that address when force was used, why force was necessary, the type and level of force used, whether force used was proportionate, and ensuing consequences and casualties. It may be useful to have an officer in every field team document a log of events, orders and decisions (including the use of force) at least through an audio, though preferably also video, recording device and provide a written/audio/video report.244

Police must view their role as facilitating the crowd’s lawful and legitimate aims, while dealing with those acting illegally, and must clearly communicate and convincingly demonstrate such a facilitative approach. Police and security officials must be adequately equipped with non-lethal and less-lethal weapons. Even then, the use of force must be avoided unless absolutely necessary, and the extent of force used must be reasonable and proportionate. Due procedures must be followed for arrest and crowd control, and an agency’s use-of-force continuum ought not to be modified in protest scenarios.245

**Recommendations for better accountability**

In Egypt, though the SSI service was replaced by the National Security Agency (NSA), later renamed as Egyptian Homeland Security (EHS), there appears to have been no vetting system to ensure that former SSI police responsible for grave human rights violations were not included in NSA/EHS.246 Such a vetting system would have been useful.

In Egypt, as also elsewhere in Africa, it would also help to have an independent accountability and oversight body in place, with authority over all aspects of police operations, not least to ensure that security agencies are placed under judicial oversight.247 It would also help to bear in mind, as Philip Alston noted in 2010, “Financial independence from the executive is key to ensuring the overall independent functioning of an external oversight mechanism.”248

International organisations as well must pressure national governments into ensuring police and security officials are held accountable for human rights violations they have perpetrated, even if the matter spirals out of proportion as in Kenya. In Kenya, as seen, although the government accepted the recommendations of the Waki Commission, enacted the International Crimes Act to incorporate the Rome Statute in domestic legislation, and entrusted a cabinet committee with the responsibility of preparing a draft bill to establish a Special Tribunal, it neither successfully created the national tribunal nor referred crimes to the ICC.249

244 ibid. p.34f.
245 ibid. p.54ff.
247 ibid. p.44.
Furthermore, even when the ICC prosecutor requested the ICC to issue summons against 6 individuals for crimes against humanity, the Kenyan Parliament passed a motion calling for Kenya’s withdrawal from the Rome Statute and repeal of the International Crimes Act.\textsuperscript{250} Even in 2012-13, though Kenyan politicians claimed that judicial and police reforms introduced ought to allow cases at the ICC to return to Kenya, the investigations undertaken in Kenya seemed neither adequate nor impartial.\textsuperscript{251} The taskforce dealing with the prosecution of 5,000 pending cases declared that much of the evidence was not of a sufficient standard for trial.\textsuperscript{252}

Moreover, no special mechanism for prosecutions was created to overcome weaknesses in the judicial system.\textsuperscript{253} While the ICC has done well to issue the summons, it must ensure the prosecution goes forward, despite the relentless opposition by domestic legislators and politicians. It must reiterate clearly and firmly that withdrawal from the Rome Statute and repeal of the International Crimes Act would not affect ongoing cases at the ICC.\textsuperscript{254} The ICC must ensure that cases are not forsaken and that, possibly with the UN and AU, it pressures Kenya into fulfilling its legal obligations.

**Recommendations for other actors**

All governments exporting arms to Northern African states must ensure adequate safeguards are in place to prevent arms from being used to police demonstrations. They must also consider suspending supplies of relevant ammunition until the safeguards are in place.\textsuperscript{255}

Local police agencies might find it helpful to invite representatives of potential protest groups (opposition parties, human rights organisations, advocacy groups) to be part of the police planning team.\textsuperscript{256} Relevant authorities, such as in Central African Republic, Sudan, Kenya and Nigeria, must also consider encouraging the development of social and political associations that bring together members of different religious, tribal, ethnic, indigenous/non-indigenous groups.

Regional associations, such as the Southern Africa Development Community (SADC) and African Union (AU), and international organisations, such as the United Nations (UN), must continue to broker peace or power-sharing agreements where necessary and pressure governments into holding accountable those responsible for human rights violations and into complying with international standards.

In Zimbabwe, despite the role played by SADC in bringing about a power-sharing government in February 2009, it did not apply adequate pressure on ZANU-PF to deliver rights reforms.\textsuperscript{257} In 2011, when SADC and Jacob Zuma finally exerted concerted pressure, progress was made in implementing some parts of the GPA, the appointment of a new election commission, and introduction of the Zimbabwe Human Rights Commission Bill and Electoral Amendment Bill.\textsuperscript{258} Greater pressure by the SADC and AU for human rights reform must, hence, be encouraged.

\textsuperscript{250} Ibid. p.195.
\textsuperscript{251} Human Rights Watch *World Report 2012* p.134.
\textsuperscript{252} Amnesty International *Annual Report 2013* p.146.
\textsuperscript{253} Human Rights Watch *World Report 2013* p.132.
\textsuperscript{254} Human Rights Watch *World Report 2014* p.130.
\textsuperscript{256} *Police Management of Mass Demonstrations* p.12.
\textsuperscript{257} Human Rights Watch *World Report 2010* p.187.
As seen in the previous section, there remains repressive legislation in place in several countries across Africa, both with respect to the right to the freedom of assembly and permissibility of the use of force while policing demonstrations. **Regional and international organisations must pressure government authorities into repealing such legislation as well as reforming the Constitution so that it unambiguously safeguards rights and freedoms.** Regional and international organisations must also pressure government authorities into ensuring police and security forces adhere to the UN Code of Conduct for Law Enforcement Officials and UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. More so, there must be domestic legislation in place that curtails the use of firearms in dispersing crowds to circumstances wherein there is a threat to life or threat of serious injury.

**Bibliography & Further Reading**

Policing and Counter-Terrorism Activities

This section examines deaths arising from excessive use of force during policing activities, carried out either by formal state actors or by proxies when trying to take a subject into custody, or when electing to kill an individual rather than take them into custody. Like deaths in custody, deaths arising from policing activities often go unreported, and thus this research is limited by the lack of source material available. As a result, the information presented provides on a partial and qualitative picture of deaths arising from policing activities in Africa.

It also includes cases of excessive use of force during counter-terrorism operations. These are operations that are explicitly designed to counter the threat of terrorist organizations, as opposed to regular policing units. Although there were numerous case studies of human rights abuses carried out by counter-terrorism units, the focus is on those instances where the excessive use of force led to death.

A: Geographical Distribution

Deaths arising from the excessive use of force during policing activities outside of custody occurred throughout the continent in the period under study. This section will provide an overview of the incidences of deaths arising from the excessive use of force during policing activities on a regional basis, with some elaboration for case studies that were particularly controversial or generated considerable local and international attention, and thus have more source material available for them. There is a notable lack of information on Northern Africa, likely because recently reported cases of excessive force by police officers have been in the contexts of demonstrations, as discussed above.

Deaths arising from anti-terrorism initiatives were only reported in three countries under study. Certainly, these initiatives take place in other countries, such as Uganda, but these activities have not yet been linked to extra-judicial killings in most African countries. The narrow geographical distribution can be explained by the fact that African countries face varying terrorist threats, and some are more closely involved in the international “War on Terror” than others.

I. Policing Activities

Nigeria

There have been numerous cases of excessive use of force by police in Nigeria in recent years. In April 2012, sixteen-year-old Blessing Monday was shot and killed by police. Monday was suspected of theft. In May of that same year, members of the Special Anti-Robbery Squad killed Goodluck Agbaribote while he was bathing in a communal well. In February 2012, police killed a

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1 The principal researcher on this section was Katherine Bruce-Lockhart.
bus driver at a checkpoint in Anambra State for refusing to pay a bribe. In May 2012, police beat and shot Gaddafì Salisu Soda, resulting in his death. Soda was trying to identify himself to the police when he was killed. In November 2012, police of the Port Harcourt Swift Operation Squad killed three men while carrying out an arrest. In Bayelsa State, the government set up Operation Famou Tangbe, which translates to ‘kill and throw away’ as a police unit. It has been linked to many unlawful killings, such as the death of Tochukwu Ozokwu in May 2012. Police allegedly forced him to jump in a river or be shot, and watched him drowned after he chose to jump in the river.

In a 2009 statement, the director of Amnesty International’s Africa program argued that the “Nigerian police are responsible for hundreds of unlawful killings every year.” A report released by Amnesty in that year documented numerous cases of unlawful killing by members of the Nigerian police. In January 2009, a man by the name of Christian Ugwuoke was attending a procession for his deceased aunt when he was shot and killed by police, who had fired at the crowd with no warning. In July, student Chibuike Anams, was visiting with friends at a guesthouse in Rivers State, when he was shot and killed in a police raid. The family was not given a reason for the shooting of Anams. Many deaths occurred at police checkpoints on roads, with police shooting drivers who refused to pay bribes.

**Senegal**

In Senegal, the body of Aladji Konaté was found naked and handcuffed in a river in Bakel town. The body had multiple signs of torture. Security forces claimed Konaté—an alleged drug trafficker—had jumped into the river so as to escape arrest.

**The Gambia**

Police in The Gambia’s National Drug Enforcement Agency were responsible for the death of Cherno Alieu Suwareh in April 2011. They raided his home and beat his head against a wall. He later died from his injuries in hospital.

**Equatorial Guinea**

In Equatorial Guinea, security forces killed two men in May 2012: Blas Engo was shot by soldiers outside of a prison, allegedly for trying to escape; Oumar Kone was shot by a military officer after he refused to pay a bribe at a road block. In May of 2012, police beat a Nigerian man to death.

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4 Ibid. p.5.
6 ‘Nigerian police killing at will, says Amnesty’ *BBC News* (9 December 2009) [http://news.bbc.co.uk/1/hi/8403336.stm].
after he denied a government official fuel.\textsuperscript{11} In November of that same year, police beat a man from Mali to death after he fled from a traffic stop.

\textbf{Sierra Leone}

In June 2012, police in Sierra Leone shot and killed Alieu Sonkoh and Ishmael Kargbo-Sillah, who were part of an unarmed neighbourhood watch group. That same month, police shot and killed a motorcyclist who failed to stop at a police checkpoint.\textsuperscript{12} In September 2009, police in Lungi extra-judicially killed three men and injured at least a further thirteen.\textsuperscript{13}

\textbf{Guinea-Bissau}

Members of the Rapid Response Police in Guinea-Bissau extra-judicially executed Iaia Dabó in December 2011. Dabó was suspected of involvement in a coup a day prior. At the time of his execution, he had been preparing to turn himself into the Judiciary Police.\textsuperscript{14}

\textbf{Angola}

In Angola, there have been several cases of extra-judicial killings by police officers. In November 2011, an off-duty police officer allegedly shot and killed Francisco dos Santos with a police issue firearm in Luanda when he had intervened to stop two children fighting.\textsuperscript{15} In May 2006, police officers in Luanda shot and killed a street vendor. Police chased the vendor into a building on suspicion of mobile phone theft. When the man came out of the building, police shot him. A police spokesperson claimed the man had resisted arrest.\textsuperscript{16} A high profile case occurred in January 2005, when a police officer went to the home of Antoniho Tchiswugo, seized and handcuffed Tchiswugo and shot him in the head. The officer then removed the handcuffs and threw Tchiswugo’s body down an elevator shaft. After multiple complaints from NGOs, the officer was convicted of murder, sentenced to seventeen years of prison, and made to pay damages to Tchiswugo’s family.\textsuperscript{17}

\textbf{Mali}

A man by the name of Fousseynou Ouattara died in hospital in August 2012 in Mali after being detained by police on suspicion of assault. Although police claimed he died from a heart attack, the family and the Malian Association for Human Rights alleged that Ouattara died due to beatings. Police at the hospital refused to release the body when a prosecutor from the Minister of Justice requested an autopsy.\textsuperscript{18}

\begin{footnotesize}
\begin{itemize}
  \item[14] Amnesty International \textit{Annual Report 2012} p.164.
  \item[15] Ibid. p.63.
  \item[17] Ibid. p.18.
\end{itemize}
\end{footnotesize}
Mozambique

There are numerous reports of extra-judicial killings by police in Mozambique. In July of 2012, police shot and killed a nineteen-year old-male who had allegedly hit a police car while driving and refused to stop.\(^\text{19}\) In March 2011, police killed Hortêncio Nia Ossufo in his home in Nampula. The police claimed he had been trying to escape, but an eyewitness contradicted this statement.\(^\text{20}\) In February 2008, police killed three robbery suspects in Maptuo, claiming that the subjects were shot while trying to escape.\(^\text{21}\) The officers were not brought to trial. In August 2007, Abrantes Afonso Penicela died in hospital as a result of injuries inflicted by the police. Penicela claimed he had been abducted by the police, given a toxic injection, was beaten, shot in the back of the neck, and set on fire.\(^\text{22}\) In January 2006, police shot and killed a young man who tried to stop the police from beating a woman. He was threatened with a gun, backed away but continued to protest their behaviour, at which point one of the officers shot him. In March 2006, police in the Maptuo province shot and killed four men during an alleged shoot-out. The police said the men had escaped from prison two days prior, and then hijacked a minibus.\(^\text{23}\)

Cameroon

In Cameroon, police committed a wide range of human rights abuses, including extra-judicial killings. In May 2012, police inspector Armand Ebogo shot and killed university student Maurice Munjal. Munjal had been playing cards in a bar when police came in and ordered everyone to lie down on the floor. Munjal was then shot. Later that month, five immigration police officers killed Aboubacar Zaba when he refused to pay a bribe. Zaba was beaten to death.\(^\text{24}\)

Algeria

There have not been many reports of excessive use of force by police leading to deaths in Algeria in recent years. In March 2012, a man by the name of Said Tobal died in hospital after having been arrested several days earlier and been severely beaten by police. Medical reports indicated that he had fractured ribs and vertebrae and a damaged spinal cord.\(^\text{25}\)

Egypt

The use of excessive force by police in Egypt has led to numerous deaths. In June 2010, two undercover police investigators beat Khaled Sayeed to death after approaching him in an internet café (though a government autopsy concluded he had died from choking on a bag of cannabis, noting the bruising on the body but asserting it was not the cause of death).\(^\text{26}\) In November of that

\(^{19}\) Amnesty International \textit{Annual Report 2013} p.187.
\(^{20}\) Amnesty International \textit{Annual Report 2012} p.245.
\(^{23}\) Amnesty International \textit{Licence to Kill} p.11f.
year, the body of nineteen-year-old Ahmed Sha’aban was found in a city canal in Alexandria. Family members claim that the police had tortured and then murdered him. In 2008, police officer Mohamed Labib shot and killed Abdel Wahab Abdel Razeq. The death was allegedly an accident, with Labib having apparently entered the wrong apartment in pursuit of a drug dealer. Labib was acquitted and released. In February of that year, police officer Saad Mohamed Mansour beat and drowned a fisherman. Mansour was sentenced to three years in prison and also fined.

In March 2008, police officers killed Eid Ahmed Ibrahim by driving a police van over him. The officers were sentenced to prison and fined. In October, a police officer allegedly killed Mervat Abdel Salam Abdel Fattah, a pregnant woman. In 2007, there were several extra-judicial killings carried out by police. Police officer Alaa Maqsud was sentenced to fifteen years in prison for murdering Mohammed Ibrahim after a dispute over Ibrahim’s driver’s license. Officers Hassan Mohammed Hassan and Maher Hussein Mohammed were also found guilty for throwing a man by the name of Nasser Sediq Gadallah off a balcony that year. In April, police killed a Bedouin man after he refused to stop at a checkpoint in Sinai. In September, border police killed an Eritrean attempting to cross the border illegally.

Tanzania

In Tanzania, there have been numerous allegations of extra-judicial killings carried out by the police. In their 2012 report on human rights, the Legal and Human Rights Centre of Tanzania reported at least eleven extra-judicial killings by police officers in 2012. In August 2012, an Assistant Inspector of Police, Leonard Luhende beat Faridi Hassan for allegedly trying to steal charcoal from his house. Luhende reportedly hit Hassan on the head with an iron rod. Hassan died the next day from his injuries. Luhende was arrested, but was later released due to insufficient evidence. In September 2012, Tanzanian journalist Daudi Mwangosi was killed by police. Police fired tear gas on Mwangosi at very close range and then beat him till he died. There have been allegations of police officers shooting trespassers in corporate gold mining areas near Lake Victoria. In 2010, police were suspected of killing potential poachers in the Arusha Region.

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27 Ibid.
30 Ibid.
31 Ibid.
32 Ibid.
34 Ibid.
35 Ibid.
37 Ibid.
Kenya

Police in Kenya are frequently accused of carrying out extrajudicial killings. A 2009 report by United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions Philip Alston found that “police in Kenya frequently execute individuals and that a climate of impunity prevails.” Police “death squads” carry out many of these executions, including those designed to deal with the Mungiki and other criminal groups. According to one police whistle blower, who was later murdered while in hiding, a single death squad murdered sixty-seven people between February 2007 and July 2008.

Killings also occur in the context of more routine policing activities. In March 2012, officers in Isiolo shot and killed Saida Maalim Hussein, a schoolteacher. A post-mortem revealed that she had been shot from close range. That same month, police in Nairobi killed four people who were part of a gang attempting to steal cables from an electrification authority facility. The robbers were unarmed, and were shot while attempting to flee the facility. In October 2012, two people were killed during the arrest of Omar Mwamnuadzi, the leader of the Mombasa Republican Council, and 40 other people believed to be members of the group. Many others were injured, including Mwamnuadzi himself, who was beaten.

In November 2012, police shot high school student John Kioko Muthini while looking for a thief. In January 2011, the Daily Nation released photos of police officers shooting three cooperative suspects at close range. An investigation was subsequently launched into the incident. In November of that year, police officers in Nairobi shot and killed a son and his father. According to eyewitness reports, the son had been shot after pleading for his father’s life. Police then threatened a reporter who arrived on the scene.

In its 2014 Report, Human Rights Watch reported “hundreds of extrajudicial killings” over the past five years, for which the police have been responsible, but perpetrators have not been prosecuted “due to weak internal accountability mechanism and nascent civilian oversight.” The Kenya National Commission on Human Rights found that police had unlawfully killed 120 people from May-August 2013, “under circumstances that could have been avoided” and that the police failed to report the killings to the civilian oversight authority (the Independent Police Oversight Authority) for investigation as required under the law.

Uganda

There are also reports of extrajudicial killings by police in Uganda. Human Rights Watch has accused the Rapid Response Unit of the Ugandan police of torture, extortion and extra-judicial killings. Other members of the police have also been responsible for extra-judicial killings. In February 2012, police officers arrested motorcyclist Swaibu Ssemaganda for robbery and

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42 Ibid. ¶10.
44 Amnesty International Annual Report 2013 p.147.
subsequently beat him until he fell into a coma. Ssemaganda died two days later in hospital. In May 2012, two police officers shot and killed Fred Jingo when the vehicle he was in failed to stop.\footnote{U.S. Department of State Country Reports on Human Rights Practices for 2012: Uganda (2013) p.2.}

Although the Rapid Response Unit (RRU), a section of the police force created to combat armed crimes, was disbanded in December 2011 owing to its poor human rights record and renamed Special Investigations Unit (SIU), some RRU officers or ad hoc operatives continued to work with the SIU, and the police have failed to investigate past abuses by RRU officers and ad hoc operatives.\footnote{Human Rights Watch World Report 2013 (New York: Human Rights Watch, 2013) p.182.}

**Madagascar**

In Madagascar, security forces killed forty suspected cattle thieves in 2013 during ‘Operation Tandroka,’ an anti-theft initiative.\footnote{Amnesty International ‘Madagascar must end mass killings and investigate security forces’ (20 November 2012) [http://www.amnesty.org/en/news/madagascar-must-end-mass-killings-and-investigate-security-forces-2012-11-20].} Amnesty International has called for an end to these mass killings and an investigation of security forces. In September 2011, police officers in the Rapid Intervention Group shot and killed three men in Antananarivo. The cause of the shooting was unclear, as the men were reportedly unarmed and had not resisted police orders. In December, prosecutor Michel Rahavana was killed by a group of police officers trying to release another police officer who Rahavana had arrested on suspicions of theft.\footnote{Amnesty International Annual Report 2012 p.225.} Reports estimate that police officers and other law enforcement killed at least one hundred criminal suspects in 2012, and fifty-one in 2011.\footnote{U.S. Department of State Country Reports on Human Rights Practices for 2012: Madagascar (2013) p.2.}

**South Sudan**

In South Sudan, police shot and killed Tabitha Musangi, a Kenyan schoolteacher, in April 2012 because her taxi did not stop while the national flag was being pulled down in Juba.\footnote{Amnesty International Annual Report 2013 p.93.}

**Burundi**

In Burundi, men in police uniforms kidnapped Léandre Bukuru in November 2011. His body was found a day later and buried on the orders of a local administrator in Gitega without a police investigation.\footnote{Amnesty International Annual Report 2012 p.239.}

**South Africa**

In South Africa in April 2012, a Burundian asylum seeker, Fistos Ndayishimye, died while being interrogated by police officers at his home in KwaZula-Natal. Witnesses, who were prevented from entering the house by the police, reported hearing him screaming for some time. His body was found to have blunt force injuries as well as serious internal injuries.\footnote{Amnesty International ‘South Africa must end police abuses’ (18 December 2012) [http://www.amnesty.org/en/news/south-africa-must-end-police-abuses-2012-12-18].} In February 2012, a police
constable shot and killed Thato Mokoko, a sixteen-year-old, during an illegal weapons raid in Gauteng Province. Eyewitnesses reported that Mokoto was lying face down on the ground when he was shot.\textsuperscript{58} In April 2010, fifteen-year-old Kwazi Ndlovu was shot and killed by police in the Durban Organized Crime Unit while lying on a couch in his home.\textsuperscript{59} In February 2009, police officers from the Bellville South Directorate of Priority Crime Investigation killed Sidwell Mkwambi through beating and whipping. Thirteen officers were charged with his murder.\textsuperscript{60}

**Swaziland**

In May 2012, police officers in Swaziland shot and killed Mduduzi Mngometulu, a mentally ill man. Mngometulu was killed at his home, after police officers had come to assist his family and bring him to the hospital. Police claimed Mngometulu had become violent, but his family denies such claims, instead arguing that he was murdered by the police.\textsuperscript{61} In June 2012, police shot and killed suspected rapist Bhekinkosi Masina as he tried to flee arrest. Police claimed to have shot him in the thigh, but news reports said he had been shot in the head and the back.\textsuperscript{62} In December 2011, twenty-six-year old Phumelela Mkhweli died after police removed him from a taxi by force. Mkhweli had allegedly committed a traffic offence. He suffered from injuries to his head and face, and medical reports indicated that excessive use of force by the police had triggered a medical condition that then caused his death.\textsuperscript{63}

**Namibia**

In August 2012, police in Namibia were charged with the murder of Frans Beukes, who died from injuries incurred through a police beating in the Rehoboth area.\textsuperscript{64} That same year, the Windhoek Regional Court found former police officer Gabriel Tueufilwa guilty of the murder of Erastus Festus. Following an argument in a shebeen in 2007, Tueufilwa shot Festus in the head.\textsuperscript{65}

**Malawi**

In Malawi, police shot and killed a robbery suspect in February 2012 as the suspect was allegedly trying to escape. Police took no action against the officer involved.\textsuperscript{66}

**Zambia**

Police officers in Zambia beat Edrick Simbeye to death in May 2012. Simbeye had been arrested for building a house on someone else’s land.\textsuperscript{67} In September of that same year, police shot Wesley Mpundu while he was driving home. Police argued that the shooting had been an accident.\textsuperscript{68}

\textsuperscript{59} Amnesty International Annual Report 2012 p.307.
\textsuperscript{62} Ibid. p.1.
\textsuperscript{63} Amnesty International Annual Report 2012 p.321.
\textsuperscript{65} Ibid. p.2.
II. Counter-Terrorism Activities

Nigeria

In Nigeria, there have been a high number of extra-judicial killings of members of Boko Haram, recently designated a terrorist group by the United States.\(^69\) According to the Foreign and Commonwealth Office of the United Kingdom, there were credible reports of extra-judicial killings of Boko Haram suspects in 2013.\(^70\) In 2012, Amnesty International released a report entitled *Nigeria: Trapped in the Cycle of Violence* that revealed numerous extra-judicial killings of Boko Haram suspects – many who turned out to be civilians.\(^71\) Witnesses who were interviewed for the report claimed that people who were not a threat were shot at close range by security forces in the name of fighting the Boko Haram threat. In March 2012, five men were shot to death when members of the Joint Task Force opened fire at a filling station in response to a Boko Haram attack on a police station nearby. The men, who were not involved in the attack, had taken shelter in the underground service pit to avoid gunfire, and were shot and killed when the Joint Task Force came into the pit. In June, police officers in Maiduguri began firing tear gas and ammunition in a civilian area and told people to go inside their home. The police were allegedly responding to a Boko Haram attack. A man by the name of Alhaji Hussaini Sha’abu left his home to find his children, and was shot without warning by the police.\(^72\)

In December 2011, the Joint Task Force ordered that parents hand over their male children for interrogation in Kawar Maila Ward, Maiduguri. The sons were taken away, and found dead several days later in a university mortuary. Lieutenant Colonel Mohammed Hassan, a spokesperson for the Joint Task Force, claimed the men were part of Boko Haram and had died during a gun battle with members of the task force.\(^73\) Numerous similar accounts of extra-judicial killings of civilians can be found in Amnesty’s Report.

Kenya

The Anti-Terrorism Police Unit (ATPU) in Kenya has been accused of numerous human rights abuses since its foundation in 2007, including the excessive use of force during house raids, and the torture, ill-treatment, and killing of suspects. According to a report produced by the Open Society Justice Initiative and the Kenyan NGO Muslims for Human Rights, there are ‘credible allegations’ that the ATPU used unlawful lethal force on terrorism suspect Omar Farajal, and extra-judicially executed suspects Kassim Omollo and Salim Mohammed Nero.\(^74\)

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\(^{72}\) Ibid. p.21.

\(^{73}\) Amnesty International *Nigeria: Trapped in the cycle of violence* p.20.

Other anti-terrorism activities have also been linked to extra-judicial killings. In December 2013, police shot and killed imam Hassan Suleiman Mwayuyu while he was traveling on a bus. \(^75\) Human rights groups such as Haki Africa claimed it was an extra-judicial killing. \(^76\) Mwayuyu was on the anti-terrorism police’s most wanted list.

HRW also reported police implication in unlawful killings of alleged terrorism suspects, particularly of individuals of Somali origin. For example, in August 2012, Sheikh Aboud Rogo – a Muslim cleric who Kenyan authorities claimed to be investigating over links with Somali terror networks – was shot dead. Kenyan police denied involvement in Rogo’s death, and in September 2013, a Multi-Agency Task Force appointed by the director of public prosecutions said that it did not have adequate evidence to identify the killers. No police officer was ever held accountable for the killing. \(^77\)

The Kenya National Commission on Human Rights issued a report – *The Cry of Blood* – in September 2008, giving an account of ‘an orgy of extra-judicial killings and disappearances’ by the Kenyan Police since mid-2007. \(^78\) According to WikiLeaks, ‘the Report contains evidence of a high-level policy to assassinate Kenyan citizens with impunity’. One of the key findings of the investigation was that ‘extra-judicial executions … have been perpetrated by the Police against so-called Mungiki adherents and that these acts may have been committed pursuant to official policy sanctioned by the political leadership, the Police Commissioner and top police commanders.’ It also reports that the initial policy of using firearms to execute suspects had been changed such that strangulation, drowning, mutilation and bludgeoning were used instead. It reports that ‘The change of strategy was to make members of the public believe that rival Mungiki gangs are responsible for the killings.’

The frequency of extra-judicial killings reportedly increased following public statements by top government officials which suggested an official policy to deal with suspected Mungiki members ruthlessly. On 3 June 2007, about 300 suspected Mungiki members were reportedly arrested when court administering oaths to recruits, and at least 20 were killed. The KNCHR claimed to have compiled at least 300 names of persons who had either been killed or disappeared, and claimed there were 200 more whose identities were unknown. \(^79\)

**Algeria**

Counterterrorism activities were also an issue in Algeria, where armed groups have carried out bombing attacks (predominantly against military targets). Authorities reported that security forces killed members of armed groups during 2012, including some of those affiliated with Al-Qaeda, but few details were released, leading to concerns that some of these deaths may have been extrajudicial executions. \(^80\)

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\(^75\) ‘Tension in Kwale after preacher is shot dead’ *Daily Nation* (6 September 2013) [http://www.nation.co.ke/counties/Ukunda-Kwale-County-Hassan-Suleiman-Mwayuyu/-/1107872/2102410/-/3o247u/-/index.html].

\(^76\) Benard Sanga and Tobia Chanji ‘Most wanted man on police terrorism list gunned down’ *The Standard* (7 December 2013) [https://www.standardmedia.co.ke/?articleID=2000099573&story_title=most-wanted-man-on-police-terrorism-list-gunned-down/].


\(^79\) Ibid.

\(^80\) Amnesty International *Annual Report* 2013 p.22.
B: Perpetrators & Victims

In the cases examined, perpetrators were typically members of the police force. Many were attached to specific units designed for a unique purpose, whether to combat drug-trafficking, stop cattle thieves, or tackle vigilante groups. The case in Burundi provides an exception, as it was unclear whether or not the men who carried out the killing were police officers or were disguised as police officers.

The victims fell into a range of categories, including theft suspects, poachers, journalist, drug-traffickers and vigilante members. Others were civilians who were not guilty of any specific crime, or had committed minor offences such as traffic violations. Although several women were killed through the excessive use of force, the vast majority of the individuals killed were males, many of them youth.

With respect to counter-terrorism, the groups of perpetrators and victims are perhaps better defined, with the exception of Nigeria. At a general level, perpetrators are state-employed police officers or members of security forces who are hired specifically to carry out anti-terrorism activities. Often, they are members of specific, recognizable security bodies, such as the Anti-Terrorism Police Unit in Kenya or the Joint Task Force in Nigeria. The victims are typically suspected members of terrorist organizations such as Boko Haram, al-Shabaab or Al-Qa’ida. In Kenya, they are often Muslims based in the coastal city of Mombasa. However, in some cases the victims are not members of terrorist organizations. In Nigeria, there were many cases in which innocent civilians were killed accidently or in retaliatory killings.

C: Structural Factors & Social Norms/Phenomena

In some cases, legal norms allow for the use of excessive force against suspected criminals. For example, Police Force Order 237 in Nigeria provides wider grounds for the use of lethal force than what is normally permissible in international law. Police officers can shoot suspects and detainees who attempt escape or avoid arrest ‘provided the offence is such that the accused may be punished with death or imprisonment for seven years or more.’ Under Nigerian law, escaping from police custody or avoiding arrest is liable for seven years imprisonment – thus enabling police officers to shoot prisoners who try to escape and suspects who avoid arrest.\(^1\)

In contrast, there is a major disconnect in many countries between laws discouraging the excessive use of force and the realities of police behaviour. In Kenya, the constitution passed in 2010 included measures for improved internal police accountability, independent oversight, police vetting, limits on the use of force, and limitations on the powers of arrest and detention.\(^2\) There are many parallels in Tanzania, where the Police Force and Auxiliary Services Act maintains that force should be the last resort of a police officer, and the Criminal Procedure Act mandates that police officers use force that is proportionate in the circumstances.\(^3\) In these countries, there

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needs to be more effective implementation strategies to ensure that the constitutional principles surrounding policing are applied in practice.

In their 2012 report on human rights in Tanzania, the Legal and Human Rights Centre cited several main factors for the rising trend in extra-judicial killings by police officers in the Tanzanian context. While some factors are specific to Tanzania, many can be widely applied. First, there is the issue of a weak judiciary system, one that lacks external and independent oversight bodies. Second, there is a culture of impunity that enables police officers to avoid punishment for extra-judicial killings.⁸⁴

Widespread corruption and socio-economic inequality are other structural factors that enable extra-judicial killings. In many of the cases examined, police officers killed individuals who refused to pay bribes. Firstly, this indicates endemic corruption within policing units, but it could also reflect the relative impoverishment of police officers, who turn to bribes to supplement their income in order to try and meet their ‘social aspirations.’⁸⁵

In the case of counter-terrorism, the structural factors contributing to deaths from excessive use of force are often very context specific. Kenya stands apart from its neighbours as a leader in anti-terrorism initiatives. This could be due to several factors: its close relationship with the United States, the high number of terrorist attacks in Kenya by a range of groups (some of which were reappraisals for Kenya’s invasion of Somalia in October 2011) and laws that allow for aggressive anti-terrorism initiatives, such as the Prevention of Terrorism Act passed in 2012. More generally, East Africa has been a key area of operation for a range of global terrorist networks. Algeria has also been a key front in the ‘War on Terror,’ and is favoured by the West as a partner because of its relative stability compared to other countries in North Africa.⁸⁶ In Nigeria, deep religious and regional divides have helped facilitate the growth of Boko Haram, and the very repressive policies of the Nigerian police force have contributed to its severe repression.

D: “Best Practice”

In some of the cases mentioned, police officers were Investigated and tried when suspected of committing an extra-judicial killing. Certainly, this practice needs to become much more pervasive across the continent in order to erode the culture of impunity that exists. Laws such as Police Force Order 237 in Nigeria should be overturned, and laws limiting the use of excessive force should be created and better implemented where they already exist. There also must be greater oversight of special policing units, rather than allowing them free reign outside of the remit of normal regulations. Amnesty International has also called for police officers to receive training that aligns with human rights standards, and for policing codes to comply with international human rights standards.⁸⁷ Independent police complaint authorities and oversight bodies should also be established or strengthened where they already exist.

As many of these anti-terrorism operations are relatively new, there are less established best practice norms. The Open Society’s Report on Kenya provides a number of recommendations that

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⁸⁴ ibid.
⁸⁶ Nabila Ramdani ‘Algeria is David Cameron’s surprising ally in the “war on terror”’ Guardian (30 January 2013) [http://www.theguardian.com/commentisfree/2013/jan/30/david-cameron-algeria-war-on-terror].
⁸⁷ Amnesty International Above the Law p.58ff.
apply more generally to anti-terrorism policing units. It recommends that anti-terrorism units must be subject to greater oversight, individuals responsible for killings be brought to justice, and acts enabling the use of excessive force against terrorism suspects be reformed or repealed. Finally, it recommends that foreign bodies do not fund anti-terrorist initiatives that are known to commit human rights abuses.

Bibliography & Further Reading


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88 Open Society Justice Initiative “We’re Tired of Taking You to the Court” pp.12-5.
Custodial Deaths

State liability in custodial deaths arises not only when state actors inflict abuses on prisoners that lead to death, but also when the state neglects its obligation to protect the rights of prisoners in a state institution. However, this research does not examine custodial deaths that arise from circumstances of neglect or poor prison conditions. The only exception to this is when neglect is used as a tool to intentionally cause death. This accusation was levelled several times in the cases examined, but it is often difficult to discern whether or not there was intent to kill behind the negligence. At times, police officers or prison administrators have faced criminal charges for ignoring the orders of judges or medical professionals to provide prisoners with medical treatment.¹

Evidence for this research was drawn from a wide range of sources covering both Sub-Saharan Africa and North Africa. Sources included material from non-governmental organizations, African and Western media outlets, the Office of the High Commissioner for Human Rights at the United Nations, academic publications, and reports from public policy institutions. Annual reports on human rights from Amnesty International and the United States Department of State were particularly useful for establishing a picture of deaths caused by the excessive use of force over time at a broad level, while occasional reports from governments, the media, and non-governmental organizations provided more specific information on a case study basis. Cases were only examined if the deaths had been caused by the excessive use of force by state actors or proxies and if they occurred between 2000-2013.

One key limitation of this research is that many deaths in custody go unreported, and thus the information presented provides a distorted picture of the scale of this phenomenon. It is very rare to come across systematic, quantitative studies of deaths in custody in African prisons. The material presented here is qualitative in nature, recounting specific incidences in context rather than providing statistics. Evidence is often drawn from the testimony of other inmates, and is thus based on their own individual experiences, rather than system-wide analysis. Different sources consulted presented different cases of deaths in custody for the same year, underscoring the inconsistency with which deaths in custody are reported, and the need to consult a wide range of source materials.

A: Geographical Distribution

Deaths in custody occurred in a diverse range of countries across the continent, and happened consistently over the duration of the time period under study. Prisoners died in custody in countries experiencing peace and countries at war; in Western, Southern, Eastern, Central and Northern Africa; and in countries all across the spectrum of the Human Development Index. This section will provide an overview of the incidences of deaths in custody on a regional basis, with

¹ The principal researcher on this section was Katherine Bruce-Lockhart.
some elaboration for case studies that were particularly controversial or generated considerable local and international attention, and thus have more source material available for them.

I. West Africa

Nigeria

Of all the countries in West Africa, Nigeria has generated the most attention for the issue of deaths in custody. Most recently, the deaths of hundreds of members of Boko Haram (a militant Islamist group based in Northern Nigeria) in custody has sparked international demands for investigation and action. Reports from Amnesty International indicate that over nine hundred and fifty members of Boko Haram died in custody in the first six months of 2013. Former detainees interviewed by Amnesty claimed that while some deaths were due to poor conditions and lack of food, others were the result of serious injuries sustained through beating or execution. The death rate, according to one senior officer in the Nigerian army, is as high as five people per day in some prisons. In October 2013, Amnesty International called on the Nigerian government to urgently investigate these reports of deaths in custody and ensure that detainees' rights are being upheld.

Deaths in custody have been a recurrent issue in Nigeria throughout the past decade. In Abia State, police executed twelve people in custody suspected of armed robbery—including a boy under the age of eighteen—in August of 2006. Interviews conducted by Human Rights Watch with former Nigerian prisoners indicate that at least three men were shot in custody in Lagos in 2005. That same year, six young men suspected of involvement in a bank robbery were put in custody despite having no charges against them. Their families were denied access to the boys, and were not allowed to bring them food. Several days after their detention, the boys’ bodies were found in the mortuary of the University of Nigeria Teaching Hospital.

A particularly controversial case occurred in 2002, when the bodies of sixteen-year-old Nnaemeka Ugwuo and seventeen-year-old Izuchukwu Ayogu were found mutilated several days after they were brought into police custody. The boys were allegedly running an errand in their home city of Nsukka, and were stopped by three officers who tried to force them into a car, and, when the boys resisted, chased, beat, and arrested them. Their families were told by the police officers that no offence was recorded against the two boys, but that the Divisional Police Officer had refused them bail. By the next day, the boys were no longer in the prison, and their bodies were found several days afterwards. Protests from community members resulted in an investigation of the killings, which resulted in the District Police Officer being indicted for murder. However, the officer was later transferred to another part of the country, and avoided murder charges.

Burkina Faso

Burkina Faso has also been the site of many deaths in custody. In February 2011, student Justin Zongo died in police custody. Protests were sparked after the government claimed that Zongo had

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5 Ibid. p.24f.
6 Ibid. p.23.
died of meningitis. The protests turned violent, resulting in five deaths. Two police officers were sentenced to ten years in prison for beating Zongo, and a third officer also involved in the incident was given eight years in prison. On 11 March 2011, the Ministry of Justice indicted and detained three men over Zongo’s death, which, the attorney general stated later, was to be investigated by the Ouagadougou Court of Appeal. In August 2011, three police officers were convicted of manslaughter in the Zongo case, receiving 8-10 years’ prison sentences.

In June 2010 an alleged drug trafficker by the name of Da Arnaud Somé died in hospital after being taken into custody several hours earlier. He had reportedly tried to escape, and had sustained serious injuries after falling down a ravine. However, human rights organisations (including the Burkina Faso Movement for Human and Peoples’ Rights) claimed that these injuries were not the cause of his death, arguing that he had instead died due to severe beatings from the police. Somé’s death sparked protests in the city of Gaoua, where he had died. The government investigated Somé’s death and arrested three police officers. They were tried by the criminal chamber of the Bobo-Dioulasso Court of Appeal, and on 17 June 2011, two were convicted of manslaughter and sentenced to 5 years in jail, while charges were dropped against the third.

Several other cases in Burkina Faso have occurred in recent years. In September 2009, six prisoners were shot and killed by prison guards in Koudougou Prison during a protest over the superior treatment of wealthy prisoners. In April 2006, Salam Sawadogo, a suspected gang member, died in Meguet police station. Police claimed his death had resulted from heat stroke, but human rights associations in Burkina Faso argued that he likely died due to torture by the police. In May of the same year, prisoner Michel Bakouan, brought into detention on accusations of assaulting a cattle farmer and stealing his grazing and transportation permit, was killed after allegedly attempting to escape. In October, Djolgou Yargu, Dayamba Hamsoaguini, and Bandambe Lankouande were executed by the police after being brought into custody.

Mauritania

In recent years, there has been an increase in reported incidents of deaths in custody in Mauritania. In October 2012, prison guards allegedly beat three prisoners in Dar Naim Prison in Nouakchott, resulting in the death of one prisoner. The National Commission of Human Rights condemned the actions of the guards and called for an investigation into the incident. In response, the government fired and jailed the guards, brought in a new prison director, and started an investigation.

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Mali

In April of 2013, two Tuareg men died in Central Prison in Bamako. Their deaths were caused in part by excessive heat in the prison as well as injuries sustained from repeated torture during their time in custody. As is often the case with cases involving both torture and dire prison conditions, it was difficult to determine the exact cause of death.

Ghana

Deaths in custody in Ghana have occurred less frequently than in other countries in the region. In 2010, an inmate at Koforidua Prison died while on his way to the hospital. The Prisons Service claimed he had died due to an illness, but local reports suggested that his death was due to injuries sustained during torture. There was no post-mortem exam conducted because the police denied requests from the hospital to conduct one, alleging the request had not been properly made. Other reported cases of deaths in custody occurred nearly a decade earlier. Most deaths are reportedly due to derelict prison conditions and a lack of medical treatment, rather than abuses carried out by state actors.

Guinea

There have been a number of deaths in custody in Guinea in recent years. In February 2012, a male suspected of armed robbery died of injuries incurred through torture while in police custody. He was considered missing for a week before the body was discovered in the mortuary of Donka Hospital. In 2010, a number of deaths in custody were reported. Human Rights Watch reported that the body of Michel Lazare Loua was delivered to a morgue in Conakry on 15 November. Loua was arrested due to suspicions of his involvement in a coup plot. His body was reportedly covered with bruises, and he had swelling in his head, back, and wrists.

In 2009, a number of deaths in custody occurred due to vigilante violence. In May, a mob broke into a prison in Mandiana, and killed a man charged with kidnapping an eight-year-old girl. The police stoned the man to death. Later that month, a mob removed military officers Youssouf Keita and Pierre Bangoura from prison, where they were held due to charges related to several murder cases. The men were burned to death. In July, another mob killed a man by the name of Faya Antaoine, charged with killing his wife. The men beat Antaoine and stoned him to death. While state actors did not directly kill the prisoners, the state was unable to uphold its responsibility for safeguarding their rights, and thus shoulders responsibility for their deaths.

Côte D'Ivoire

In August 2012 in Côte D'Ivoire, police staff sergeant Serge Hervé Kribié was tortured in police custody – including the use of electric shocks – and died as a result of his injuries. In July of 2005, dozens of civilians were arrested following unidentified armed attacks on police stations in

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Abgovie and Anyama. Several were extrajudicially executed in custody. That same year, the bodies of prisoners Samassi Abdramne, Toure Adama and Nimba Kah Hyachinthe were found in a morgue, and little investigation was made into the causes of their deaths.22

**Togo**

In March of 2009, prisoner Kossi Koffi died in Lomé prison in Togo. He died eight days after being put in custody, during which time he was allegedly tortured at the National Intelligence Agency, resulting in injuries that contributed to his death.23 Prison conditions, and lack of access to healthcare for prisoners, have been a common concern of human rights organisations in Togo.24

**Niger**

Deaths in custody have not been reported in Niger in the last few years. There were, however, two incidents in 2006. Prisoner Alpha Harouna Hinsa, died on 28 May in the hospital.25 Human rights associations and his family charged that he had died before being brought into hospital, and that his death was due to injuries sustained through torture. Prisoner Moussa Douka died in July while in custody in Agadez.26 There was an investigation into the cause of his death, but little progress had been made after two years. Police shot another prisoner in January of 2003 during an attempted escape.27 One of the largest single cases of deaths in custody occurred in 1999, when prison guards used tear gas against a group of prisoners, resulting in the deaths of twenty-nine prisoners.28

**Senegal**

In February 2012, a prisoner by the name of Ousseynou Seck died after being tortured while in custody in Senegal. The police officers involved were arrested and are currently awaiting trial. In August of that same year, Kécouta Sidibé, a deaf and mute man, died allegedly due to torture while imprisoned in Kédougou. The Deputy Commander of the Kédougou gendarmerie has been found guilty of murder and several other members of the gendarmerie are still under investigation.29

**II. Central Africa**

**Cameroon**

Deaths in custody have occurred consistently in Cameroon. In 2011, Germain Cyrille Ngota, the managing editor of the *Cameroon Express*, died while in custody. Despite reports that his death

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was of natural causes, his family claims it was due to torture.\textsuperscript{30} Ngota’s death sparked protests amongst other journalists. Another prisoner, Serges Ondobo, imprisoned after protesting against the arrest of a fellow trader, died in April 2006 after being beaten in custody in Yaoundé. No investigation was known to have taken place after his death.\textsuperscript{31}

Emmanuel Moutombi, a prisoner held in Douala in January 2005 on accusations of embezzlement, died from injuries sustained in custody in February. His body was severely swollen, and was covered with injuries. In contrast to the Ondobo case, six gendarmes and Moutombi’s former manager were implicated in his death. The manager was found not guilty of involvement in torture, but fined for slapping an inmate; a gendarmerie commander was sentenced to 10 months imprisonment, while three gendarmes convicted of causing the death were sentenced to between 8-10 years. An award of 44m CFA Francs was made to the victim’s family.\textsuperscript{32} The death of Afuh Bernard Weriwo, who was allegedly burned alive in custody after being arrested on suspicion of stealing a bicycle in 2004, resulted in a senior police officer being sentenced to five years in prison.\textsuperscript{33}

Equatorial Guinea

In March of 2008, Saturnino Ncogo Mbomio, a member of a banned political party in Equatorial Guinea, died in police custody in Black Beach Prison. Mbomio had been brought to prison on charges of the possession of illegal weapons linked to a coup attempt. Authorities attributed Mbomio’s death to a suicide attempt, in which he allegedly fell from his top bunk and fractured his skull. Amnesty International refuted this argument, stating that Mbomio had been interrogated and tortured to the point where he could not stand earlier that day, and suggested that these injuries led to his death.\textsuperscript{34} In October 2007, Salvador Ndong Nguma died in police custody. The members of the opposition party Convergence for Social Democracy attributed his death to torture while in prison, but the two men suspected of causing his death were released from custody.\textsuperscript{35} In August 2006, prisoner Jose Meviane Ngua also died while in prison. Officials attributed his death to suicide by hanging. Other reports indicated that his body had hematomas that could have been caused by strangling and beatings to the back of his body. The results of a police investigation into his death were not made public, and no action was taken against the gendarmes involved in the incident.\textsuperscript{36}

In 2005, prisoner Mariano Esono died in Mondoasi police station in Bata. He had been arrested a week prior for allegedly not paying a debt to his employer. Esono was tortured while in prison, subjected to burning by an iron and electric shocks to his genitals and face. Upon being taken to court, the judge ordered that he receive immediate medical attention for his injuries. The police officers did not follow this order, and returned Esono to prison, where he died shortly after. The officers tried to hide his body on a beach, but were caught and had to return the body to his family.\textsuperscript{37}

Several deaths in custody were reported in 2002. Police officer Juan Odo Nguema died in Black Beach prison on 3 July, and it is suspected that his death was due to injuries sustained during

\textsuperscript{30} Amnesty International Annual Report 2011 p.95.
\textsuperscript{31} Amnesty International Annual Report 2007 p.79.
\textsuperscript{32} Amnesty International Annual Report 2006 p.83; Amnesty International Annual Report 2007 p.79.
\textsuperscript{35} Ibid.
\textsuperscript{37} Amnesty International Annual Report 2006 p.111.
torture. Between two to four other deaths in custody were also attributed to torture, but details about these cases were not known. Several deaths in custody also occurred in 2000, and were alleged to be due to a combination of beatings and inadequate medical care, but details were again lacking for these cases.

The Gambia

In The Gambia, very few cases of deaths in custody have been reported in recent years. However, in August of 2012, the government announced that nine death row prisoners at Mile 2 Prison had been executed by firing squad. Although the government insisted that the executed had exhausted the appeals process, human rights groups questioned the legality of the executions. The execution of Lamin Darboe, a prisoner whose sentence had been commuted to life in prison, was particularly contentious. Prior to this, few incidents were reported. One exception is the death of Ebrima Barry, a student who died after being taken into custody in March 2000. His death was reportedly due to beatings carried out by the fire department personnel. All seven men involved in the beating were acquitted.

Democratic Republic of the Congo

In the Democratic Republic of the Congo there were numerous reports of state security forces killing individuals while in custody. In September 2010, prisoner Armand Tungulu, arrested for throwing a rock at the presidential motorcade, was declared dead at the Tshatshi military camp. The prosecutor general reported that Tungulu had committed suicide, but his body was not turned over to his family, raising suspicions about the cause of death. Reports of deaths in custody also surfaced during 2007. These deaths were said to arise from physical abuse by the security forces. Neither the FARDC soldiers who tortured two suspects (which lead to their deaths) at Uvira Central Prison in October, nor the Mobile Intervention Group officers who killed a prisoner at Buluwo prison that same month, were held to account. In 2002, DEIMAP agents arrested brothers Dominique Weleme Konzo and Doudou Gbe Gbolo for allegedly counterfeiting foreign currency. At the military Camp Kokolo, Weleme was tortured and died from his injuries, while his brother was released.

Republic of the Congo

During September 2010, army Lieutenant Ferdinand Bourangon died of injuries caused by torture in prison in the Republic of the Congo. No action was taken to deal with the prison staff involved in the incident. In 2008, prisoner Guy Poaty died after being repeatedly tortured while in custody at the Directorate for Territorial Surveillance. There was no release of information on the cause of his death, and no investigation. Another prisoner, Guy Yombo, was killed at Ouenze jail in

2007, allegedly due to beatings carried out by police in the prison. An eighteen-year-old was also beaten to death in police custody in 2002 after being arrested on the suspicion of theft.

Angola

In Angola, the excessive use of force against prisoners has been linked to custodial deaths on numerous occasions. On October 3, 2012, a prisoner by the name of Manuel Francisco was arrested in Luanda. Witnesses claim he was beaten at the station, and he was also beaten at the time of his arrest. After being told that he had been moved to the Police Command of Cazenga, his family received information that his body was in a morgue in Luanda hospital. Francisco’s body had clearly been beaten: he had a missing fingernail and tooth, and a broken leg. Police provided no comment about the allegation that Francisco had been killed in custody. There were also allegations that seven men, found handcuffed and shot, had been extrajudicially executed while in police custody in the Cacuaco Municipality.

In 2006, police officers were dismissed after a disabled man was ‘accidentally killed’ during an interrogation. Earlier that year, a pregnant woman was found dead after being arrested, and national authorities avoided disclosing information about the circumstances of her death.

Chad

In September 2011, ten men died in custody in Chad. Although asphyxiation was provided as the main cause of death, the prisoners were also reportedly ill-treated during their time in custody, which may have contributed to their death. There was no investigation into the incident.

During the 2011, at least seven prisoners were killed in three separate incidents when security forces tried to calm riots in prisons. Three of these deaths occurred in August at Abeche prison, when security guards tried to stop prisoners who were throwing stones at them. Two more prisoners were killed in November in Bongor prisoner. The prisoners reportedly refused to obey prison orders, tried to escape the prison, and also threw stones at the guards. In December, two more prisoners were killed, after unrest provoked by anger about overcrowded conditions.

In October 2010, soldiers from the Chadian National Army detained and reportedly beat a minor—who subsequently died in their custody—for allegedly possessing weapons. Further reports of deaths in custody caused by security forces surfaced in 2008, but few details were available. ‘Numerous’ deaths in custody occurred in 2005, including a prisoner killed while trying to escape from the Bongor prison.

Mozambique

There have been many reports of deaths in custody in Mozambique. In September 2011, two prisoners died at Quinta do Girassol detention centre after being beaten by a prison guard. In July 2011, the director of Cagore Open Prison was arrested after beating a prisoner severely enough that he died 48 hours later. Though subject to an internal disciplinary procedure, the director retained his position. Eight prison guards at Mabalane Prison were suspended after tying up and beating a prisoner to death in May 2010. In April 2007, three detainees were taken from a police station in Maptuo to a sports field, where police officers proceeded to shoot and kill them. An autopsy revealed that the three men were shot in the back of the neck at close range. A report by the Procurator General found that the men had been “summarily executed” by the police.

Several prisoners were killed in Maptuo Prison in May 2006 after trying to escape, with eyewitnesses reporting that some of the escapees were killed after prison authorities had recaptured them. In 2005, Pedro Mulaudzi was shot by police while in custody in a unit for preventive detention in Niassa Province. Police claimed he was shot while trying to escape, but an autopsy revealed he had been shot from the front in the heart. In March 2004, a twenty-six-year-old man named Geraldo Celestino João was killed after being arrested at his home by police in Manica province. Upon inquiry into the reason for his arrest, João was allegedly beaten and shot. He later died in hospital.

Central African Republic

In the Central African Republic, a special anti-banditry police force known as the OCRB killed suspected bandits and thieves in custody in the area of Cattin in 2006. The police then paraded these bodies in open-air jeeps around the town during the day. In September 2003, security forces killed three young boys who were a part of a local self-defence and anti-poaching unit in Haute Kotto province. The boys were allegedly tortured in the SERD headquarters in Bangui. Afterwards, they were taken to a cemetery where they were executed.

III. North Africa

Tunisia

56 Amnesty International Annual Report 2012 p.245.
61 Amnesty International Licence to Kill p.8.
62 Ibid. p.16.
In September 2012, Abd Raouf Khemmassi died in police custody in Tunisia, having been arrested eleven days earlier for theft. An autopsy reported multiple injuries, and state that a blow to the head had caused his death. Four police officers were charged with his murder.\(^{67}\) On 1 November 2013, Walid Denguir died shortly after being arrested.\(^{68}\) His mother saw his body, which reportedly showed signs of torture and beating. Human Rights Watch has called for an investigation into his death. In 2005, a prisoner by the name of Moncef Ben Ahmed Ouahichi died in hospital after his arrest. He had a cerebral haemorrhage, reportedly caused by beatings in custody.\(^{69}\)

### Libya

The extent of torture and deaths in detention in Libya was discussed in a report produced by the human rights element of the UN Support Mission in Libya (UNSMIL) in October 2013. Since 2011, UNSMIL received information on twenty-seven cases of deaths in custody, all of which were likely due to torture. They also indicated that there were many more deaths that had not yet been fully investigated. Many of the deaths took place in detention centres which are only nominally controlled by the government, in reality being run by armed brigades.\(^{70}\)

In July 2012, the body of Ahmed Ali Juma’ was recovered in a Tripoli morgue. Juma’ had been called into questioning by the Abu Salim Military Council several days earlier. His body had multiple bruises, and the forensic report indicated that he was “beaten to death.” In August, a former police officer by the name of Tarek Milad Youssef al-Rifa’i died while in police custody. A forensic report revealed that his death had been due to beatings.\(^{71}\)

In May 2009, a man by the name of Ali al-Fakheri was found dead in his cell in Abu Salim Prison. Prison authorities claimed he had committed suicide, but Human Rights Watch wanted an investigation to determine whether or not al-Fakheri had died because of excessive force. During a subsequent visit to the prison Amnesty International was denied access to his guards, forensic doctors or autopsy report.\(^{72}\) In 2008, Mohammed Adel Abu Ali (whom Sweden had returned to Libya after rejecting an asylum claim) died in custody. Human Rights Watch claimed he had been tortured while in detention. Sweden temporarily suspended deportations to Libya, but resumed after the investigation failed to determine how Abu Ali died.\(^{73}\)

### Algeria

In March of 2012, a man by the name of Said Tobal died in Algeria after being arrested. He was apparently found “lying on the ground” with his “clothes ripped, nearly unconscious...beaten like a dog.” The hospital revealed that Said had fractured ribs and vertebrae and considerable damage

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\(^{70}\) UNSMIL & OHCHR Torture and Deaths in Detention in Libya (October 2013) [http://www.ohchr.org/Documents/Countries/LY/TortureDeathsDetentionLibya.pdf].

\(^{71}\) Amnesty International Annual Report 2013 p.162.


to his spinal cord. In June 2010, a mentally disabled man by the name of Nouradine Nadri died in custody. His family reported that his death was caused by police abuse.

**Egypt**

Considerable controversy was sparked over the death of American citizen James Henry in custody in Egypt in October 2013. Henry, detained for violating a curfew, was found hanging from a bathroom door in prison by his belt and shoelaces. The death was officially attributed to suicide. Egypt’s public prosecutor has launched an investigation into the incident. In September 2012, a man named Atef al-Mansi was beaten at a police station after going to file a complaint about police abuse and subsequently died of his injuries. When local residents gathered outside the police station in protest officers opened fire with automatic rifles, killing one person and seriously injuring another. In January 2011, National Security Sector officers tortured Sayed Bilal, a Salafist preacher, to death. Officials claims Bilal had died of a heart attack during his questioning, but photos of his body revealed signs of torture. His family were threatened with arrest if they continued talking to the media and human rights organisations.

**IV. East Africa**

**Kenya**

In Kenya, there have been numerous cases of deaths in custody. In 2012, the death of British man Alexander Monson generated major international attention and inquiries into police conduct in Kenya. Monson, the son of British peer Lord Monson, was arrested in May 2012 on suspicion of smoking cannabis. The official reason for his death was a drug overdose, but a pathologist hired by the family reported that Monson had died from head injuries due to blunt force trauma. His family found his body behind a police counter.

In January 2010, a twenty-four year old Kenyan man was tortured to death during a police interrogation. In November of that year, another man was chained and beaten to death after being arrested for a conflict with a police officer at a bar.

Six prisoners were killed in police custody in 2003. In one case, police arrested a man in July, and he was beaten in Kitale prison, which resulted in his death. Prison authorities claimed he had died from natural causes, but medical authorities confirmed he was beaten to death after trying to escape. In September 2002, five prisoners in Meru G.K. Prison died in custody, and another prisoner from the prison died en route to the hospital. The prisoners’ deaths were attributed to a “drunk-related illness” but investigations revealed evidence of blunt force trauma and strangulation. That same year, Paul Kimani Wambiru was allegedly tortured to death. All five police officers charged with his murder were acquitted, despite autopsy evidence that Kimani had

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died from trauma caused by beatings. 82 A major incident occurred in 2000, when seven death row inmates died in King’ong’o Prison. 83 Prison authorities reported that the men had fallen from a fence while trying to escape, but medical evidence suggested that the men were beaten.

Uganda

Deaths in custody were a consistent phenomenon in Uganda’s prisons for the period under study. In February 2012, motorcycle driver Swaibu Ssemaganda died after being beaten into a coma. Five police officers were arrested in connection with his murder. 84 Henry Bakasamba died in police custody in May 2010 in Kampala. The officers arrested in connection with his death were exonerated. 85

Nsangi Murisidi, the owner of a small business, died after being taken into custody by the Violent Crime Crack Unit in June 2003. Several days later, the family of Murisidi received word that he had died. His death certificate indicated that he had suffered from extensive loss of fluid and blood, major bleeding in the brain, and burns on the buttocks. 86

Tanzania

In March 2010, a man by the name of Musa Juma died while in custody in Tanzania. His relatives aid that his body had bullet-like wounds as well as multiple lacerations. 87 Although an investigation was promised, no progress had been made by 2012. Similarly nobody was held accountable for the killing, two month previously, of Swetu Fundikira, also in police custody. 88

Rwanda

There have been numerous incidences of deaths in custody in Rwanda. In November 2007, three men suspected of killing a gacaca court judge were shot and killed by police on the evening they were arrested. 89 The police claimed the killings had been an act of self-defence after an escape attempt. Witnesses to the killings suggest the killings were extrajudicial executions.

According to Human Rights Watch, at least twenty detainees were killed in custody in ten separate incidents between November 2006 and May 2007. The police claimed all the detainees were shot due to escape attempts or attempts to take weapons from police officers. 90

83 Ibid.
Unlawful Killings in Africa | Excessive Use of Force

Ethiopia

In Ethiopia, the ‘Liyu Police,’ a government-backed paramilitary force, executed ten men in their custody in the Somali Region in March of 2013. In March of 2007, Tsegaye Ayele Yigzaw died in police custody from injuries incurred through torture and beatings by the police. He was a member of the opposition Ethiopian Democratic Party.

Eritrea

There were a number of reports of deaths in custody in Eritrea. According to PEN International, up to nine journalists and nine politicians may have died in custody due to abusive treatment, but the government refuses to confirm or deny these deaths. The UN Special Rapporteur on Human Rights in Eritrea has pressed the government for information on these prisoners, but has also not been provided with a response.

Djibouti

In July 2012, a man with mental disabilities was detained, beaten, and later died in custody in Djibouti. An autopsy revealed that he had suffered from a violent death, but the exact circumstances were unclear.

Burundi

Deaths in custody have remained a consistent issue in Burundi’s prison system. In 2012, student and member of the opposition party Movement for Solidarity and Democracy Juvenal Havyarimama was reportedly killed in police custody. In 2010, a police officer by the name of Jackson Ndikuriyo was killed in custody. Ndikuriyo had been amongst a group of police officers that had publicly complained about not receiving their housing allowances, and had been subsequently fired. He was detained after threatening a lawsuit. The police stated that bandits had shot Ndikuriyo when the car carrying him was ambushed, but no bullets had hit the vehicle or the other officers. That same year, police arrested and summarily executed three men. The police took the men in a pick-up truck to allegedly find their arms caches and accomplices, but instead took them to a field and shot them. In another incident in 2010, a policeman killed six people at Kirundo Province Police Camp. He was sentenced to life in prison. In 2005, the FDN arrested and tortured to death several suspected members of PALIPEHUTU, a major rebel group.

97 Ibid.
Unlawful Killings in Africa | Excessive Use of Force

Madagascar

In 2011, taxi driver Hajaharimananirainy Zenon died after being arrested and tortured in Antananarivo, Madagascar. In 2002, Roland Ravalomasoa died after injuries sustained during interrogation. No investigation was carried out.

Sudan

Deaths in custody have also occurred in recent years in Sudan. In February 2010, agents of the National Security and Intelligence Services arrested University of Khartoum student Mohamed Moussa Abdallah Bahr el Din was arrested. His body was found a day later, and had clearly been subjected to torture. Another man, Adman Suleiman Sulman (one of 103 defendants sentenced to death by a special counter-terrorism court) died in hospital in Khartoum two days after being taken there from prison. He was allegedly still in shackles and had been subjected to torture. Sulman had tuberculosis, and had been denied medical care despite requests from his lawyers that he receive treatment.

South Sudan

In South Sudan, Kenyan pharmacist Joseph Matu died from torture while in custody in August 2012. Matu had allegedly been detained and tortured for not having a licence to practise pharmacy.

V. Southern Africa

Zimbabwe

Deaths in custody have frequently occurred in Zimbabwe. In March 2012, three men who had been taken into custody in Harare on suspicion of armed robbery died. Police argued that the men had been killed while attempting to escape, but an independent post-mortem and eyewitness accounts suggest the police shot the men in the head at very close range. Later that month, seven members of the Zimbabwe Republic Police attacked a group of civilians, leading to the death of Luxmore Chivambo, whom they suspected of theft. The police had entered Chivambo’s home by force, dragged him and those with him outside, and beat the civilians while en route to the police station.

During September 2012, Wellington Muchadenyika died after being detained at Dombotombo police station for allegedly stealing a cell phone. His relatives were told he had died in a car accident, and could be found at Marondera Provincial Hospital. However, there was no record of him at the hospital, and his body was found to have many bruises and a broken shoulder bone. No post-mortem report was made available for the family. In October, the body of Blessing

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103 Ibid. p.302.
105 ‘Suspect’s deaths cast suspicion on Zimbabwe’s police’ Mail & Guardian (11 January 2013) [http://mg.co.za/article/2013-01-11-suspects-deaths-cast-suspicion-on-zimbabwes-police-inyasha-chivara].
Matanda was found in Munyati Police Base state. Matanda had been taken into custody earlier that day. According to the police, Matanda had committed suicide (though provided no explanation of how he found a gun with which to shoot himself). The investigation of an independent pathologist suggested otherwise.\footnote{106}{Amnesty International Annual Report 2013 p.302.}

In November 2010, Augustine Mahute, an activists affiliated with the MDC party, died from beatings while in detention in Harare.\footnote{107}{U.S. Department of State Country Reports on Human Rights Practices for 2010: Zimbabwe (2011) p.3.}

**South Africa**

In South Africa, deaths in custody remain a prevalent feature of the penal system. In every year under investigation, deaths in custody were reported. In 2013, the police came under fire for the death of Mozambican immigrant Mido Macia. Footage was released of police officers tying Macia to the back of a truck and dragging him for over four hundred meters. He died from internal bleeding and head injuries sustained during the incident. Eight police officers were charged with his murder.\footnote{108}{Police custody deaths decline, cold comfort for victims' families' The Africa Report (6 March 2013) [http://www.theafricareport.com/Southern-Africa/police-custody-deaths-decline-cold-comfort-for-victims-families.html].}

In May 2012, twelve officers of the Belleville South Organized Crime Unit were found guilty for the abduction and murder of Sidwell Mkambi, which occurred in 2009. In June, members of the Cato Manor organized Crime Unit faced charges of murder and assault from 2008 onwards.\footnote{109}{Amnesty International Annual Report 2013 p.239f.}

The Independent Police Investigative Directorate (IPID), the body in charge of overseeing policing in South Africa, reported that 706 people died in custody or as a result of police action in the year to 31 March 2013, of which one or more police officers were charged in 9 instances.\footnote{110}{U.S. Department of State Country Reports on Human Rights Practices for 2013: South Africa (2014) p.2.} The previous year 932 people died of which the police were implicated in 8.\footnote{111}{U.S. Department of State Country Reports on Human Rights Practices for 2012: South Africa (2013) p.2.}

In November 2010, Riann Velloen died in Johannesburg after being arrested for drunk driving. Friends and family of Velloen claimed that police had beaten him to death, which was later confirmed in a departmental hearing.\footnote{112}{U.S. Department of State Country Reports on Human Rights Practices for 2011: South Africa (2012) p.2.} That same month, prisoner Donnelle Jackson was found dead in prison in Johannesburg. Police claimed that Jackson had committed by suicide, but the Internal Complaints Directorate suggested that police officers had been involved in his death.\footnote{113}{U.S. Department of State Country Reports on Human Rights Practices for 2010: South Africa (2011) p.3.}

**Zambia**

In Zambia, the death of Eliya Sinkala in custody sparked riots in Nakonde. Sinkala’s relatives and others threw missile at the police station and stoned vehicles. The police attributed Sinkala’s death to beatings by other inmates.\footnote{114}{The death of detainee whilst in Police custody sparks a riot in Nakonde’ Lusaka Times (4 October 2013) [http://www.lusakatimes.com/2013/10/04/the-death-of-detainee-whist-in-police-custody-sparks-a-riot-in-nakonde].} Another riot was sparked over a death in custody in 2013. Baron Mubanga, a taxi driver, died after being beaten by the police while in custody. He had been
arrested for not producing an original driver’s licence. In 2006, a Tanzanian man by the name of Lucas Msuya died in police custody. Police officers claimed that Msuya died due to injuries from a mob that suspected him of being a thief. Two of the officers were arrested and charged with murder. They were acquitted, but underwent administrative disciplinary measures.

**Malawi**

In Malawi, there have been several recent incidents of deaths in custody. In January 2012, prisoner Edson Msiska died at Mzuzu Police Station. Six police officers were arrested for involvement in the incident, but three of them had charges dropped. During March of 2011, Emmanuel Kafere died in Zomba prison. He had internal bleeding, stab wounds in his head, two broken legs and a broken arm. A policeman was charged with murder in connection with the case. In December 2011, prisoner Kingsley Khope died in police custody in Blantyre. The police involved in the case claimed he died on arriving at the hospital from malaria, but the family said the death had been caused by police abuse.

**Swaziland**

In December 2011, Phumelela Mhkwel died in police custody in Siteki, Swaziland after being arrested for a traffic offence. Witnesses reported that police insisted he needed to be “disciplined”. Medical observations of Mhkwel’s body showed that he had injuries to his head and face. The abuses by the police reportedly trigged an underlying medical condition and lead to his death. The death of political activist Sipho Jele in May 2011 sparked a major outcry, with the Prime Minister ordering an inquiry into his death. Jele was found hanging in his cell block. Medical reports showed that he had been subjected to torture, and local and international human rights groups have rejected the claim that Jele committed suicide.

**Botswana**

Several recent cases of deaths in custody in Botswana have been brought under investigation due to concerns that the prisoners died due to abuse. These included the death of Pulaenele Sekate, who allegedly committed suicide in custody and Moitaly Setlampoloka, whose death in 2009 was opened as a murder case in 2011.
Lesotho

In Lesotho, three detainees died in police custody in 2012. Officers at the prisons where the deaths were said to have occurred denied any deaths in custody at these locations. In December 2012, police tortured two robbery suspects in Butha Buthe Police Headquarters. One man died from his injuries on the way to the hospital. Another robbery suspect died from torture in the Pitso Ground precinct.\textsuperscript{123}

B: Perpetrators & Victims

Several patterns were evident across the continent in the types of perpetrators and victims involved in deaths in custody arising from the excessive use of force. Perpetrators were consistently members of the police or prison guards, the vast majority of them male. These perpetrators were employed within the official institutions of either the prison or the policing service. At times, special units of the police were disproportionately linked with the excessive use of force, such as anti-drug units or units particular to a certain neighbourhood. Perpetrators consistently denied that they had been involved in killings, often attributing deaths in custody to prisoners’ health problems or successful suicide attempts. Another common reason given was that the prisoners were shot while trying to escape.

The victims were also similar across case studies. The vast majority were men, with a large percentage falling into the youth demographic. Most were in custody for crimes such as robbery – rarely were they murder suspects or other similarly serious offences. Others were journalists, activists, or political leaders deemed a threat to the government. In a few cases, the victims were mentally disabled. Many victims had been arbitrarily arrested, with their families unaware of the crimes for which they had been taken into custody.

C: Structural Factors & Social Norms/Phenomena

The most significant factor enabling deaths in custody is the culture of impunity in the police and prison services. In the majority of cases examined, police officers or prison guards accused of killings inmates were rarely investigated, thus creating an environment in which the excessive use of force against prisoners becomes thought of as permissible.

More generally, the limited visibility and transparency of prison systems also contributed to deaths in custody. Families were often unaware that their relatives were in prison or had been killed. Bodies were often found several days after a prisoner had died, often at a location different to where they were originally imprisoned. The lack of knowledge about custodial deaths was further apparent in the sources: often, specific cases would only appear in one non-governmental organization or government report, and were absent from many local news sources.

A less measurable, though possibility significant factor, are social norms around deviancy and justice. For example, in some societies, theft is treated as a capital offence, with vigilante groups

and other non-state actors carrying out killings of suspected thieves.\footnote{South Africa vigilantes kill “thieves” \textit{Al Jazeera} (4 August 2010) [http://www.aljazeera.com/news/africa/2010/08/20108415749741373.html].} Where there is widespread acceptance of the excessive use of force against criminals, it is more likely that members of the public or government will not act to limit deaths in custody.

**D: “Best Practice”**

The full investigation of alleged perpetrators is essential to reducing the number of deaths in custody from excessive force, as it undermines the culture of impunity that exists in many prisons and police administrations. It is also essential that there are independent and impartial police and prison oversight bodies, such as IPID in South Africa. Where independence is coupled with meaningful powers of sanction, significant inroads can be made in combatting impunity, as was apparent in the case examined in Mauritania, where pressure from the National Commission of Human Rights led to an investigation and later imprisonment of the perpetrators.

At its 55th Session in Luanda, the ACHPR produced a set of guidelines concerning pre-trial detention.\footnote{Open Society Foundation ‘African Commission Sets Out Standards on Pretrial Detention’ (23 May 2014) [http://www.opensocietyfoundations.org/voices/african-commission-sets-out-standards-pretrial-detention].} These included a provision concerning deaths in custody which stated that “Given the control that the State exercises over persons held in police custody or pre-trial detention, States shall provide a satisfactory explanation, and make available information on the circumstances surrounding detention or custody, in every case of death or serious injury of persons who are deprived of their liberty.”

**Bibliography & Further Reading**

Political Killing
Targeted Killing of Political Opponents

The section will examine killings of a directly political character, but with a very specific victim (rather than less discriminate political killings around, for example, elections). In some circumstances these might be perpetrated by law-enforcement personnel, sometimes taking place in custodial setting. There is hence clearly an overlap with the previous section on excessive use of force. In other cases, the killing (often preceded by threats to the victim and often also to their family) is executed by a different proxy. The killings in this section must therefore be defined by their political motive, which is not always obvious, and there may well be significant under-reporting. There may well also be an overlap with the related problem of “enforced disappearances.” In most cases, because of the proximate state involvement, there is little chance of proper accountability.

A: Geographical Distribution

There does not appear to be a meaningful regional distinction with respect to the incidence of targeted political killings, so this survey will proceed alphabetically.

Angola

A confidential government report was leaked to the Angolan media in 2013, implicating the police and the domestic intelligence service, SINSE, in the abduction, torture and murder of António Alves Kamulingue and Isaías Cassule, protest organisers who have been missing since May 2012.

Burundi

The election-related killings in Burundi in 2010 will be discussed below, but there have been reports of cycles of retaliatory violence in the years since. There have been claims that the ruling CNDD-FDD party has led a systematic attack on members of the opposition and former rebel combatants. The security forces, the intelligence services, and the CNDD-FDD’s youth group known as the “imbonerakure” were thought to be involved. The 2012 HRW on political killings in

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1 The principal researcher on this section was Eva Namusoke.
Burundi includes evidence of one case where at least 37 people were killed in a bar in September 2011.  

In 2009 a Human Rights Watch report on political violence in Burundi details the alleged state killing of members of the leading opposition party, the FNL, and other political opponents between 2006 and 2009. The political violence occurred in the midst of an ongoing attempts at peace talks between the ruling CNDD-FDD and the FNL which in this period was operating as an armed opposition group, not registered as a political party. While both groups were implicated in the violence, the FNL appeared to be targeting dissenting FNL members while the CNDD-FDD appears to have been more systemic in violence against all opposition: “in the first few months of 2009, state agents and unofficial proxies acting with the complicity of administrative officials and security forces have carried out killings, beatings, arrests, and other acts of intimidation, and have enforced further limits on the freedom of association.” CNDD-FDD also implicated in the killings of 3 members of the FRODEBU, the largest political opposition party as well as similar attacks on other opposition parties.

Cameroon

John Kohtem a district leader of the opposition Social Democratic Front (SDF) was beaten to death in August 2004. Doh Gah Gwanyin, a local chief who was also a Member of Parliament representing the ruling Cameroonian People’s Democratic Rally (RDPC), was accused of having ordered the beating. The following year the National Assembly lifted Gwanyin’s immunity so that he could be charged with murder. He and nine others were found guilty and sentenced to 15 years imprisonment. The sentence was subsequently overturned on a technicality.

In April 2003, Patrick Mbuwe, a former secretary of the Southern Cameroons National Council—a group supporting independence for the country’s Anglophone provinces—was shot by men in civilian clothes and later died in hospital. Local sources suspected that the assailants were members of the security forces. Authorities are believed not to have conducted any investigation into the killing.

Central African Republic

The Central African Republic is politically unstable with numerous rebel groups and changes in government; violence from both rebel and government forces.

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6 Ibid. p.5
7 Ibid. pp.7-8
9 Ibid.
In 2013 the Séléka, a coalition of rebel groups that took power in March 2013 has been accused of numerous human rights abuses, largely against civilians but HRW has ‘credible information concerning the deliberate targeting of members of the [Central African Armed Forces] FACA.’

In 2010, Soule Garga, President of the National Federation of Central African Cattle-keepers, was killed in April by members of the Popular Alliance for the Restoration of Democracy (APRD) an armed group that included child members.

In 2009 there were unconfirmed reports—including a witness account from his wife—that Charles Massi, formerly of the government then the president of the rebel group Convention of Patriots for Justice and Peace (CPJP) died in January following torture in prison. France demanded an investigation after President Francois Bozize confirmed Massi’s death in custody but gave no further details.

Chad

Between 1982 and 1990 an estimated 40,000 political opponents were imprisoned, tortured and killed in Chad during President Hissène Habré’s regime. From 1990 Habré lived openly with impunity in neighbouring Senegal, despite the fact that Chadian courts had convicted him in absentia of crimes against the state and sentenced him to death in 2008. Following his June 2013 arrest in Senegal, Habré has been charged with crimes against humanity, war crimes and torture; the trial is ongoing.

Democratic Republic of Congo

Human Rights Watch alleges that in the two years following the 2006 elections, President Joseph Kabila’s government used violence to repress political opposition. At least 500 perceived opponents were deliberately killed or summarily executed in Kinshasa and Bas Congo. In particular, government agents targeted those who supported the defeated presidential candidate Jean-Pierre Bemba and members of the political-religious group Bundu Dia Kongo (BDK). Bemba supporters and BDK youth groups also accused of committing retaliatory acts of violence against police officers and soldiers.

The government’s response when challenged about its actions was denial and cover-up. Bodies were dumped in the Congo River, or secretly buried in mass graves. Where violence had occurred government authorities ordered soldiers or police to guard the morgues and burial sites and

14 Mike Corder ‘Opponents want Chad dictator tried in Belgium’ The Seattle Times (11 Mar 2012) [http://seattletimes.com/html/nationworld/2017723776_1apeuworldcourtbelgiumsenegal.html].
blocked UN officials, human rights monitors and family members of the dead or missing from approaching these areas. They ordered hospitals to provide no information on the numbers of persons killed or injured. In one case in Bas Congo, bodies from a mass grave were removed just before local parliamentarians arrived to gather information about the atrocities.\footnote{We Will Crush You}: The Restriction of Political Space in the Democratic Republic of Congo (New York: Human Rights Watch, 2008) [\url{http://www.hrw.org/sites/default/files/reports/drc1108webwcover.pdf}] p.5.

**Djibouti**

Following legislative elections on the 22 February 2013, protests occurred with people protesting the mass arrest of political opponents and contesting the legality of the election. Security forces opened fire on the protesters, killing 10 individuals. The dead included Youssouf Mahmoud Ahmed a member of the rival political party, Union for National Salvation (USN).\footnote{Djibouti: Political opponents shot dead by security forces during demonstration} (13 Jun 2013) \url{http://www.fidh.org/en/africa/Djibouti,208/Djibouti-Political-opponents-shot-13063}.

**Ethiopia**

In Ethiopia in April 2010, Biyansa Daba, an opposition activist member of Oromo Federalist Congress (OFC), was bludgeoned to death at home by members of the ruling party, according to OFC leaders.\footnote{Ethiopia activist clubbed to death in 'politically motivated' murder} The Guardian (22 Apr 2010) \url{http://www.theguardian.com/world/2010/apr/22/ethiopia-activist-murdered-election}. A month earlier, opposition candidate Aregawi Gebreyohannes, a candidate for the eight-party coalition Medrek which included OFC, was stabbed to death by six unidentified men in Tigray. The opposition claimed it was a politically motivated murder while the government said Gebreyohannes’ death was the result of a bar fight. A man was charged with the murder and is serving 15 years in prison.\footnote{Ethiopia: family & rights group want probe of candidate’s killing} VOA News (3 Dec 2010) \url{http://nazret.com/blog/index.php/2010/03/12/ethiopia_family_aamp_rights_group_want_p}; Amnesty International Annual Report 2011 (London: Amnesty International, 2011) p.140.

Human Rights Watch contended in a report that this repression fits within a pattern of governmental behaviour, citing a campaign against the Ethiopian Teachers’ Association, one of Ethiopia’s oldest trade unions, to show that the strategy of personal attacks on senior or high-profile officials has characterized government attacks on other organizations.\footnote{One Hundred Ways of Putting Pressure}: Violations of Freedom of Expression and Association in Ethiopia (New York: Human Rights Watch, 2010) [\url{http://www.hrw.org/sites/default/files/reports/ethiopia0310webwcover.pdf}] p.43. This campaign included the killing by police officers of the Association’s acting director, Assefa Maru in 1997.

**The Gambia**

In The Gambia in August 2012, 9 death row inmates including 2 Senegalese nationals were executed without warning. Most of the country’s 38 other death row inmates are military personnel convicted of plotting coups. Several of the executed appear to have been former military personnel. Further executions were halted following international pressure.\footnote{The Gambia faces growing diplomatic pressure to halt execution of prisoners} Guardian (1 Sep 2012) \url{http://www.theguardian.com/world/2012/sep/01/gambia-pressure-execution-prisoners}; Amnesty International et al.
Guinea-Bissau

In June 2009, Baciro Dabo, a government minister and would-be candidate in the presidential election scheduled later that month was killed by members of the armed forces. An interior minister claimed the death resulted from Dabo resisting arrest on charges of a coup attempt while Dabo’s chief of staff claimed the men broke into his home while he was sleeping and killed Dabo instantly. The day after Dabo’s murder, the former Defence Minister, Hélder Proença was killed; Proença was also accused of planning a coup. Both Proença and Dabo had been close to the former President João Bernardo [Nino] Viera.

On 2 March 2009, President Vieira was killed in a revenge attack by army troops outside his home. The army troops blamed Viera for the death the day before of the army chief of staff General Batista Tagme Na Wai. Viera and Na Wai were apparently rivals. This was not the first instance of the killing of military figures for political reasons: Admiral Mohamed Lamine Sanha, Chief of Staff of the Navy was gunned down in January 2007 outside his home by unnamed gunmen. Sanha had complained of death threats following accusations he was planning a coup attempt. In November 2000, General Ansumane Mane, the former leader of a rebel group, was killed by President Koumba Yala’s security forces after refusing to take a post in the newly formed government.

Kenya

In January 2008, Melitus Mugabe Were, an opposition politician in Kenya who had recently been elected into parliament was murdered as he left his home. As the murder occurred amidst the post-election violence, it was believed to be politically motivated. The election related violence in Kenya will be discussed in greater detail below.

Liberia

In April 2002, Major General Alfred Glay, an opponent of President Charles Taylor was assassinated in Ghana by two Liberian men connected with Taylor’s National Patriotic Front of

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Liberia (NPFL).\(^{30}\) Glay’s family requested an investigation into the murder, particularly claiming for an inquiry into the activities of the Liberian director of security services.\(^{31}\)

Libya

In July 2011, rebel leader Gen. Abdel Fattah Younes was killed in gunfire. Fattah had been called for questioning by fellow rebels in Benghazi over fears that Fattah still had ties to the Gaddafi regime. The identities of Fattah’s killers remain unclear although it is believed the murder was the work of pro-Gaddafi agents.\(^{32}\)

In July 2013, prominent political activist Abdulsalam Elmessmary was assassinated in the Al-birkah district of Benghazi. Local authorities reported that Elmessmary was killed as he walked home from his local mosque after Friday prayers. He was shot at close range with a single bullet to the heart. Elmessmary, the founder of the 17 February Coalition, had been an outspoken critic of the controversial Political Isolation Law, (a decree to bar Gaddafi-era officials holding public office), passed in May. This was the first political activist to be murdered in a spate of politically-motivated killings, up to that point targeted against current and former members of the security forces.\(^{33}\)

Mali

After a military coup in March 2012, a group of paratroopers (“red berets”) loyal to the deposed President Touré, attempted a counter-coup in April. Dozens of these military and police officers were arrested and, rather than being held in an official detention facility, were transferred to the Kati military camp, the headquarters of the junta. The new authorities were accused of torture, enforced disappearances and extrajudicial executions of those in custody. In one case, 21 soldiers were abducted from their cells at the Kati camp during the night in May.\(^{34}\)

In December 2013 a mass grave containing 21 bodies was discovered following the arrest of Gen. Amadou Haya Sanogo, who led the coup in March 2012. It was suspected that these bodies were those of the disappeared soldiers, confirming suspicions that they had been extrajudicially executed.\(^{35}\)

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Nigeria

In Nigeria the assassination of political figures is a widespread problem. In January 2012, a former chairman of the People’s Democratic Party (PDP) of Kano State was arrested for sponsoring the assassinations of state legislators Alhaji Abba Garko of the PDP and Alhaji Isah Kademi of the opposition All Nigerian People’s Party (ANPP) in late 2011. The chairman, Alhaji Sale Kura, is alleged to have paid a gang of assassins N100,000 to kill the two men.  

In January 2011, Borno State gubernatorial candidate Modu Fannami Gubio of the opposition ANPP was gunned down on his way to his father’s house.  

In late July 2006, gubernatorial candidate Funsho Williams was stabbed to death in Lagos. Three weeks later in Ekiti State another gubernatorial candidate, Professor Ayo Daramola, was murdered in a similar manner. Prior to his murder, Daramola is said to have been the victim of harassment from the government of Ekiti State, led by Governor Ayo Fayose. Fayose supporters apparently send Daramola a security report demanding he leave the state for his safety. Four other politicians were killed in 2006: Pat Origbe, Lati Osogbo, Tony Ozioko and Jesse Arukwu.  

Peter Eboigb, a PDP chieftain was killed in August 2005 shortly after announcing his intention to run in local elections in Edo State.  

Initial reports suggested the murder was a fatal armed robbery; however President Olusegun Obasanjo opened an inquiry into the killing. Dikibo’s family questioned the integrity of the inquiry and blamed the PDP for the murder.  

Marshall Harry, the National Coordinator for the South-South geopolitical zone in the ANPP Presidential Campaign was murdered in March 2003, a month before the presidential election. The ANPP and its presidential candidate Gen. Muhammadu Buhari claimed that agents of the PDP

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43 Kayode Fasua ‘Murder of Dikibo, PDP’s Vice-Chair’ National Mirror (14 Apr 2013) [http://nationalmirroronline.net/new/murder-of-dikibo-pdps-vice-chair/].
45 Kayode Fasua ‘Murder of Dikibo, PDP’s Vice-Chair’.
were responsible for the assassination. Four men were arrested and spent eight years in custody before being acquitted and released due to a lack of evidence.46

In February 2003, Ogbonnaya Uche, the senatorial candidate of the ANPP in Imo State was killed in what he believed was a politically motivated murder.47 Uche had been planning to run in the April 2003 local elections. An Imo State government official was arrested and confessed to his involvement in the murder.48

Barnabas Igwe, a local chairman of the Nigerian Bar Association and vocal critic of the former governor of Anambra State was murdered along with his wife in September 2002. According to an eye witness account, a gravely injured Igwe stated “What killed me was government.” Lawyers in the region accused the Anambra government’s violent militia, the Bakassi Boys of the murders.49

In August 2002, Kwara State Chairman Alhaji Ahmad Sardauna Ahman Pategi of the opposition PDP was assassinated by armed men suspected to be hired killers.50

In December 2001, Chief James Ajibola “Bola” Ige a former Attorney General and Minister of Justice was assassinated in Osun State.51 The main suspect, a rival government aspirant, Senator Iyiola Omisore was tried and freed of Bola’s murder. However, in February 2013 controversy surrounding the case was reignited with claims that Senator Omisore, as part of his latest campaign, was going to present a member of Bola’s family to exonerate the Senator of the murder charges. Bola’s family alleges any such member is an “imposter” and they are still waiting for justice.52

Rwanda

In 2013 Patrick Karegeya, the former head of Rwandan’s foreign-intelligence service and an exiled member of the opposition party the Rwanda National Congress (RNC), was found dead in South Africa, he had been strangled.53 President Paul Kagame denied the RNC claims that his government was responsible for the murder. However, he added: “I actually wish Rwanda did it. I really wish it,” referring to Karegeya as a security risk and comparing his death to the 2011 assassination of Osama Bin Laden.54

In July 2010, the body of Andre Kagwa Rwisereka, Vice President of the Democratic Green Party (which had been unable to gain registration in order to contest the August 2010 election) was

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46 ‘Obasanjo had a killer squad as president — Former associate’ Punch (21 Apr 2013) [http://www.punchng.com/news/obasanjo-had-a-killer-squad-as-president-former-associate/].
47 Peter N. Nwokolo ‘Combating political assassination in Nigeria: the role of the mass media’
found in a river having suffered extensive wounds.\footnote{Xan Rice ‘Rwandan opposition leader found dead’ \textit{The Guardian} (14 July 2010) [http://www.theguardian.com/world/2010/jul/14/rwanda-opposition-politician-found-dead].} Rwisereka had told friends he feared for his death due to his outspoken opposition to the Rwandan Patriotic Front (RPF). A HRW report claims Rwisereka had been threatened as a result of his defection from the RPF.\footnote{Human Rights Watch ‘Rwanda: allow independent autopsy of opposition politician’ (21 July 2010) [http://www.hrw.org/news/2010/07/20/rwanda-allow-independent-autopsy-opposition-politician].} The Rwandan government later denied claims they were involved in the murder of Rwisereka and two other attacks—the fatal shooting of a journalist and the wounding of the former head of the Rwandan army.\footnote{Rob Walker ‘Rwanda government denies link to assassinations’ \textit{BBC News} (5 August 2010) [http://www.bbc.co.uk/news/world-africa-10879859].}

\textbf{South Africa}

In June 2013 Nkululeko Gwala was fatally shot on his way home. Gwala was a member of Abahlali baseMjondolo (AbM) and had been labelled a “troublemaker” five hours previously by the regional leader of the African National Congress (ANC).\footnote{David Bruce ‘A Provincial Concern: Political Killings in South Africa’ \textit{South Africa Crime Quarterly} 45 (Sept 2013) p.13.}

A 2013 article by David Bruce presents evidence to suggest there have been around 450 political killings since 1994, mainly in KwaZulu-Natal in the mid to late 1990s. Around 120 deaths described as political killings occurred from 2003-2013.\footnote{Ibid. p.17.} The killings appear to largely be the result of local political rivalries and connections to criminal networks.\footnote{Ibid. pp.13-14.}

\textbf{Swaziland}

In April 2008, opposition leader Gabriel Mkhumane of the People’s United Democratic Movement (Pudemo) was shot dead in South Africa. Despite official reports stating Mkhumane was killed by criminals, fellow opposition supporters claimed he had been murdered by government operatives. A founding member of Pudemo, Mkhumane had lived in exile in South Africa since the 1980s.\footnote{Donny Nxumalo ‘Who killed Pudemo leader?’ \textit{Mail & Guardian} (24 Apr 2008) [http://mg.co.za/article/2008-04-24-who-killed-pudemo-leader].} In October 2008, a police reservist was arrested and charged with armed robbery, the murder of Mkhumane and the rape of Mkhumane’s girlfriend; Pudemo stated they hoped the arrest would bring closure to the case.\footnote{Thabisile Khoza ‘SA man held for leader’s killing’ \textit{News 24} (29 Oct 2008) [http://www.news24.com/Africa/News/SA-man-held-for-leaders-killing-20081029].}

\textbf{Tunisia}

Two opposition leaders in Tunisia were killed within 5 months with same automatic weapon in 2013. Mohamed Brahmi was killed in February while Chokri Belaid was gunned down in July. The government blamed a jihadi group, some of whom were already in custody while the family of Brahmi blamed the government. Brahmi’s family blames the government for his death either due to the general insecurity in the county or because the government was working with extremist
groups to target political opponents. Belaid’s friends and family claim he was aware his life was under threat and allege that the government was to blame for his murder.

Uganda

In 2013, Gen. David Sejusa, one of President Yoweri Museveni’s closest allies, levelled accusations at the President that he was involved with the murders of Major General Kazini in 2009, Brigadier Noble Mayombo in 2007, and Dr Andrew Kayiira in 1987. All three men had become opponents of Museveni with Kazini and Kayiira both having been charged with treason and been in the process of leaving the country at the time they were killed. The families of all three men and the leader of the opposition Democratic Party, Nordert Mao, called for details of the investigations into the murders to be made public.

Zimbabwe

In February 2012, two members of the opposition party the Movement for Democratic Change – Tsvangirai (MDC-T) were killed within one week. Sharukai Mukwena and Shepherd Bandau were allegedly murdered by members of youth militias associated with the ruling Zimbabwe African National Union – Patriotic Front (ZANU-PF). Mukwena was murdered after finding his granary set on fire by the gangs. An MDC-T spokesman alleged that the cutting off of Mukwena’s hands was a political symbol: the emblem of the party is the open palm, so the severing of both his palms was a clear message.

The murders and violence that so dramatically marked the 2008 elections in Zimbabwe will be discussed in greater detail in the following section. The direct targeting of opposition activists was part of the overall campaign of intimidation. In the week ahead of the presidential run-off in June, the MDC alleged, four of its activists and the wife of the Mayor of Harare (an opposition member) were murdered. Abigail Chiroto (wife of mayor Emmanuel Chiroto) had been kidnapped along with her four-year-old son by men who, according to an MDC statement, wore military uniforms. ZANU-PF denied any responsibility for the murders.

B: Perpetrators & Victims

The perpetrators of political killings tend to fall within three categories: (i) official government actors such as the police, intelligence and security services, or the army; (ii) government-
sponsored groups or militias formed of ruling-party supporters; and (iii) non-government actors, including hired assassins or rebel groups, though at times it is difficult to ascertain the level of government involvement of such violence.

Cases of alleged government-sponsored killings are particularly difficult to prove and will likely be the most challenging when addressing methods of prevention. It is also difficult to determine if certain groups or individuals affiliated with political parties acted independently of those parties. In other cases, particularly where informal militias have been formed, their membership appears to be made up of young men and there is debate over the control government forces have over their actions.

In cases where the perpetrator is a state-agent that is authorised to use certain legitimate force it can be difficult to draw a categorical line between incidence of political killing and excessive use of force. As was discussed in the previous chapter, the discriminatory application of force against certain political demonstrations can be one way in which the line is blurred.

The victims of this type of unlawful killing are largely opposition political leaders or activists. Killings may be preceded by targeted death threats. Family members can also be victimised.

C: Structural Factors & Social Norms/Phenomena

There appear to be more instances of political killings in the period leading to and directly after elections when political opponents and their supporters are most vocal. In states where the government has a tighter control of police forces or a dedicated secret police, these have been used in the intimidation and killing of opponents.

In some cases, as in Burundi, cycles of violence and systemic repression are repeated in tit-for-tat attacks between government forces and opposition groups. Again, in the Burundian case, opposition party members face the difficult decision of either staying in their political party and risking attack from the ruling party, or becoming a member of the ruling party and risking attack from the opposition group.

In countries with unstable governments such as the CAR cases, there is a lack of control over security and police forces with a coalition government formed of rebel groups—including fighters as young as 13—that are difficult to centrally govern. Nigeria has an extensive list of political assassinations, often the result of local political rivalries as a result of a development of a ‘culture of political violence’ as described in one of the many articles concerning the subject. Cases of sponsored killings and brutal armed attacks were almost a common part of political life in particular regions of Nigeria and especially in the run up to elections.

It has been suggested that the high (monetary) value attached to political office in poorer regions can mean that localised political contestation is likely to be characterised by manipulation and at times intimidation. However for this to translate into political killings it is necessary for actors to have access to networks including individuals willing to kill.

70 Bruce, ‘A Provincial Concern’ p.22.
D: “Best Practice”

A key point for consideration when looking at countries where there haven’t been many recent large scale killings of political figures is the historical perspective. This is particularly the case in countries like Chad, Rwanda and Ethiopia. In Ethiopia there were two individuals killed in 2010 but little evidence to suggest such events in previous decades. However, in 1976-8 the ‘Red Terror’ occurred; this has been described as a systematic government repression of political opponents with an estimated death toll of 10,000 people. The evidence of such violent repression in the lifetime of many Ethiopians undoubtedly has an influence on the expression of political opposition in the country. As a result, it is important to note the full historical context of countries that have lower rates of political killing and political violence in general. This is to say that it is not enough to simply look at the countries with fewer recent cases for examples of “best practice”.

A key feature of states with particularly high rates of political killings such as Nigeria and Guinea-Bissau is the lack of justice for those murdered and the sense in which perpetrators act with impunity. There appears to be a fine line between political opposition and terrorism in some states and as such violence against such individuals is framed as self-defence. This appears to be the case in Rwanda for example where, following the 2013 killing of a Rwandan political opponent, President Kagame made a veiled reference to the murder, denying responsibility but adding, “No one will betray Rwanda and get away with it. Regardless of who you are, there will be consequences.” In this case Kagame viewed Karegeya as a security threat and hence his death as justified. The difference between legitimate political opposition and terrorism will be an important starting point.

Extensive and transparent inquiries into the deaths of political leaders and the punishments of their killers will be an important step in curtailing such violence. The African Union is a key organisation that has been involved in efforts to penalize high-profile perpetrators of political killings. On the 23 August 2012, the AU together with the Senegalese government signed an agreement to create a special tribunal in Senegal to try the former Chadian President Hissène Habré who had been living in Senegal since 2000. In 2013 Habré was charged with crimes against humanity, torture and war crimes by the Extraordinary African Chambers and placed in pre-trial detention; the case remains ongoing. Habré’s arrest was the result of 15 years of work by Chadian accusers and an international legal team as well as pressure from human rights NGOs. The Habré trial is an example of cooperation between an African international body, international NGOs and judicial structures on the continent in a case where African legal and supranational bodies have been used to punish an African individual.

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74 Michael Bronner ‘Former Chad leader Hissène Habré charged with crimes against humanity’ *The Guardian* (3 Jul 2013) [http://www.theguardian.com/world/2013/jul/03/chad-hissene-habre-charged].

In this example, the AU has been the key international actor, demonstrating a belief in using the systems on the continent to punish perpetrators in Africa. This is a particularly salient point when compared to difficulties that have arisen following the International Criminal Court’s (ICC) high-profile indictments against Kenyan President Uhuru Kenyatta and Sudanese President Omar al-Bashir. Despite the differences in the crimes both men are charged with, both the Sudanese and Kenyan governments have refused to cooperate with the ICC, making trials all but impossible in both of cases. Crucially, the AU has sided with African states claiming a bias against leaders on the continent and urging its members to “speak with one voice” against the ICC’s criminal proceedings on sitting African presidents. As African countries become more wary of organisations like the ICC, it appears that Africa-led initiatives will be the preferred method of approaching the persecution of Africans accused of political violence.

As there is an increased incidence of political killings around the times of elections, this has been a particular period in which governments and non-governmental organisations have taken steps to ensure the safety of citizens. In a 2010 report, ‘Electi

-related Disputes and Political Violence’ co-written by the AU and the International Peace Institution (IPI), a number of recommendations were given for the prevention of election conflicts using a number of entry points.

Media sources, NGOs and human rights watch-dogs have been instrumental in highlighting the murders of political opponents, publishing reports and calling on various national and international bodies to investigate the crimes and punish those responsible. A free and open climate for journalists and civil society is a key mechanism for puncturing a climate of impunity.

Bibliography & Further Reading


Election-Related Violence

This section assesses election related violence, providing an account of the frequency, intensity and motivation for killings causally related to elections in Africa. This requires an analysis of killings carried out throughout the election period, including before the election, on the day of the vote itself, and after the election.¹

This is important to examine for four reasons. First, such violence may affect the outcome of the election itself: violence resulted in an extremely low turnout in the 2007 Nigerian polls, and encouraged opposition candidate Morgan Tsvangirai to withdraw from the 2008 Zimbabwean run-off elections.² Second, election violence may affect the standing of the democratisation process and democracy generally: survey results suggest that Nigerians and Zimbabweans are more sceptical of elections “as a means to represent the true voice of the people”, compared to their counterparts in countries without extensive election violence.³ Third, election violence can cause further violence: indeed, killings following the 2010 Côte d’Ivoire election arguably provided impetus for renewed civil war.⁴ Finally, and most obviously, the deaths are important in themselves, and their causes should be understood in order to prevent similar future killings.

Providing an overview of election related killings in Africa raises a number of methodological issues. It is difficult causally to determine precisely which killings are related to elections, and which simply occur during the election period but are unrelated to the process itself; many media reports label deaths as election killings if the victim has political linkages or if the event coincides with the election, without establishing any definite connection to the election. Similarly, some killings have mixed motives, as political incentives and pre-existing criminal intentions coincide;⁵ nonetheless, since at least part of the motives for these killings is related to elections, this chapter reports such instances.

Similarly, protests in North Africa since 2011, part of the ‘Arab Spring’ phenomenon, have frequently been held for more than one reason: heralded by long-term grievances, calling for elections or protesting election results, and sparked by separate events. This section attempts to identify which killings during the ‘Arab Spring’ have been caused by elections, but categorisation will be imprecise.

A further problem is that no authoritative and comprehensive database of election violence exists. This issue is compounded by the uneven reporting of election related violence in Africa: observer missions, non-governmental organisations (NGOs), and the press all focus more on certain countries than others, and neglect some elections. This chapter therefore relies on a range of sources. Since the accounts provided by different sources vary, this chapter has noted many instances where reportage varies and where details of events are uncertain.

¹ The principal researcher on this section was Sam Sherman.
Finally, it is worth noting that an account of killings should not be used as a full account of election violence, or even to indicate the extent of violence. Some particularly violent elections have happened not to result in any deaths, while some elections have caused killings but almost no other forms of violence.

A: Geographical Distribution

This survey runs from approximately 1990 to 2013. The year 1990 is taken to signify the general (re-)introduction of competitive elections in Africa; however, since not all African countries ‘democratised’ at this time, this report focuses only on elections after 1992 in some countries, and even more recently in others.  

The survey will be divided into three sections. The first section provides details of those countries which have experienced high numbers of election related killings, typically in the hundreds, either in single severe events or through numerous elections with some killings. This includes many of sub-Saharan Africa’s most economically and politically significant states, such as South Africa, Kenya and Nigeria.

The second section provides less detailed accounts of countries in which there have been low numbers of election related killings, albeit often accompanied by other forms of violence and harassment. The third section provides a list of countries in which no election related killings have occurred. This includes various types of country and government, including wealthy countries like Botswana, and poor democracies like Benin.

I. Countries with high levels of election-related killings

Democratic Republic of Congo

Presidential and legislative elections in the Democratic Republic of Congo in November 2011 resulted in more than 200 killings, primarily perpetrated by state security forces against opposition politicians and supporters. As well as targeted attacks and lethal policing of demonstrations, many of those detained by the Republican Guard and the police were later killed. The worst violence was in the capital, Kinshasa, where between 26 November and 31 December 2011 at least 57 supporters or alleged supporters of the opposition were killed by state security forces. Violence was also particularly bad in Kasai Oriental province.
The election was held on 28 November 2011, and President Joseph Kabila declared as the winner. The killings primarily occurred after the election, which was criticised by international election observers as lacking credibility. However, there were also reported deaths before the election: a demonstration by the opposition Union pour la Democratie et le Progres Social (UDPS) party on 6 October resulted in 1 death after police used teargas and fired rounds into the air. Over half of the violence has been attributed to state-security forces, including the Kabila-controlled Republic Guard. Militias loyal to Kabila were also active, and militia violence in North Kivu and South Kivu increased during the election. The UN High Commissioner for Human Rights, Navi Pillay, has warned against impunity for the violence in 2011.

The 2006 Congolese elections, which were the first since the formal ending of the civil war, also resulted in large-scale killing, particularly in the West of the country. Joseph Kabila was declared the winner of the October presidential run-off, after his Alliance de la Majorité Présidentielle (AMP) won the national assembly elections in July. Mediation by a Comité International des Sages, supported by the UN and AU, was important in persuading opposition leader Jean-Pierre Bemba to cede defeat to Kabila following the election. Nonetheless, after Bemba refused to assimilate his militia into the national army, street battles between it and the army resulted in hundreds of deaths and state security forces (including the army and Republican Guard) subsequently engaged in targeted killings of those loyal to Bemba. There was also violence in the run up to the election, including the targeted killing of journalist Franck Ngyke and his wife on 2 November 2005.

Ethiopia

National and regional parliamentary elections in Ethiopia in 2005 were marred by high numbers of killings. The period leading up to the vote on 15 May 2005 was peaceful, but disputes over the results and later repeat elections in some constituencies led to protests and eventually killings. Unofficial reports circulated in May had suggested large opposition victories, and so after official results released in May and June provided the ruling Ethiopian People’s Revolutionary Democratic Front (EPRDF) with majorities, protests began. At least 40 people were reported killed by state security forces, following a crackdown on protests held on 6-8 June.

After re-runs on 21 August, which took place in the context of what observers described as unnecessarily large security forces and intimidation, it was announced that the EPRDF had won

11 Human Rights Watch World Report 2013 p.96
13 MONUSCO/OHCHR ‘Report by the UN Joint Human Rights Office’ p.4,12.
60% of the vote. The protest continued, and between June and November the security forces were reported to have killed 193 people involved in this political activity; 6 policemen were also killed during the protests.

Earlier elections in Ethiopia had also been marred by violence. On the day of the May 2000 elections, an EPRDF supporter killed 3 people by throwing a grenade into the home of an opposition election observer; there were also incidents of election-related killings in the pre- and post-vote period, including the killing of 7 opposition supporters during a demonstration in May 2000.

In contrast to 2005, election-related violence in 2010 was on a smaller scale. It primarily involved pre-vote targeting of opposition leaders, notably the targeted killing of opposition candidate Aregawi Gebreyohannes on 1 March 2010. The Government claimed that the killing was due to a personal feud, but the chief of Gebreyohannes’ Arena Tigray Party alleged that it had been foreshadowed by weeks of political harassment of the candidate. The systematic restriction of political dissent resulted in a 99.6% victory for the ruling EPRDF party.

Guinea

Presidential elections in Guinea in 1993 were marred by violence. Demonstrations against President Lansana Conté in September 1993, calling for multi-party elections, were brutally suppressed. At least 18 people were killed, though some reports suggested that there were as many as 68 deaths. 30 opposition political parties had organised the initial rally, on 28 September, demanding the establishment of a transitional government of national unity; 2 soldiers were reportedly arrested following the incident, but no further action was taken by the Government. This clash may also have had ethnic links: the primarily Sou-Sou police fired upon the overwhelmingly Fulani and Malinke demonstrators.

In the days immediately before the election, in December, six Guineans were killed. The election itself resulted in twelve deaths. Indeed, the electoral violence was so serious that one election observation organisation cancelled its mission, arguing that “even a nominally representative election was beyond reach”.

More recently there has been violence in Guinea related to the conduct, or late delay, of elections. In September 2010 opposition supporters gathered in a stadium in Conakry in order to pressure Captain Moussa Dadis Camara, who became President in 2009 following a coup, not to stand in upcoming elections. Presidential security forces led an assault which killed at least 150 people, an event now referred to as “Bloody Monday”.

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22 Ibid.  p.6
31 Ibid. p.19.
during protests between March and May 2013 over the delaying of legislative elections. Opposition parties called for the demonstrations after President Alpha Conde failed to consult them over polls. One of the killings was perpetrated by opposition supporters who shot dead a trainee policeman.

**Kenya**

Post-election violence following Kenyan general elections in December 2007 resulted in approximately 1,300 killings. President Mwai Kibaki’s appointment of a controversial electoral commissioner, who was perceived to be partisan, created initial distrust. This was then compounded by mismanaged result counting and suspected fraud. The Commission of Inquiry into the Post-Election Violence in Kenya (or ‘Waki Commission’) concluded in their final report that much of the violence was planned and involved collusion with politicians and business leaders.

As in previous elections, ethnicity had played a key role in the 2007 election campaign. The opposition Orange Democratic Movement (ODM) with its presidential candidate Raila Odinga, a Luo, was supported by the Luo, Luhya and Kalenjin and represented in the Nyanza and Western Provinces and Rift Valley, while the Party of National Unity (PNU) led by incumbent president Mwai Kibaki, a Kikuyu, was supported by the Kikuyu and represented in the Central and Eastern Provinces, as also Nairobi, the Coast Province and Rift Valley. Moreover, according to Human Rights Watch, ODM built its coalition by exploiting the perception that the Kibaki government governed in the interests of the Kikuyu, while PNU deliberately targeted the Luo.

In broad terms, the ensuing violence between PNU supporters and the ODM coalition could be roughly translated ethnically as a Kikuyu-Meru alliance fighting a Luo-Kalenjin alliance. Notably, both Government and opposition politicians encouraged or organised killings in the Rift Valley, Coastal and Western regions, and Nairobi, in particular in January and February 2008. Deaths were both due to mass events like riots and community violence, and due to targeted killings. Furthermore, violence drew on pre-existing grievances based on land and tribal issues.

The killings were stopped after mediation by former-UN Secretary General Kofi Annan, and the drafting of a power sharing agreement between Kibaki and Rail Odinga, the leader of the opposition. Four Kenyans, including the current President Uhuru Kenyatta, continue to face charges in the International Criminal Court (ICC) related to the violence.

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33 ‘At least three killed in violent Guinea election protest’ Reuters (3 May 2013) [http://www.reuters.com/article/2013/05/03/us-guinea-politics-idUSBRE94210J20130503].
34 ‘Polls close in Guinea’s first post-coup parliamentary vote’ BBC News (28 September 2013) [http://www.bbc.co.uk/news/world-africa-24314199].
41 European Parliament ‘How the EU Can Support Peaceful Post-Election Transitions of Power’ p.10
42 Ibid.
43 ‘Kenya president accused of backing post-election violence that killed 1,000’ Guardian (22 May 2013) [http://www.theguardian.com/world/2013/may/22/uhuru-kenyatta-election-violence-report].
was established as part of the power sharing agreement, chaired by a Judge on Kenya’s Court of Appeal, Justice Waki.

The March 2013 elections, following which Uhuru Kenyatta was elected as President, saw some clashes, but not on the scale of 2007/8. This may be partly due to an active effort by politicians and supporters alike to avoid another similar crisis; partly due to international pressure, including that from the ICC; and also partly due to the positioning of state security forces in conflict-prone regions. Nonetheless, impunity and structural problems remain unaddressed. There were isolated reports of killings, for example 5 deaths during rioting in Kisumu, western Kenya, and the police shooting of 3 rioters in the Dandora slum in Nairobi, as well as 30 killings in Mandera, North Eastern Province, following clan-based violence over control of constituencies. Political violence is often tied to ethnic tensions: the Kenyan Red Cross produced a report in January 2012 suggesting 200 killings had occurred due to pre-election ethnic conflict.

Prior to 2007, elections in Kenya had also been marred by killings, notably in 1992 and 1997, aimed primarily at influencing the results before voting took place. The areas in which election-related killings were most common in 2007/8 tended to be regions of violence in those earlier elections. Tribal conflict increased in the run-up to the 1992 election; the most severe event was in the Kaya Bombo region. No action was taken to punish the perpetrators of this violence, and the 1997 election witnessed a similar pattern, again most notably in Kaya Bombo. In 1997 violence was also encouraged by politicians in order to gain re-election: the Digo people on the Coast were provided with arms to displace migrants who had voted against parliamentary representatives, and in the process 130 migrants died. In 2002 the elections were comparatively peaceful. However it is noteworthy that several armed youth groups that emerged in 2002, including Mungiki, Kamjesh, and Jeshi la Mzee, were directed by political leaders and would go on to play a significant part in the 2007/8 violence.

Côte d’Ivoire

Violence during the 2010-2011 post-election crisis in Côte d’Ivoire resulted in approximately 3,000 killings. Following the resolution of the country’s civil war, first round presidential elections had occurred relatively peacefully. However, the November 2010 run-off was between incumbent President Laurent Gbagbo and opposition leader Alassane Ouattara, who had effectively led the rival factions during the civil war, and so clashes increased thereafter. Significantly, both former warring parties were still heavily armed. Ouattara won the run-off election, but Gbagbo refused to step down.

Killings initially targeted Ouattara’s alleged supporters in Gbagbo’s strongholds, notably the commercial capital, Abidjan, and were perpetrated by state soldiers and elite guards, as well as

48 Mwongera, ‘Making sense of political-related violence in Kenya’.
50 Mwongera, ‘Making sense of political-related violence in Kenya’.
militias and youth groups associated with Gbagbo.\textsuperscript{52} This violence, from December 2010 to late-February 2011, was aimed at keeping Gbagbo in power. State-controlled media encouraged violence directed against northern Ivoirians and West African immigrants, and roadblocks around Abidjan were used to find these groups.\textsuperscript{53}

More widespread conflict began in March, when pro-Ouattara forces launched a counter-attack. This conflict was also delineated by ethnicity and religious association. Killings were particularly concentrated in the historically volatile western regions, and 130 pro-Ouattara individuals, and several hundred pro-Gbagbo men, were killed in March alone.\textsuperscript{54}

The killings lasted for five months until May 2011, by which time Ouattara’s soldiers, supported by international troops, had removed Gbagbo. The UN Operations in Côte d’Ivoire (UNOCI) played a role throughout the violence, helping to protect civilians and also to effect Gbagbo’s arrest. The final phase of the crisis was marked by hundreds of killings, first of perceived Ouattara supporters in Abidjan by Gbagbo loyalists, and then later summary executions by Ouattara’s forces as they consolidated their control of the city.\textsuperscript{55} Tensions remain, not least because although over 140 Gbagbo supporters have been charged in relation to their post-election crimes, not a single Ouattara supporter has even been arrested.\textsuperscript{56}

Presidential elections in October 2000, and legislative elections held in December, were also marred by as many as 500 killings of protestors by state security forces. Demonstrations were held concerning the Supreme Court’s decision to exclude Ouattara from running, claiming that he had not proved Ivorian parentage. Most of the killings were perpetrated by gendarmes and police officers against members of Ouattara’s Rassemblement des Républicains (RDR) party, notably during demonstrations on 31 July 2000 and 9 September 2000. In October, 57 bodies, mostly of Muslims, were found in Yopougon, Abidjan and a further 18 bodies, which had been shot, were found ashore next to Abidjan’s lagoon following the elections.\textsuperscript{57} The root of much of this violence was problematic land tenure legislation, nationalism questions, and conflict between indigenous and non-indigenous (including Muslim and alleged northerner) inhabitants.\textsuperscript{58}

Elections held in 1995 also involved killings, although on a smaller scale. Ten killings occurred during anti-Government protests in October, including of two members of the security services and eight demonstrators. Two of those deaths occurred on the day of the vote.\textsuperscript{59}

Madagascar

The results of the December 2001 Malagasy Presidential elections were disputed, with allegations of tampering, and both Marc Ravalomanana in Antananariva and President Didier Ratsiraka in Toamasina subsequently claimed to be head of state. The subsequent violence resulted in approximately 100 deaths, before Ravalomanana gained control in June 2002, and was declared President.\textsuperscript{60}

\textsuperscript{52} Ibid. p.10.
\textsuperscript{53} Human Rights Watch World Report 2012 p.97.
\textsuperscript{54} Ibid. p.99.
\textsuperscript{55} Ibid. p.99ff.
\textsuperscript{56} Ibid. p.92.
Supporters of both Ratsiraka and Ravalomanana were responsible for the violence. Notable examples include the 2 February 2002 killings of the Director of the BTM-BAO bank by pro-Ratsiraka forces led by Lieutenant Colonel Assolant Coutiti. Coutiti and other members of the security forces in Antsiranana Province were reported to have conducted other political killings. On 19 March 2002 the Regional Director of the Office of Copyrights was killed by men suspected of belonging to the gendarmerie linked to Ratsiraka. On 9 April, a Ratsiraka supporter was killed in Antananarivo during interrogation by security forces associated with the Prime Minister.\footnote{Ibid.} There were also a number of killings associated with mobs and demonstrations. On 27 February, a Ratsiraka supporter was killed after he was attacked by a group of Ravalomanana supporters. A Canadian missionary was killed in April after being shot while watching a demonstration in Fianarantsoa, and there were suggestions that this was a targeted killing by militias associated with Ratsiraka. The use of excessive force at political protests resulted in a number of deaths by security forces, including the death of a child who was shot with a tear-gas canister during a pro-Ravalomanana protest on 7 January. Two others were killed on 15 March after clashing with military forces loyal to Ratsiraka.\footnote{Ibid.}

This scale of the violence in 2002 was unusually extreme. There was an isolated incident of violence during the 2013 elections, but it was not directly related to the election.\footnote{Jean Liou ‘Isolated outbreaks of violence as Madagascar votes in first post-coup election’ BusinessDay (27 October 2013) [http://www.bdlive.co.za/africa/africannews/2013/10/26/isolated-outbreaks-of-violence-as-madagascar-votes-in-first-post-coup-election].}

**Nigeria**

Nigeria’s 2011 presidential elections were described as “Best Run, but Most Violent” by one prominent report.\footnote{Dorina Bekoe ‘Nigeria’s 2011 Elections: Best Run, but Most Violent’ Peace Brief No. 103 (15 August 2011) p.1.} The elections were relatively free because of President Goodluck Jonathan’s appointment of an independent and respected electoral commission chair.\footnote{European Parliament ‘How the EU Can Support Peaceful Post-Election Transitions of Power’ p.11.} Nonetheless, 165 killings occurred in the build-up to the election, especially in President Jonathan’s stronghold, south-east Nigeria.\footnote{Human Rights Watch World Report 2012 p.143.} Demonstrations over the results of the April vote, in many cases exacerbated by pre-existing tensions, were particularly prominent in northern cities, where the killings primarily of the Christian minority, but also of traditional leaders, resulted in as many as 1,400 deaths.\footnote{European Parliament ‘How the EU Can Support Peaceful Post-Election Transitions of Power’ p.11.} Retaliation in the southern and middle region of the country was directed against Muslim populations.

Violence may have been caused by the belief that opposition candidate and northerner Muhammadu Buhari should have won, and by Buhari’s failure immediately to condemn violence.\footnote{Bekoe, ‘Nigeria’s 2011 Elections’ p.2.} The killings also echo long-standing expectations of sharing power, and regional and religious tensions. Intercommunal violence was also encouraged by the state and local governments’ continued discrimination of ‘non-indigenes’ (those who cannot trace ancestry to the area’s ‘original’ inhabitants).\footnote{Human Rights Watch World Report 2012 p.144.}

The violence in 2011 was not particularly unusual in Nigeria: it followed a similar pattern to earlier elections, though with more deaths. Politicians often encourage such violence, and tap into
existing grievances. At least 700 people were killed during riots and street fighting in November 2008, following disputes over alleged local election vote rigging in Jos in Nigeria’s Middle Belt. A Commission of Inquiry into those events found that the riot was sparked by Hausa/Fulani Muslim youth from Ali Kazaure and some Muslim areas in Jos North early on 28 November. The trouble started before the results were declared, with the Imam reportedly calling for war on the infidels. This apparently occurred when, after the Hausa/Fulani were leading the elections, the results of the indigenes coming in made clear they (indigenes) were winning. Reportedly, although the Christians first responded in self-defence, they too engaged in killing the Hausa/Fulani. Despite extensions granted to them, the Hausa/Fulani Muslims did not present their perspective to the Commission, but communicated via letter (suggestive of their dissatisfaction at what they perceived to be rigged local government polls) that Hausa/Fulani Muslims from Jos North would not appear before the Commission. It should be noted, however, that Hausa/Fulani Muslims also perpetrated crimes against other Muslims, such as the Yoruba.

Violence in 2007 was not as extreme as in 2011 (about 300 died in 2007), but the pattern was the same as in 2011 and earlier in 2003, and resulted in a very low turnout. One prominent development organisation described this repeated electoral violence in Nigeria as protracted social conflict, defined by “civil strife, heightened social and political tension, sporadic use of violence, but in which armed conflict is not formally declared.”

The elections in 1999, the first of the newly instated multiparty system in Nigeria, were relatively peaceful. However, federal and state elections in April and May 2003 resulted in at least 100 killings, primarily perpetrated by members and supporters of the ruling People’s Democratic Party (PDP). Killings resulted from intra-party clashes, targeted killings of political opponents, and community unrest, particularly in the oil-rich Niger Delta.

Human Rights Watch condemned the impunity which protected the perpetrators of the 2003 violence, as well as the blinkered international support that was provided to President Obasanjo, and which allowed a similar situation to occur during March 2004 local elections, during which dozens were killed before and after the vote. Although the PDP was responsible for most of the killings, through hired militias, other parties including the All Nigeria’s People’s Party (ANPP), United Nigeria People’s Party (UNPP), and the Alliance for Democracy (AD), also initiated some violence, and carried out retribution killings.

As Cyril Obi has observed, Nigeria’s elections are evidently characterised by repeated patterns and modalities, including high-reward, zero-sum contestation, crises of succession, and the widespread use of force.
South Africa

South Africa’s first democratic elections, held on 27 April 1994, were marred by violence. The killings of the previous period (3,794 people were killed in political violence in 1993) continued during the election period (2,683 were killed in political violence in 1994, and two-thirds of these deaths occurred before the April elections).79

Clashes between the Inkatha Freedom Party (IFP) and the African National Congress (ANC), in particular in Natal (or ‘KwaZulu-Natal Province’) and East Rand near Johannesburg, were the most severe; on 28 March 1994, 53 people were killed during ANC-IFP confrontations. Paramilitaries trained by KwaZulu Government officials, the IFP and security forces attacked ANC supporters. The conflict was fuelled by political uncertainty and the provision of arms by the security establishment, and was only defused in late April due to intervention by the South African Defence Force (SADF) and also 8 days before the election because the IFP publicised the fact that it would participate in the election. Incidents continued however, particularly in Natal, although a peace process was somewhat effective. At least 53 people were killed in central Johannesburg when snipers fired on an IFP anti-election rally on 28 March 1994.80

There was less violence after the elections, but killings did continue, particularly in Natal, where at least 75 people were killed in December alone. Various incidents occurred in which the police failed to protect ANC-supporting communities and IFP leaders, despite having been warned. This includes the death of 15 people in Gcilima village, near Durban, on 27 October 1994. Likewise, the body of Lazarus Yende, the ANC Youth League Chairperson, was found on 29 April 1994; police had been forewarned about his abduction, but took no measures to protect him.81

Although the peace process reduced ANC-IFP conflict, during the comparatively peaceful June 1999 election there was violence between the ANC and the United Democratic Movement (UDM), again in Natal, and more specifically in Richmond. This conflict was well underway in 1998, and the SADF had already been deployed in that year. In early 1999, Sifiso Nkabinde, a former ANC leader who had joined the UDM, was shot. Importantly, this killing reignited the violence, including 11 killings of suspected ANC supporters the next day. This violence did not last long however, and the only other notable incident involved 5 deaths during ANC-UDM conflict in March 1999 in Cape Town.82

The 2004 and 2006 elections were relatively peaceful, but the 2009 election was comparatively violent.83 Many killings were due to conflict between the ANC and Congress of the People (COPE) parties. Confrontation took place from the latter part of 2008 between party supporters, for example resulting in the death of a student at Walter Sisulu University, Eastern Cape. More notable were targeted killings of political opponents, including the chairman of the ANC Youth League KZN, Stembiso Cele on 2 January in Natal, and a prominent ANC supporter, Inkosi Mboneleni Zondi, on 29 January in Durban. Reports from the Election Monitoring Network point to another similar killing in February of an IFP organiser, 6 similar killings in March, 1 killing on the election day, and the murder of an ANC member 5 days after the election.84

80 Ibid.
82 Ibid. p.6.
83 Ibid. p.6.
84 Ibid. p.4.
One reason for this increased violence in 2009 may have been the emergence of COPE, which formed through internal ANC conflict, and was therefore formed of many previous ANC leaders and so bitterly hostile to the ANC.\textsuperscript{85}

### Togo

After the death of President Gnassingbé Eyadema, he was succeeded by his son, Faure Gnassingbé, initially by appointment but then after elections in April 2005. The violence surrounding those elections resulted in as many as 500 deaths, according to one UN report.\textsuperscript{86}

Faure Gnassingbé had initially been proclaimed President on the authority of the Togolese army, but in the face of pressure from the AU, EU, and ECOWAS, he reversed this unconstitutional decision and called elections. Both before and after the elections civilians were attacked by the army and militia groups associated with the ruling Rassemblement du People Togolais (RPT). Attacks on protests were particularly severe in Lomé, Atakampe and Aneho.\textsuperscript{87} There were reported incidents of killings in polling stations by Government soldiers: four people were killed in Mango after opposition supporters tried to prevent soldiers removing ballot boxes from a polling station.\textsuperscript{88}

The killing continued following the announcement that Faure Gnassingbe had emerged the winner. Repression in southern opposition strongholds, attacks by both Government and opposition armed youth groups, and violence between state security forces and opposition supporters in Lomé resulted in several hundred deaths.\textsuperscript{89} Quantifying precisely how many died in the 2005 elections is difficult, as army units were instructed to “round up the corpses and systematically dispose of them so that they could not be counted” \textsuperscript{90}

The 2010 election, in which Gnassingbé won a second term amid further allegations of impropriety, was comparatively peaceful.\textsuperscript{91}

### Zimbabwe

The presidential and parliamentary elections in Zimbabwe, held in March 2008, saw the ruling Zimbabwe African National Union – Patriotic Front (ZANU-PF) lose its majority in Parliament for the first time since independence in 1980. In the first round of the presidential election, Morgan Tsvangirai of the Movement for Democratic Change (MDC) secured 47.8% of the vote, more than Robert Mugabe’s 43.2%. The fact that Tsvangirai did not win by a 50-percent-plus-one vote majority prompted a run-off to be scheduled on 27 June 2008, but the period leading to the run-off saw so violent a backlash by ZANU-PF activists and supporters against their MDC counterparts that, on 22 June 2009, Tsvangirai withdrew from the second round of the election, allowing

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\textsuperscript{85} David Bruce ‘Dictating the local balance of power’ p.6
\textsuperscript{87} Ibid. p.256.
\textsuperscript{90} Amnesty International Annual Report 2006 p.257.
Mugabe to declare himself the winner.\textsuperscript{92} The ensuing crisis was only ended 4 months later with a power-sharing arrangement.

According to Human Rights Watch, the period leading to the run-off saw at least 163 people being killed, and around 5,000, tortured or beaten, in the violence perpetrated by police, military and ZANU-PF supporters with near-complete impunity.\textsuperscript{93} Amnesty International presented higher figures, suggesting at least 180 were killed and 9,000 injured. In several districts, makeshift torture camps were setup where people were coerced into attending all-night meetings where they would watch their neighbours beaten, with the warning that a similar fate awaited those who did not vote for ZANU-PF, and around 28,000 people found themselves displaced from their homes.\textsuperscript{94} According to one report, the killings were centrally-directed, despite local initiatives, and used an infrastructure for violence that had established across previous elections.\textsuperscript{95}

The 2002 presidential, local council and parliamentary by-elections were marred by at least 58 political killings. Violence by ‘war veterans’ and militias associated with the State occurred systematically both before and after the election. ZANU-PF youth militia often colluded with police. Likewise, the 2000 election campaign had seen systematic violence, including more than 30 killings. Following the defeat of ZANU-PF in a constitutional referendum in February 2000, a Government-sponsored campaign of violence began. Killings continued systematically until the election, and were perpetrated primarily by ZANU-PF supporters. The state intelligence police, the Central Intelligence Organisation may have colluded with the killing. This violence continued on a smaller scale following the vote.\textsuperscript{96} By comparison, the 2005 election was not marred by killings. Furthermore, elections in 1990, 1995, and 1996 were not so violent.

Impunity for political violence remains a serious concern in Zimbabwe. Notably, legislation establishing a human rights commission explicitly prevented it from investigating anything from before the 2009 power-sharing agreement. This meant that it cannot investigate the 2002, 2005 and 2008 election violence. Moreover, the Zimbabwe Electoral Commission is composed largely of partisan supporters of ZANU-PF.\textsuperscript{97}

II. Countries with low levels of election-related killings

\textbf{Algeria}

Legislative elections in Algeria, held on 17 May 2007, were particularly violent. Newspaper reports suggest there were at least 9 killings in the lead up to the vote, although this violence was not completely detached from ongoing conflict in the region. Notably, on 10 May in Kabylie, conflict between the \textit{Groupe Salafiste pour la Prédication et le Combat} (GSPC) and state security forces resulted in the deaths of three members of the armed Islamist group, and one soldier.\textsuperscript{98} In Saida, also on 10 May, three other members of GSPC were killed during clashes. Two other incidents include the shooting of an armed Islamist by security forces near Tizi Ouzou, and the death of a

\textsuperscript{93} Human Rights Watch \textit{World Report 2009} p.141.
\textsuperscript{94} Amnesty International \textit{Annual Report 2009} pp.360f.
\textsuperscript{96} Amnesty International \textit{Report 2003: Zimbabwe} (1 January 2003) [http://www.refworld.org/docid/3edd47e46.html]
\textsuperscript{97} Human Rights Watch \textit{World Report 2013} p.186.
village guard after a bomb exploded in Beni Mehboub, eastern Algeria. These events made this election unusually violent.

Burundi

Communal, local and national elections in Burundi in 2010 all resulted in killings. The ruling party, the **Conseil National Pour la Défense de la Démocratie–Forces pour la Défense de la Démocratie** (CNDD-FDD) led a repressive election campaign, and following their apparent victory in the May communal elections, opposition parties boycotted the subsequent elections in 2010. The Government helped the CNDD-FDD to control the **Forces nationales de libération** (FNL) the primary Burundi opposition party, using a dissident faction of the party. Government security forces killed several FNL members who attempted to join armed opposition groups.

CNDD-FDD and opposition factions engaged in violence, both before and after the election, although most killings were perpetrated by CNDD-FDD supporters, including the Imbonerakure youth group. Five killings took place in the fortnight before the communal elections in May 2010; eleven individuals died due to grenade attacks during the presidential and legislative elections. In July and August many FNL members fled their homes for the forests in which they had fought during the country’s civil war; the killing of seven workers associated with a CNDD-FDD member was attributed to a new armed group that had thereafter formed. The UN Mission in Burundi (BINUB) and a Burundian human rights group found evidence that some of the 18 bodies found in the Rusizi River had been killed by the police.

The 2005 election was also marred by some violence, but this was quite limited. The previous election before that had been held in 1993. Military officers had assassinated the elected President, Melchior Ndaye, which had sparked a civil war, particularly between Hutu (majority of population) and Tutsi (minority of population).

Cameroon

The 2011 Presidential elections were not marred by any killings. However, President Paul Biya’s decision in 2008 to amend the Constitution in order to seek re-election for another term resulted in dozens of deaths during anti-Government protests. Elections in Cameroon in 1992, 1997, 2002, 2004 and 2007 have been characterised by violence, but not by killings.

Chad

Elections in Chad have been marred by irregularities and violence, but not killings in particular. One notable exception was in May 2001, when demonstrator Brahim Selguet was shot and killed by Chadian riot police during a demonstration. The demonstration had been in response to the

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99 Ibid.
101 Ibid. p.84.
106 Straus & Taylor ‘Democratization and Electoral Violence in Sub-Saharan Africa’ p.27.
election of incumbent President Idriss Deby, who had ruled since taking office in a 1990 rebellion, and the widespread irregularities of the election itself.108

Djibouti

Djibouti’s February 2013 elections were the first to be marked by election-related killings. The Union pour la majorité présidentielle (UMP) coalition was declared as the winner, a result which was rejected by the opposition Union pour le Salut National (USN).109 The elections were held in the context of ongoing protest against President Ismail Omar Guelleh. Protests in the days before the vote left at least 1 policeman dead.110 At least six individuals were shot and killed by state security forces on 25 and 26 February 2013. As well as this unusual level of violence, the Government also suspended its partnership with a US-sponsored election monitoring mission.111

Egypt

Election periods in Egypt have tended to be characterised by demonstrations by opposition party leaders and supporters demanding freer elections. Following the anti-Government protests that began in January 2011, President Hosni Mubarak was forced to resign. Continued protests in early 2012 were mainly against the subsequent military rule.112

Demonstrations were held in 2012 both by supporters and opponents of Mohamed Morsi. When security forces intervened, there were frequent killings of protestors. Sixteen protesters were killed between 2-6 February 2012 in Cairo and Suez, after demonstrations over an earlier violent event. One other notable event was the killing of at least twelve individuals in Cairo during a sit-in election demonstration between 28 April and 4 May. The perpetrators were dressed in plain clothes, but as one prominent human rights organisation pointed out, “security forces did not intervene, suggesting that the men acted at the army’s command or with their acquiescence.”113

Elections held between November and December 2005 resulted in at least 12 killings. Violence was concentrated in particular to the second and third rounds of voting, after initial wins by the opposition Muslim Brotherhood.114 This violence was partly sparked by President Mubarak’s positioning of his son, Gamal, in the ruling National Democratic Party (NDP) and as a likely successor. The protests had begun in December 2004, led by the Kifaya (Enough!) movement of secular and Islamist political activists.115 This violence was more notable than in 2000, when 8

109 FIDH ‘Djibouti: at least 6 killed as regime takes 80% of parliamentary seats in election’ (21 March 2013) [http://www.fidh.org/en/africa/Djibouti,208/Djibouti-at-least-6-killed-as-13040].
113 Amnesty International Annual Report 2013 p.87.
died, but the failure to investigate incidents in 2000 may have contributed to the “impression of toleration”.

**Equatorial Guinea**

Elections in Equatorial Guinea, notably in 1993, 1996, 1999, 2004 and 2013, have featured high levels of political violence and intimidation. However, there have only been isolated incidents of killings. One example was the 1995 shooting of a Felix Esono Mba in a village in the north-east of Rio Muni during peaceful celebrations of the local candidates of the *Unión Popular* (UP) by state security forces.

**Gabon**

Gabon held peaceful elections in 1990, 1993, 1996, 1998, 2001, 2005 and 2006. By contrast the August 2009 election, which followed President Omar Bongo Ondimba’s death in June 2009, resulted in at least two killings. Ali Ben Bongo Ondimba, the Defence Minister and the late-President’s son, was nominated as the candidate of the ruling *Parti Démocratique Gabonais* (PDG) for the subsequent election. He won 42% of the vote, and despite challenges from the opposition regarding the vote, the Constitutional Court upheld the win.

Post-election violence resulted in the deaths of at least two protestors, although the opposition movements suggested that this figure was closer to fifteen. Mba Obade, the leader of the opposition *Union Nationale*, declared himself President on 25 January 2011, and set up a parallel government to the PDG. Due to irregularities with the timing of the election and the mode of election, opposition parties boycotted National Assembly election in December 2011.

**Gambia**

One person was killed in election-related violence in the 2001 Gambian presidential elections, when a police officer reportedly shot and killed an opposition demonstrator. There were other more minor incidents of violence between supporters of opposition candidate Ousainou Darboe of the United Democratic Party (UDP) and supporters of President Yaya Jammeh and his Alliance for Patriotic Reorientation and Construction (APRC) and the police. Other elections in Gambia have been marred by intimidation, but not killings.

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118 Straus & Taylor ‘Democratization and Electoral Violence in Sub-Saharan Africa’ p.27.
121 Freedom House ‘Freedom in the World 2012: Gabon’
Ghana

Pre-election violence in northern Ghana in 2008 resulted in at least six killings. Pre-election violence was caused partly by changes to the date of the election, and partly because of administrative difficulties in the Electoral Commission. The killings followed a shooting incident between supporters of the ruling New Patriotic Party and the opposition National Democratic Congress. Arson attacks in Gushegu on 1 September 2001 caused at least six deaths, before a curfew was imposed. This notwithstanding, one prominent electoral monitoring organisation highlighted the role played by civil society organisations, especially religious organisations, in preventing violence, especially in the light of contemporary electoral violence in other countries in the region. Ghanaian elections have tended not to involve any killings.

Lesotho

Parliamentary elections in May 1998 provided Prime Minister Pakalitha Mosisili’s Lesotho Congress for Democracy (LCD) party with 79 out of 80 seats. Opposition parties, including the Basotho National Party (BNP) claimed that the outcome was fraudulent, and through protest urged the King to replace the Government with one of national unity. The brutal crackdown on protests resulted in approximately nine killings, including four opposition supporters and a policeman.

The opposition, with some army rebel support, acted violently to destabilise the Government; this almost resulted in a coup, crushed only by intervention by a South African Development Community (SADC) military outfit in September 1998. This intervention led to many deaths, including 9 South African troops, 50 Lesotho Defence Force (LDF) troops, and 40 opposition civilians. Elections in 1993, 1998, 2002, 2007 and 2012 did not result in killings.

Libya

Following the ousting of Muammar Gaddafi, who had ruled for 42 years, elections were held for an interim General National Congress on 7 July 2012. There were at least two deaths in election-related violence, which was particularly marked in the eastern region of the country. On the day of the election itself, an election commission worker was killed when his helicopter, carrying ballot papers, was shot at in Benghazi. Another person was killed during a battle between state security forces and anti-election protectors in Benghazi. Issues in Libya include ongoing tensions between rebel groups, conflict between eastern and western Libya, and the proliferation of firearms.

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125 Ibid. p.6.
127 Ibid.
128 Straus & Taylor ‘Democratization and Electoral Violence in Sub-Saharan Africa’ p.27.
Liberia

Liberian election killings have been relatively rare. A peace accord in 1995 temporarily ended the civil war in Liberia. Charles Taylor won the subsequent peaceful 1997 elections, but violence re-erupted in 1999 as the Liberians United for Reconciliation and Democracy (LURD) movement sought to depose Taylor. Taylor stepped down in August 2003, and elections were held again in 2005. Ellen Johnson-Sirleaf, of the Unity Party (UP) won the presidential run-off election.133

Most notably, two people were killed in Monrovia, the Liberian capital, the day before the November 2011 presidential election run-off. Opposition candidate, Winston Tubman, called for a boycott of the run-off following the October 2011 national elections in which no candidate won an absolute majority. Supporters of Tubman clashed with police near to his party headquarters, resulting in two killings when the police used live rounds.134 This outbreak of violence was, however, an isolated incident, and the elections were notably successful as the first since the end of civil war to be organised by the National Elections Commission (NEC).135

Malawi

At least three people were killed due to political violence in northern Malawi in June 1999, following the announcement of the outcome of an election. Clashes were particularly severe in Mzuzu town, between supporters of the United Democratic Front (UDF), whose leader, President Bakili Muluzi, had been re-elected, and opposition supporters.136 Subsequent elections, notably in 2004, were also marred by a similar pattern of violence following the announcement of election results. In May 2004 police allegedly shot dead at least two protestors rioting about the election results. Subsequent elections have been comparatively peaceful.137

Mali

Elections in Mali, in 1992, 2002 and 2007 were marred by violence and some irregularities, but not by killings.138 Subsequent to presidential election voting in Mali in August 2013 there was an upsurge in violence, following French military intervention earlier in the year, although the parliamentary election in November was relatively peaceful.139 The election of President Ibrahim Boubacar Keita in August 2013 was followed by worsening violence in the north of the country, in particular around Kidal, which had been occupied by Tuareg separatists. This violence is primarily

caused by the ongoing conflict in Mali, launched by the Tuareg separatists in the Mouvement National pour la Libération de l’Azawad (MNLA), and was not directly causally related to the election.\textsuperscript{140}

However, the 1997 parliamentary and presidential elections resulted in at least four killings.\textsuperscript{141} Opposition parties boycotted both the May presidential elections and the July parliamentary elections. There were reports of isolated incidents of killings on the day of the election itself, including the shooting and killing of two individuals outside a polling station in San.\textsuperscript{142} Protests in May were aimed against the Government, and demanded the dissolution of the Malian electoral commission; these were met with brutality from the security forces, and at least 4 were killed.\textsuperscript{143}

President Alpha Oumar Konaré was re-elected, and a new Government, led by the Alliance pour la Démocratie au Mali (ADEMA), was formed by September 1997. In the preceding month, demonstrations resulted in the violent killing of a plainclothes police officer during an opposition rally.\textsuperscript{144}

**Morocco**

There were a number of killings at ‘February 20’ protests in 2011 in Morocco, which deaths are difficult to separate entirely from the demand for and protests over elections. This includes 5 protesters in Al Hoceima who died—supposedly—in a fire, which human rights groups have alleged was a cover-up for police brutality. NGOs also allege that two other individuals died as a result of excessive police force in Al Hoceima. Furthermore, a protestor in Safi in May, and another in Sefrou in February, both taking part in the protests as part of the “February 20 Movement”, died days after sustaining injuries at the hands of the police.\textsuperscript{145} However, the ‘Arab Spring’ in Morocco resulted in relatively few killings, and the November 2011 election itself was peaceful, partly because the Justice and Development Party (PJD) was recognised as a legitimate opposition party before the protests.\textsuperscript{146}

**Mozambique**

Since Mozambique emerged from civil war in 1992, several elections have been held, with only limited numbers of killings directly attributable to the elections, and most violence caused instead by ongoing conflict between the Frente de Libertação de Moçambique (FRELIMO) and the Resistência Nacional Moçambicana (RENAMO). Violence occurred during the 1994, 1999 and 2004 elections, and in the run up to the 2013 election, but without killings.\textsuperscript{147}

One exception was the killing of 26 people in November 2000, after demonstrations against the December 1999 election. The elections were between President Joaquim Chissano of FRELIMO


\textsuperscript{141} Amnesty International Report 1998: Mali (1 January 1998) [http://www.refworld.org/docid/3ae6a9f01b.html].


\textsuperscript{143} Amnesty International Report 1998: Mali.

\textsuperscript{144} Ibid.


\textsuperscript{146} Camille Tawil ‘Morocco’s Stability in the Wake of the Arab Spring’ CTC (23 May 2013) [http://www.ctc.usma.edu/posts/moroccos-stability-in-the-wake-of-the-arab-spring].

and Afonso Dhlakama of RENAMO. The killings, which took place in Cabo Delgado and Sofala province in northern Mozambique, followed continued hostilities between RENAMO and other opposition parties against Chissano’s FRELIMO.148

Rwanda

The 1994 Genocide, mostly of the minority Tutsi ethnic group and politically moderate Hutus, still remains pertinent in Rwandan politics, not least because of perceived links between multiparty politics from 1991, and the 1994 genocide.149 President Paul Kagame was elected, and his RPF party also won a majority of seats during legislative elections.150 Concerns were raised ahead of the elections in August and September 2003, in particular due to the limitation of political freedom imposed by the Rwandan Patriotic Front (RPF)-dominated transitional government.151 Despite irregularities, there were no killings.

The June 2010 elections were marred by targeted assassinations.152 Leonard Rugambage, the deputy editor-in-chief of a newspaper which had linked the Rwandan regime to the attempted murder of former companions who had defected to the opposition, was shot and killed; the Vice-President of the Green Party, Andre Kagwa Rwisereka, was found dead on 14 July.153

Senegal

Protest in the lead up to the March 2012 elections resulted in at least six killings, primarily due to excessive use of force by President Abdoulaye Wade’s security services. Objection to the January 2012 Constitutional Court decision to allow President Wade to stand for a third term resulted in widespread protest, and at least two deaths in Dakar. Mamadou Sy and Bana Ndiaye were both shot and killed by gendarmes during peaceful protests in Podor in January. A police vehicle ran over and killed Mamadou Diop during demonstrations in Dakar. At least two demonstrators died in detention following torture.154 The number of people killed is disputed, with opposition group “Movement23” claiming 15 had been killed during protests since January.155

Elections in 1998 were generally seen to be fraudulent, and controlled by the Socialist Party. Election violence was also associated with wider struggles against President Abdou Diouf, whose Socialist Party had controlled the Government since Independence in 1960, and with the guerrilla

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151 National Democratic Institute ‘Assessment of Rwanda’s Pre-election political environment’ p.5.
war in Casamance. At least six people were shot and killed at a funeral in Casamance the day before voting.\textsuperscript{156}

There was also violence during the 2007 elections, after repeated postponement. The conflict was primarily between supporters of President Wade and supporters of his opponent, Idrissa Seck (the former Prime Minister).

This violence did not result in killings however; nor did the earlier, sporadic violence ahead of the March 2000 election of President Wade. The post-election period was peaceful.\textsuperscript{158}

Sierra Leone

 Presidential and parliamentary elections in 2007 resulted in at least one killing. Run-off elections held in August saw the ousting of the ruling Sierra Leone’s People’s Party (SLPP). House burning and street clashes between supporters of the SLPP and the All People’s Congress (APC) party resulted in at least one death. The armed forces and police were reported to have acted relatively evenly towards both sides.\textsuperscript{159}

Following the end of civil war in 2002, elections had been held on 14 May 2002, with President Ahmad Tejan Kabbah gaining re-election along with his SLPP party. Violence continued between armed groups, but this was not causally associated with the polls.\textsuperscript{160} Though these elections were conducted just four months after peace was declared, and despite intimidation and some violence, they were no killings.\textsuperscript{161} The 2012 presidential and parliamentary elections were peaceful.\textsuperscript{162}

Somalia

 One year after militant group al-Shabaab was forced out of Mogadishu in 2011, parliamentary and presidential elections were held. Hassan Sheikh Mohamud’s victory over incumbent President Sheikh Sharif Sheikh Ahmed, elected by MPs, was the first time since 1991 that a new leader had been chosen from inside the country.\textsuperscript{163} Al-Shabaab killings continued, including two suicide bomb detonations in the following 3 days, but it is difficult to determine whether these were caused by the election.\textsuperscript{164}

Violence was particularly severe in Somaliland, as has been an ongoing pattern, and on 30 December 2012 one person was shot and killed (and twelve others injured) by security forces during a protest about local elections.\textsuperscript{165} Puntland, a semi-autonomous region in northern


\textsuperscript{157} ‘Clashes ahead of Senegal election’ BBC News (22 February 2007) [http://news.bbc.co.uk/1/hi/world/africa/6386709.stm].


Somalia, has been another region of ongoing violence; elections there were suspended in 2013 following political rallies in the pre-election period, during which five people were killed.166

Sudan / South Sudan

Southern Sudan voted for independence in a referendum in January 2011. Violence occurred in the period before and after the referendum, although most of this was not caused by the vote itself. However, there were killings caused by the vote, including at least 30 deaths in the Abyei region, which lies on the border between South Sudan and Sudan. The attacks were reportedly conducted by militants, including one group sponsored by the Government, and the police.167 Apart from this incident, the referendum was generally peaceful.168

Presidential and legislative elections from 11-15 April 2010 were the first multi-party elections in 24 years. However, partly due to ongoing north-south conflict, there were a number of killings. Three candidates were shot dead in the pre-polling period, although these killings were not clearly related to the election itself.169 The head of the National Congress Party (NCP) in the semi-autonomous south reported that the South’s army had committed nine killings in the run up to the vote, including against five NCP party officials.170 The Southern army claimed that this was due to one rogue soldier. Two civilians reportedly died during post-election conflicts in Unity State, and one election monitoring organisation points to 22 deaths during tribal fighting in South Darfur, which may have been related to the concurrent election.171

Tanzania

The 2000 presidential and parliamentary elections on the mainland in Tanzania were relatively peaceful; however, on the islands of Zanzibar, elections were marred by killings. Protests in Zanzibar and Dar es Salaam by the Civic United Front (CUF) against the October election were brutally suppressed by the police, who are reported to have fired at both demonstrators and bystanders. The Government stated that 24 people had been killed in the January 2001 demonstration, but the opposition claimed that as many as 70 died. Police officers were also reported to have killed residents outside their homes, even if they were not demonstrating. CUF youth reacted by attacking police, and at least one officer died in the ensuing attacks.172

There was also violence during anti-Government CUF rallies in 1995 and 2005, particularly in Zanzibar, its primary stronghold, but without such killings.173 Isolated incidents of violence

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166 ‘Somalia’s Puntland suspends polls, warning of violence’ Democracy Chronicles (14 July 2013) [http://www.democracychronicles.com/puntland-delays-elections/].
occurred in 2013, including the killing of three individuals in an explosion. The explosion was at a rally help by Chadema, an opposition party, in Arusha, northern Tanzania.\(^{174}\)

**Uganda**

April demonstrations following February 2011 presidential elections were suppressed by state security forces. Nine deaths were reported, six in the capital, Kampala, two in Gulu, and one in Masaka. Of these nine, at least two were running away and were shot in the back by the security forces, and at least 1 was a child.\(^{175}\)

In June 2001, violence broke out near Mbale in eastern Uganda during Parliamentary elections. The bodyguard of a candidate allegedly shot dead 5 opposition supporters, and a mob subsequently killed the bodyguard.\(^{176}\) This was one of a number of isolated incidents during the election.

The 2006 presidential and parliamentary elections were marred by irregularities and violence. They were the first multiparty general elections since President Museveni ascended in 1986, and saw his re-election. Police in Bugiri killed 1 person after firing live rounds into protestors during a NRM primary election on 12 September.\(^{177}\) Violence was primarily directed at opposition supporters in the final weeks of campaigning. Three supporters of opposition candidate Dr Kizza Besigye were shot dead by a police officer in Kampala, after a crowd waiting for the candidate was fired upon.\(^{178}\)

### III. Countries with no election-related killings

This section of the survey will briefly list elections that have taken place elsewhere on the continent and which have passed relatively peacefully (or at least with no killings).

Two brief caveats should be made. The elections in **Angola** in September 1992 must be seen in the light of the Angolan civil war. They were organised hastily following the Bicesse peace accords, which temporarily declared peace between the Movimento Popular de Libertação de Angola (MPLA) Government and the União Nacional para a Independência Total de Angola (UNITA). Problematically, as one report put it, “the warring parties were not yet ready to accept the results”, and since disarmament of rebels was not completed prior to the vote, warfare quickly resumed.\(^{179}\) The elections themselves were peaceful however, as were subsequent election (in 2008 and 2012).\(^{180}\)

The January 1992 presidential elections in **Mauritania** were marred by malpractice and violence, typically aimed at preventing black citizens from voting or registering. Opposition protests following the election were brutally suppressed, in particular in Nouadhibou and Nouakchott.

\(^{174}\) ‘Three killed by explosion at Tanzanian opposition party rally’ *Reuters* (15 June 2013) [http://www.reuters.com/article/2013/06/15/us-tanzania-explosion-idUSBRE95E0FG20130615](http://www.reuters.com/article/2013/06/15/us-tanzania-explosion-idUSBRE95E0FG20130615).

\(^{175}\) Human Rights Watch *World Report 2012* p.190.


resulting in at least 3 killings deaths of opposition party Union des Forces Démocratiques (UFD) supporters.181 Notably however, elections thereafter (in 1996, 1997, 2006, and 2007) have not resulted in killings.


**B: Perpetrators & Victims**

The victims of election related killings have primarily been opposition supporters or alleged supporters protesting about results after elections; this is due primarily to the incumbents’ asymmetric control of the state security forces. Nonetheless, supporters of the incumbent party have been killed in large numbers, especially in cases where violence has become protracted, for example in Kenya in 2007. Members of the security forces have been the victim of some violent protests. Less frequent victims include candidates, election officials, journalists, and voters at the polling booths.

Many victims of the most severe violence are supporters of neither party, although they may be perceived as part of an opposition identity group. In this way political election-related violence can take on an ethnic dimension. Thus, as in Kenya or Nigeria, it was not rare for members of an ethnic group from which a political personality hailed or that was seen to serve as a key support base for a particular party to be targeted. In Kenya, opposition-affiliated youth attacked the Kikuyu and other perceived supporters of the incumbent party across the Rift Valley and in urban slums, and the Kikuyu responded by targeting Luo and perceived opposition supporters in the Nairobi slums and also the Rift Valley.182 Likewise, in Nigeria, following the disputed local election in Jos (Plateau State) in November 2008, violent riots ensued between Christian “indigenes” from the Berom, Afizere and Anaguta ethnic groups who supported the Christian candidate from the ruling party and Muslim “non-indigenes” mainly from the Hausa-Fulani ethnic group, who supported the Muslim candidate from the opposition party.183 This kind of identification can lead to victimisation in reprisal killing.184

The perpetrators of election killings tend to be the leaders, members and supporters of political parties, who use violence to influence the political process.185 Violence is often carried out by party supporters, militias and youth groups, but it is often organised by the political party and its

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184 Bekoe ‘Introduction’ p.3.
leadership.\textsuperscript{186} The state security services, often partisan, can be used for similar purposes by the incumbent party or leader; the opposition is more reliant on protests.

This asymmetry means more killings are typically caused by incumbents than the opposition. Indeed, one study of election violence between 1990 and 2008 found that very violent incidents were primarily perpetrated by incumbents in 71\% of cases, by the opposition in just 2\% of cases, and by both 27\% of the time.\textsuperscript{187} This finding—generally supported in the survey above—challenges earlier findings which suggest opposition groups are responsible for most violence.\textsuperscript{188}

Political incumbents use killings to maintain their positions in power. Conversely, opposition leaders and parties use killings to challenge the Government’s position, and to contest the results of elections. Notably, the opposition is more likely to commit or encourage killings after the election date, when the power and legitimacy of the incumbents are less marked, and when the situation is more desperate. For example, in the study cited above, very violent incidents before voting were perpetrated by incumbents in 75\% of cases, by the opposition in 3\%, and by both in 22\%. By contrast, in post-election violence incumbents were the primary perpetrators 56\% of the time, and the opposition 6\%.\textsuperscript{189}

\textbf{C: Structural Factors & Social Norms/Phenomena}

There appear to be various structural determinants of violence around elections. The extreme centralisation of power in many African states exacerbates the incentives for violence and killings, since the outcomes of elections determines who has access to the political and economic rewards of incumbency. Elections in states with patronage systems of governance and high levels of corruption are often construed as zero-sum games in this sense; this is especially true in states with a history of one-party rule, where opposition parties have been in a very weak position and where politics has been exclusionary.\textsuperscript{190}

Likewise, the extent of violence appears partly conditioned by different electoral systems. Exclusive systems, in which “winner-takes-all”, tend to encourage bitterly adversarial politics. By contrast, systems of proportional representation for legislative elections can help to limit violence as parties do not “lose” so completely.\textsuperscript{191} Presidential elections are, by their nature, “winner-takes-all”, and so have tended to result in more severe violence than legislative elections.

Power sharing agreements attempt to limit this issue, but such agreements have tended to come only after protracted violence. Moreover, such agreements may encourage future violence on the part of election-losers, since violence appears to be rewarded with positions in government. Similarly, impunity or perceived impunity may encourage future violence, since repercussions of killings are not feared.

Many countries which have recently emerged from civil war have experienced high levels of election related killings. Elections are often held at the formal end of the conflict, but insufficient effort is made to disband armed groups and to encourage the formation of political parties and

\textsuperscript{186} Bekoe ‘Introduction’ p.3.
\textsuperscript{187} Straus & Taylor ‘Democratization and Electoral Violence in Sub-Saharan Africa’ p.29.
\textsuperscript{189} Straus & Taylor ‘Democratization and Electoral Violence in Sub-Saharan Africa’ p.29f.
\textsuperscript{190} Nordic Africa Institute ‘Electoral Violence in Africa’ p.1.
\textsuperscript{191} Atuobi ‘Election-Related Violence in Africa’
identities separate to those of the belligerents. For example, in Cote d’Ivoire the 2010 election was effectively held between the civil war’s warring parties, and processes of demobilisation and disarmament had not been completed.192

Where the administration and management of elections themselves are flawed, opposition groups are more likely to react violently. This can include cases of election fraud, partisan electoral procedures and institutions, and inaccurately counted ballots. Similarly, electoral bodies, including electoral commissioners, are often partisan and not completely independent of incumbent politicians.193 However, this is not the most important factor in determining the extent of violence: in Kenya, Togo and Zanzibar, reform of electoral institutions did not change the fundamental incentives for violence.194

It has been suggested that poorer countries may be more likely to experience election violence.195 However, the survey presented above illustrates that some of the most severe periods of election-related killings are often in the wealthiest countries, such as Nigeria and Kenya.

Finally, violence is often more likely when there is a realistic possibility of affecting the legitimate outcome; incentives and grievances are greatest when the outcome is different to that expected or suggested by unofficial polls. For example, in Kenya, Ethiopia and Zimbabwe, close competition has contributed to heightened electoral violence.196

In addition to these structural factors there are also social and cultural factors which can affect the extent to which an election is held in a peaceful fashion. The most severe incidents of election related violence typically draw on pre-existing identities, including ethnic, regional and religious distinctions. Violence is therefore particularly likely in countries with sharp ethnic divisions and diversity. Dividing lines are often emphasised and manipulated by political elites for electoral advantage, most notably in Kenya, but also elsewhere. Candidates and parties often campaign on the basis of exclusive identity groups: the problem with this form of identity politics is that there is often a consequent assumption that the winners of elections will abuse state resources in favour of their group, and that the losing group will therefore be marginalised.197

Democratic elections are unlikely to be successful and peaceful if the society in question is unwilling to accept the results. In this sense, it is important to encourage democratic ideals within society, rather than just holding a vote. Elections are inherently divisive and encourage different factions to compete; diverging groups and opinions may be polarised only further if democratic norms of accepting electoral defeat are not fully instilled.

In general however, structural factors are more convincing than social explanations for explaining election violence, in particular social factors which suggest that a political culture of violence and intimidation exists.198

193 Atuobi ‘Electoral Violence in Africa’
198 Atuobi ‘Electoral Violence in Africa’ p.11.
D: “Best Practices”

First, internal and civil society programmes and networks which attempt to prevent killings should be supported. One example is the success of election violence observers in Ghana in 2008 to provide information on incidents and consequences of violence, and to pre-empt future violence and reduce tensions.¹⁹⁹

Second, in order to prevent future killings, violence should not be met with impunity. The ICC indictment of those judged to be responsible for the 2007 post-election violence in Kenya likely contributed to the peaceful 2013 election. Nonetheless, election killings should not be treated only as criminal matters, without regard to the underlying structural factors and logics.

Electoral management bodies must be independent, and—crucially—respected as legitimate by the citizenry. Politicians must also have confidence in such bodies and institutions. The electoral commissioner plays an especially important role.

Power-sharing agreements, such as those adopted in Kenya and Zimbabwe, have been successful, but should not be seen as panaceas. Moreover, where are used, they do not remove the underlying incentives for conflict. Prevention measures should be prioritised over reactionary policies. One such preventative measure is promoting democratic ideals within society and among elites, including accepting electoral defeat.

The incentives for violence can be reduced through structural changes. Issues of succession in many African states are partly caused by the rewards of incumbency: the ability of incumbents to distribute state resources through patronage networks should therefore be limited. Promoting proportional representation over more adversarial systems may also be more conducive to peaceful elections. Deep disputes over land, poverty and inequality should be attended to, as these can often be tapped into in order to encourage election violence. Marginalised groups should be integrated into the political process. The ease with which violence can be conducted can be reduced by limiting incumbents’ ability to control the state security forces for partisan purposes. Other groups should be disarmed.

Finally, the above survey demonstrates that, despite popular conceptions, most elections in Africa did not result in any killings. Kenya’s recent peaceful election demonstrated that members of society are keen to avoid killings, and that violence is not inevitable. It is crucial not to assume that election related killings are normal and to be expected; such violence must be treated with the seriousness it merits in every case.

Bibliography & Further Reading


¹⁹⁹ Bekoe ‘Conclusion’ p.248.

Arbitrary Application of the Death Penalty

This section examines deaths caused by unlawful judicial executions in Africa, as well as certain instances in which extrajudicial executions have taken place manifestly in lieu of a judicial capital sentence.¹

As was noted above in the Introduction, the death penalty per se is not a violation of the right to life: not all judicial executions are ‘unlawful’. In order for an execution to be considered ‘lawful’, states must abide by stringent conditions: (i) the death penalty must only be applied in cases of the “most serious crimes”, a phrase which has been interpreted by UN mechanism as limited to crimes involving lethal intent and resulting in death—in other words, intentional killing;² (ii) the death penalty can never be invoked against juveniles (under 18 years old) or mentally ill individuals; (iii) defendants must have access to fair trial, a right to appeal, and all other elements of due process; (iv) mandatory death sentences are always considered unlawful as they are ‘inherently over-inclusive’ and remove the opportunity to consider all relevant factors necessary to determine whether a death sentence is permissible; and (v) though they do not directly affect the right to life, there are also procedural safeguards concerning the method of execution. The Special Rapporteur has also highlighted that military tribunals and other special jurisdictions “are ill suited to ensuring full compliance with fair trial standards as required in capital cases. They should not have the power to impose sentences of death on anyone.”³

ECOSOC Resolution 1996/15 includes a provision urging member states ‘to effectively apply the Standard Minimum Rules for the Treatment of Prisoners, in order to keep to a minimum the suffering of prisoners under sentence of death and to avoid any exacerbation of such suffering.’⁴ According to the International Bar Association, ‘the opinion that the death penalty constitutes a breach of the right to freedom from torture or other cruel, inhuman or degrading treatment is gaining ground. This breach of human rights may occur in the period leading up to execution, the method of execution or the loss of life itself.’⁵

This report has primarily relied on the work of Amnesty International, Hands Off Cain, Death Penalty Worldwide, and Human Rights Watch, as well various news sources. The fact that it is necessary to rely on reports from interest groups is obviously an important limitation in itself, as such sources have an agenda which may lead to slightly biased reporting, especially in cases where reliable data is difficult to find and a degree of guesswork is necessary.

Sources for evidence on execution practices tend to be scarce and unreliable. Amnesty complained of governments in North Africa continue to provide no or only partial information about the application of the death penalty.⁶ For countries currently in a transitional political state it is particularly difficult to find reliable data. For example, in Egypt, Amnesty reported that they

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¹ The principal researcher on this section was Mary Goodhart.
³ Ibid. ¶ 33.
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were unable to confirm if executions had taken place in 2012 or 2013 and hence could only present unconfirmed figures.7 Similarly, in 2010, Amnesty reported that their repeated requests for the Libyan authorities to share detailed information concerning the death penalty had been left unanswered.8 This problem is found in many of the cases considered in this report.

It is also particularly difficult to find detailed, accurate descriptions of the judicial processes that lead to executions in many cases, which makes assessing whether “due process” has been granted challenging. Often generalised statements concerning “no access to lawyers” are not accompanied by details. An exception to this problem was Nigeria, as Amnesty International published a comprehensive and detailed report in 2008 including numerous testimonies from prisoners.

The death penalty remains an emotive issue around the world, and the active priority of several governments with respect to human rights foreign policy. Partly for this reason, and partly because of its (usually) tangible character, the regulation, reduction or abolition of the death penalty is a common topic of recommendations in the Human Rights Council’s Universal Periodic Review (UPR). Moreover, ostensibly on a biannual basis, the UN General Assembly votes on a resolution calling for a global moratorium on the death penalty. This resolution called on states to restrict their use of the death penalty, and specifically to remove its usage in cases of persons younger than 18, and of pregnant women. It also called on states to reduce the number of offences by which the death penalty could be imposed, and to move towards ratifying the Second Optional Protocol to the ICCPR, which would ultimately mean complete abolition of the death penalty. GA Res. 62/149 was adopted in December 2007 (with 17 African states voting in favour, 11 against); GA Res. 63/168 was adopted in December 2008 (19 in favour 10 against); GA Res. 65/206 was adopted in December 2010 (16 in favour, 8 against); GA Res. 67/176 was adopted in December 2012 (22 in favour 8 against).9

A: Geographical Distribution

The status of the death penalty in certain countries is classified varyingly by different organisations. For example, Death Penalty Worldwide classifies Chad as “de facto abolitionist” on the basis that there have been no executions since 2003 (for over ten years), whereas both Amnesty International and Hands Off Cain class it as “retentionist”. In cases like this, a certain level of discretion has been used. In the case of Chad, the fact that, reportedly, 35-36 remain on death row, and individuals have been sentenced to death as recently as 2012 qualifies it for consideration in this study.


9 For voting records of these four resolution see the official records of the plenary sessions: A/62/PV.76 (18 December 2007) p.16f; A/63/PV.70 (18 December 2008) p.16f; A/65/PV.71 (21 December 2010) p.18f; and A/67/PV.60 (20 December 2012) p.16f.
Of the remaining 36 countries, the majority are “de facto abolitionist”. Those which have conducted an execution in last ten years, or which pass a significant number of death sentences or have a large “death row” population, are summarised in Table 3.

<table>
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<tbody>
<tr>
<td>Algeria</td>
<td>1993</td>
<td>-</td>
<td>-</td>
<td>-</td>
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<td>677 +</td>
</tr>
<tr>
<td>Botswana</td>
<td>2013</td>
<td>1</td>
<td>6</td>
<td>25th</td>
<td>12</td>
<td>5</td>
</tr>
<tr>
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<td>2003</td>
<td>-</td>
<td>-</td>
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<tr>
<td>DRC</td>
<td>2003</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>111</td>
<td>330-500</td>
</tr>
<tr>
<td>Egypt</td>
<td>2011</td>
<td>-</td>
<td>12</td>
<td>20th</td>
<td>904</td>
<td>?</td>
</tr>
<tr>
<td>Equatorial Guinea</td>
<td>2010</td>
<td>-</td>
<td>7</td>
<td>24th</td>
<td>5</td>
<td>20</td>
</tr>
<tr>
<td>Ethiopia</td>
<td>2007</td>
<td>-</td>
<td>1</td>
<td>32nd=</td>
<td>63</td>
<td>135</td>
</tr>
<tr>
<td>Gambia</td>
<td>2012</td>
<td>-</td>
<td>9</td>
<td>23rd</td>
<td>36</td>
<td>38</td>
</tr>
<tr>
<td>Libya</td>
<td>2010</td>
<td>-</td>
<td>39</td>
<td>13th</td>
<td>23</td>
<td>?</td>
</tr>
<tr>
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<td>1987</td>
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<td>-</td>
<td>-</td>
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<tr>
<td>Morocco</td>
<td>1993</td>
<td>-</td>
<td>-</td>
<td>-</td>
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<td>113</td>
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<tr>
<td>Nigeria</td>
<td>2013</td>
<td>4</td>
<td>-</td>
<td>-</td>
<td>538</td>
<td>970</td>
</tr>
<tr>
<td>Somalia</td>
<td>2013</td>
<td>34</td>
<td>29</td>
<td>16th</td>
<td>250</td>
<td>?</td>
</tr>
<tr>
<td>Sudan</td>
<td>2013</td>
<td>21</td>
<td>49</td>
<td>10th</td>
<td>394</td>
<td>?</td>
</tr>
<tr>
<td>South Sudan</td>
<td>2013</td>
<td>4+</td>
<td>10</td>
<td>22nd</td>
<td>17</td>
<td>200 +</td>
</tr>
<tr>
<td>Uganda</td>
<td>2006</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>134</td>
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<tr>
<td>Zimbabwe</td>
<td>2005</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>44</td>
<td>76</td>
</tr>
</tbody>
</table>

Table 3: State of the Death Penalty in Africa (Amnesty International & Hands Off Cain)

The following geographic survey will be divided between North Africa and Sub-Saharan Africa. As it will illustrate there are noticeable differences between the character of concerns with respect to the death penalty in these two regions. As is clear from Table 3, with the exception of Nigeria, there is also a stark difference in the number of people affected.

I. North Africa

Algeria

In Algeria, Amnesty International reported at least 153 death sentences in 2012 and at least a further 40 in 2013. Most of these were sentences passed after trials in absentia, many for terrorism-related offences. Amnesty has concerns over civilians being sentenced by military courts, as well as sentences being based on “confessions” obtained under torture and other ill-treatment.10

In 1992, under the declaration of a state of emergency in Algeria, the Anti-Terrorism Decree extended the scope of the death penalty to include terrorist offences. Seven armed Islamists were

10 Amnesty International Death Sentences and Executions 2012 p.30; Amnesty International Death Sentences and Executions 2013 p.32.
executed under the new law, but in December 1993, President Lamine Zeroual declared a moratorium on executions, which has lasted ever since.

In April 1999, after 7 years of civil war, President Abdelaziz Bouteflika launched a policy for reconciliation since which a number of offenses that previously qualified for capital punishment have been revised so that capital punishment is replaced by imprisonment. In June 1999, the president pardoned thousands of fundamentalists on the basis of the new national reconciliation law, which gained the approval of 85% in a national referendum in September. In 2001, President Bouteflika commuted the death sentences of 115 inmates to life imprisonment.

Algeria is part of the Support Group to the International Commission for the promotion of the moratorium and abolition of the death penalty, and has voted in favour of all four of the recent General Assembly resolutions.

Repeated requests from the European Union that Algeria abolish the death penalty appeared to be stimulating progress. On 27 June 2004, Algerian media reported that Justice Minister Tayeb Belaiz pledged to abandon the death penalty for all but the crimes of terrorism and treason. Algeria intended to cooperate with the European authorities who refused to hand over Algerian nationals detained on charges of terrorism, because of the existence of the death penalty in the country.11

Although it seemed that the government was moving towards abolishing the death penalty, a new criminal code approved in April 2006 did not remove the death penalty, and retained previous clauses which foresaw its application. In 2012 and early 2013, dozens of death sentences were handed out for terrorism charges, mostly in absentia, although none have been carried out. In December 2013 amendments to the Penal Code were adopted to expand the application of the death penalty to kidnappers of children where the victim died.12

Egypt

Egypt’s Draft Constitution of 2013 did not make explicit reference to the use of the death penalty, but did state in Article 2 that “Islam is the religion of the state and Arabic is its official language. The principles of Shari’a shall be the main source of legislation.”13 This means that the new Draft Constitution is subject to the same concerns expressed with respect to the 2012 Constitution—that the death penalty will be applied to crimes which are not considered “most serious” by international standards.

During its review in the first cycle of UPR in 2010 it was recommended that Egypt should restrict application of the death penalty to the most serious crimes. Egypt supported the recommendation, but rejected recommendations to pursue a moratorium on executions, commute all death sentences, or to abolish the death penalty.

After the popular uprisings of 2011, the Supreme Council of the Armed Forces (SCAF) assumed the power temporarily to administer the affairs of the country. From the SCAF’s assumption of power in February 2011, thousands of civilians were tried in military courts. These special courts, which often grouped dozens of defendants together before a military judge, were notorious for their quick and severe sentences. Defendants were regularly denied access to legal counsel and

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11 The European Convention on Human Rights requires State parties to reject extradition requests in cases where there is a possibility of a death sentence.
12 Amnesty International Death Sentences and Executions 2013 p.32.
13 Draft Constitution (2013) [unofficial translation] [www.madamasr.com/content/2013-draft-constitution].
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verdicts could not be appealed. At least 17 defendants were reportedly sentenced to death by military courts in this period.\textsuperscript{14}

The SCAF also added new offences to the already wide range of capital crimes. On 10 March 2011 it issued a decree (Law 7 of 2011) amending the 1937 Penal Code with two articles on “Hooliganism, Terrorizing and Thuggery” for which “the penalty shall be death if the crime is preceded or accompanied or associated with or followed by the felony of murder.” On 1 April 2011, the military authorised execution as a punishment for convicted rapists. The SCAF approved this in cases where the victims of rape were under 18, or where the perpetrator has a special connection with the victim, such as their guardian or employee.\textsuperscript{15}

There has been very little official information concerning executions since 2011. Amnesty reported at least 1 person executed in 2011, and at least 123 sentenced to death.\textsuperscript{16} They presented an unconfirmed figure of 109 people sentenced to death in 2013.\textsuperscript{17} Amnesty also listed Egypt among countries still imposing death sentences on civilians through military courts. Some death sentences were also imposed despite suspects being tried in absentia.\textsuperscript{18}

In March 2013, 21 death sentences were handed down by a civilian court in connection with the Port Said football violence, when 74 people were killed at a match in 2012. The investigations into the incident and trial were marred by reports that some of the defendants had been subjected to torture and other ill-treatment in detention.\textsuperscript{19}

In March 2014 Egypt made headlines around the world by sentencing 529 individuals (many of whom were not present) to death after one 2-day trial. A group of eight UN human rights experts condemned this as a “mockery of justice.”\textsuperscript{20}

Egypt has voted against all four of the UN General Assembly resolutions calling for a moratorium on the use of the death penalty.

**Libya**

In 2013 Amnesty International expressed concerns over civilians being sentenced by military courts in Libya. Both the former Prime Minister al-Baghdadi al-Mahmoudi and the former military intelligence chief Abdullah al-Senussi were extradited to Libya where, Amnesty contended, they faced an unfair trial and a real risk of the death penalty.\textsuperscript{21}

On 23 October 2011, in a speech formally declaring Libya’s liberation from the ousted regime, the transitional leader, Mustafa Abdul-Jalil said that Shari’a law would become the “main source” of legislation in the post-Gaddafi era. However, he also emphasised that the country would not adopt the most extremist elements of Shari’a, such as stoning adulterers.

Libya’s last known execution was in May 2010. Amnesty International reported that 18 men, including nationals of Chad, Egypt and Nigeria, were executed by firing squad for premeditated murder. Amnesty raised concerns that the proceedings leading up to the men’s death sentences

\textsuperscript{14} Amnesty International *Death Sentences and Executions 2011* p.34.
\textsuperscript{15} Ibid.
\textsuperscript{16} Ibid.
\textsuperscript{17} Amnesty International *Death Sentences and Executions 2013* p.32f.
\textsuperscript{18} Amnesty International *Death Sentences and Executions 2012* p.30.
\textsuperscript{19} Amnesty International *Death Sentences and Executions 2013* p.33.
\textsuperscript{21} Amnesty International *Death Sentences and Execution 2012* p.36.
‘fail to satisfy international standards for fair trial’. 14 of the men were executed in Tripoli, while 4 others were executed in Benghazi. Their identities were not made public by the Libyan authorities.\textsuperscript{22}

Amnesty International also raised concerns that a disproportionate number of foreign nationals receive the death penalty, and are often not provided with translation assistance during their trials which are run in Arabic. They were also denied access to their own government’s consular representatives. The fact that foreign nationals generally have limited financial means, and no family network who could help them by negotiating with the alleged victim’s families means that they were also disadvantaged in seeking commutation of their sentences.\textsuperscript{23}

After partially resuming operations in 2012, civilian and military courts in Libya handed down at least 18 death sentences in 2013. Most were for crimes allegedly committed during the 2011 armed conflict, but others concerned ordinary cases of murder. Amnesty International report serious concerns about fair trials, due to the precarious security situation, the intimidation of lawyers and the lack of central government control over the country.\textsuperscript{24}

The Misrata Court of Appeals sentenced to death former Education Minister Ahmad Ibrahim in July 2013, along with five other men, four of whom had been tried in absentia. Ibrahim was the first high-level official of the old regime to receive a death sentence.

Libya has voted against all four of the UN General Assembly resolutions calling for a moratorium on the use of the death penalty.

**Mauritania**

During its review under UPR in November 2010, Mauritania highlighted to the Human Rights Council that no executions had been carried out for 23 years, but emphasised that this was not a moratorium, and that the introduction of a moratorium might be considered. Despite this apparently positive indication, Mauritania rejected recommendations to abolish the death penalty. The Government has abstained on the previous three General Assembly resolutions calling for a global moratorium, having opposed the first resolution in 2007.

In September 2013, the *Independent* reported that stoning remains a legal punishment for adultery in Mauritania, although there are no reports of it actually being used.\textsuperscript{25} There are also concerns that death sentences have been imposed on minors: three of those sentenced to death by the Criminal Court in Nouakchott in 2011 were under the age of 18 when the crimes were committed. Those sentences were commuted to 12 years imprisonment and a fine following an appeal by the prosecutor.\textsuperscript{26} In October 2013, the Human Rights Committee raised its concern that homosexuality was a capital crime.\textsuperscript{27}

In early 2014, media sources reported that a young journalist could be facing a possible death penalty, in breach of the “most serious crimes” requirement, after being convicted of apostasy on

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\textsuperscript{23} Ibid.

\textsuperscript{24} Amnesty International *Death Sentences and Executions* 2013 p.37.

\textsuperscript{25} Emma Bartha ‘Special report: The punishment was death by stoning. The crime? Having a mobile phone’ *Independent* (29 September 2013) [www.independent.co.uk/news/world/politics/special-report-the-punishment-was-death-by-stoning-the-crime-having-a-mobile-phone-8846585.html].


\textsuperscript{27} CCPR ‘Concluding Observations: Mauritania’ (21 November 2013) [CCPR/C/MRT/CO/1] ¶8.
6 January for an article he wrote which criticised the prophet Mohammed. A local business and preacher stated during protests against the article that he would pay €4,000 to anyone who killed the reporter unless he announced his repentance within three days. 28

Morocco

According to government information, ten death sentences were imposed in Morocco in 2013, and 113 people were on death row at the end of the year. 29

In October 2012 the first Regional Congress on the Death Penalty for the Middle East and North Africa region took place in Rabat, in partnership with Moroccan civil society and human rights organisations. 30

In February 2013 a cross-party parliamentary network against the death penalty was created. In November, a bill to abolish the death penalty was introduced in the Moroccan Parliament. Reportedly the bill would replace the death penalty in the Penal Code and the Code of Military Justice with a life sentence, but would rule out requests for clemency. 31

Somalia

Somalia is the only African state which still carries out public executions. In September 2013, the Independent reported that stoning remains a legal punishment for adultery in Somalia. 32

Amnesty reported at least 32 death sentences and 6 executions in Mogadishu in 2011 following Transitional Federal Government (TFG) military court trials which lacked basic guarantees for fairness. The military court had been given jurisdiction over civilians in some areas vacated by al-Shabaab. The TFG later gave assurances that civilians tried by military court would not be executed and that in the future civilians would always be tried in civilian courts. 33

In 2012, the BBC reported that 17 civilians had been sentenced to death by a military court in Somaliland (north Somalia). The military trial was held the day after the accused were arrested and questions were raised as to whether the civilians were properly represented. The crime to which the civilians confessed (of attacking a group of soldiers) carries a mandatory death penalty for adults, in breach of international standards. 34 Amnesty International reported that at least 51 death sentences were passed across the whole country. 35

In 2013 at least 34 executions took place across Somalia, a significant increase which (along with those in Sudan) accounted for the increase of more than 50% across the continent as a whole. At

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29 Amnesty International Death Sentences and Executions 2013 p.38.
30 International Bar Association ‘First Regional Congress about the death penalty to take place in Morocco’ (17 October 2012) [http://www.ibanet.org/Article/Detail.aspx?ArticleUid=caa76469-04de-407c-9065-8f9c6e50ae0c].
31 World Coalition Against the Death Penalty ‘Abolitionist movement shifts up a gear in Morocco’ (20 December 2013) [http://www.worldcoalition.org/morocco-parliament-death-row-conditions-algeria-death-penalty-moratorium-abolition.html].
32 Bartha, ‘Special report: The punishment was death by stoning’.
33 Amnesty International Annual Report 2012 p.305.
34 ‘Somaliland military court sentences 17 civilians to die’ BBC News (17 May 2012) [www.bbc.co.uk/news/world-africa-18101584].
least 117 people were sentenced to death.\textsuperscript{36} Despite its continued (and indeed escalating) practice of the death penalty, Somalia has voted in favour of all four UN General Assembly resolutions calling for a global moratorium.

In addition to the semi-judicial sentences executed by governing authorities, a number of extrajudicial executions have been reported to have been conducted by non-state armed groups such as al-Shabaab. Most prominent among these have been several instance of execution by stoning for offenses ranging from adultery to “sodomy”.\textsuperscript{37}

In March 2012, Human Rights Watch reported that pro-government militias had committed summary executions since Ethiopian forces had occupied the towns of Beletweyne and Baido earlier in 2012. Civilians reported that, since the Ethiopian National Defence Force and two Somali militia groups had ousted al-Shabaab from the areas, and taken over Baido with the Transitional Federal Government, the security situation had worsened. They reported abusive security operations and rising tensions between rival militias competing for control. Human Rights Watch interviewed relatives of more than 7 victims of summary executions and indicated that the number of executions was significantly higher than that. For example, after Al-Shabaab claimed responsibility for a suicide bus bombing on 24 January, Ethiopian troops and allied militias arrested a number of people. Among them was Abdirahman Muhumed-Nur Abdulle, a teacher, who was seized from his home during house searches, and beaten. Several hours later, a member of the SVS administration notified his relatives where to find his body, in a river. Other examples given by Human Rights Watch include a man with mental health problems being abducted from a mosque, accused of being an al-Shabaab spy, and summarily executed.\textsuperscript{38}

In May 2014 Human Rights Watch published a report on the violations of fair trial rights by Military Tribunals in Somalia. The report noted that these courts had filled vacuum left by a barely-functioning civilian courts system, but has operated without judicial review from the Supreme Court and has conducted proceedings that fall short of international fair trial standards. It recommended an immediate commutation of all pending death sentences.\textsuperscript{39}

\textbf{Sudan}

Amnesty International reported a substantial increase in executions in Sudan in 2012, with at least 19 executions and 199 death sentences imposed. Sudanese authorities continue to use the death penalty to oppress real or perceived activists of political opposition groups.\textsuperscript{40} In 2013 this number increased again, with 21 executions and more than 100 death sentences.\textsuperscript{41}

In their 2009 country report, Amnesty International reported that 82 Dafuri men had been sentenced to death, after unfair trials for alleged involvement in an attack in Khartoum in May 2008 by the Justice and Equality Movement. The courts which sentenced the men were set up

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{36} Amnesty International \textit{Death Sentences and Execution 2013} p.46.
\item \textsuperscript{38} Human Rights Watch ‘Somalia: Pro-Government Militias Executing Civilians’ (28 March 2012) [www.hrw.org/news/2012/03/28/somalia-pro-government-militias-executing-civilians].
\item \textsuperscript{39} Human Rights Watch \textit{The Courts of “Absolute Power”: Fair Trial Violations by Somalia’s Military Court} (2014) [http://www.hrw.org/sites/default/files/reports/somalia0514_ForUpload.pdf].
\item \textsuperscript{40} Amnesty International \textit{Death Sentences and Execution 2012} p.29.
\item \textsuperscript{41} Amnesty International \textit{Death Sentences and Execution 2013} p.47.
\end{itemize}
\end{footnotesize}
under the 2001 Counter-Terrorism Act, which were in contravention of the 2005 Interim Constitution, as well as existing Sudanese law. Amnesty also reported 32 other death sentences in April 2009, also involving “special courts”. Fifty others were reportedly convicted between July and August 2008. ‘According to local lawyers and human rights activists, the men’s trials were grossly unfair: many had no access to legal counsel until their trials had begun. Many were tortured or otherwise ill-treated, and many confessed under torture.’

Death Penalty Worldwide reports that the death penalty is employed for offenses which do not constitute “most serious” crimes. Offenses that can result in death include:

- Bearing false witness or fabricating evidence resulting in an innocent person’s execution;
- Abetting the suicide of an individual unable to give legal consent
- Certain terrorism-related offenses.
- Homosexual rape, rape by a married person, homosexual incest, or incest by a married person
- Armed robbery aggravated by rape
- Drug trafficking (a mandatory death sentence in cases involving officials entrusted with combating drugs trafficking, use of a person unable to give legal consent, or as part of an international criminal organisation). Providing drugs or offering assistance related to trafficking carries a discretionary death penalty.
- Adultery
- Apostasy (a mandatory death sentence unless the accused is a recent convert to Islam).
- Sodomy between males (punishable by death on the third offense)
- Treason
- Espionage
- Incest committed by a married offender
- Running a place for prostitution (punishable by death on the third offense)

The Human Rights Committee, in their Concluding Observations 2007, claimed that embezzlement by officials has resulted in the death penalty (although the legal basis remains unclear).

In the areas of Sudan applying the Criminal Act of 1991, it is clear that the mandatory death penalty exists. It is applied in cases of; murder, other offenses resulting in death, armed robbery aggravated by rape, drug trafficking with certain conditions, adultery, and apostasy. Article 27 of the Criminal Act also permits the “retributive method” whereby the sentence may be carried out ‘in the same manner in which the offender caused death’. In September 2013, the Independent reported that stoning remains a legal punishment for adultery in Sudan.

Sudan has voted against all four UN General Assembly resolutions calling for a global moratorium on the application of the death penalty.

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44 Bartha, ‘Special report: The punishment was death by stoning’.
II. Sub-Saharan Africa

Botswana

Botswana is the only member of the SADC region to have executed anybody since 2005. After more than a year and a half without executions, Botswana resumed the practice in January 2012, when two men were executed, and 5 death sentences were imposed.45

One person was executed in May 2013, having been condemned in 2010 for the murder of six relatives.46

Botswana also voted against all four UN General Assembly resolutions for a moratorium on the application of the death penalty. In January 2013, Botswana rejected recommendations made during its review under UPR to introduce a legal moratorium or to abolish capital punishment. It did accept a recommendation to hold a public debate on the subject “in which all aspects of the issue should be highlighted in a holistic manner.”

Ethiopia

According to Article 28 of the 1994 Constitution, the President has the power to commute death sentences to life imprisonment, and those condemned to death have the right to appeal to a higher court and to petition for presidential clemency.

In May 2005, the Penal Code was amended, so that persons who deliberately infect someone with HIV/AIDS by rape face a maximum penalty of death.

In June 2011, the government annulled the death sentences of 23 high ranking officials from the former Derg regime who had been sentenced for committing genocide. According to President Girma Wolde Giorgis, they have now received pardon from the government and are sentenced to life in prison (25 years under Ethiopian law).

In May 2013, Pink News (along with other news sources) reported that an anti-gay group “hopes death penalty will soon be introduced for homosexuality.”47

Ethiopia has voted against all four UN General Assembly resolutions for a moratorium on the application of the death penalty. There have also been widespread reports of extrajudicial executions in the Somali Region, largely on the part of the “Liyu Police”, a government-backed paramilitary force.48

46 Amnesty International Death Sentences and Execution 2013 p.42.
47 PinkNews ‘Ethiopia: Anti-gay group hopes death penalty will soon be introduced for homosexuality’ (3 May 2013) [www.pinknews.co.uk/2013/05/03/ethiopia-anti-gay-group-hopes-death-penalty-will-soon-be-introduced-for-homosexuality/].
Equatorial Guinea

From 1997-2006, no known executions were carried out in Equatorial Guinea. However, in April 2006, Fernando Esono Nzeng was publicly executed in the courtyard of the Evinayong prison. Three further executions reportedly took place in 2007, without the knowledge of the families. In August 2010 four men were executed within an hour of a sentence being handed down by a military court at which the men were not present. They had been held incommunicado and had reportedly been tortured to extract confessions concerning an alleged attack on the presidential palace in February 2009.

On 7 May 2012, a 20 year old Malian national was sentenced to death by the Provincial Court in a case where the prosecution had only been seeking a custodial sentence, for the aggravated murder of a woman. An appeal against the sentence was lodged with the Supreme Court.

Equatorial Guinea has generally absented itself from votes on General Assembly resolutions calling for a global moratorium.

The Gambia

The Gambia carried out its first executions in almost three decades in August 2012, with eight men and one woman being executed by firing squad following a televised announcement by the President. The executions themselves were carried out in secret, without individuals, families, or lawyers being notified in advance. At least three of the nine executed had not exhausted their legal appeals.

President Yahya Jammeh first said that by mid-September all death sentences would be “carried out to the letter,” but backtracked following an international outcry and announced a “conditional” moratorium on executions which would be “automatically lifted” if crime rates increased.

Amnesty International also reported that Imam Baba Leigh—a public critic of the death penalty—had been arrested and detained incommunicado without charge.

Nigeria

In 2008, Amnesty International published a substantial report on the death penalty in Nigeria entitled Waiting for the Hangman. This report outlined numerous breaches of international standards with respect to executions, including the mistreatment of prisoners, failures in police investigations, flawed judicial proceedings where defendants are denied access to a lawyer,

The report claimed that more than 720 men and 11 women were on death row, and alleged that all of the condemned were poor, noting that “from their first contact with the police, through the trial process, to seeking pardon, those with the fewest resources are at a serious disadvantage.” Reportedly, the under-resourced police often demand money from defendants in order to carry out investigations. For example, a 61-year-old man sentenced to death for murder claimed “I can prove that I was not there… the other men, they were not even in town. We told the police this, but the officers said they couldn’t follow up because there was no transport.” With many being unable to afford such investigations, the police rely heavily on confessions: more than half of those on death row were sentenced on the basis of confessional statements. Many prisoners claim that those confessions were obtained under torture. Prisoners also complain that they don’t have access to lawyers, or that their lawyers are not able to properly represent them.\footnote{Ibid. p.13, 3.}

Amnesty International’s report includes rare details of the trial procedure. In 2007 the Presidential Commission on Reform of the Administration of Justice reported its finding that “one of the most intractable problems in death penalty administration in Nigeria is the severe lack of competent and adequately compensated counsel for indigent defendants and death row inmates seeking appeals.”\footnote{Ibid. p.17.}

For example, Pastor David Femi Lewu was arrested in 1983, at the age of 22 and spent 14 years on death row. He was accused of being responsible for the death of someone in a fight at a youth club of which he was the leader. The police said that, as the leader, he was responsible for the death. Once in custody, David was forced, under torture and threats of death, to copy out a statement which the police had composed for him. During the trial, David’s lawyer was not allowed to speak, and he was sentenced to death by hanging. He was not allowed any opportunity to appeal, because the trial was under military jurisdiction. Amnesty report numerous other credible testimonies from prisoners who claim to have been tortured by the police in pursuit of a confession.\footnote{Ibid. p.10f.}

There are also numerous examples of juvenile offenders being sentenced to death. For example, in December 2003, five teenagers (including three under the age of 18, and one who was just 16) were sentenced to death for alleged involvement in a fight. The 16-year-old – Victor – claimed that he was arrested on his way home from playing football, and the police refused him bail when he could not give them money. After five days in custody, he was severely beaten and forced to sign a statement confessing murder.\footnote{Ibid. p.18.}

In September 2013, The Independent reported that stoning is still a legal punishment for adultery in a third of Nigeria’s 36 states.\footnote{Bartha, ‘Special report: The punishment was death by stoning’.}

In addition to concerns about fair trials and proceedings leading to death sentences, in June 2013 Nigeria executed for the first time since 2006, in the south state of Edo. Families were not informed of the executions in advance, nor were they informed of the location of the graves. One week earlier President Goodluck Jonathan had urged state governors to sign death warrants for
death row prisoners. In 2011 the federal government had confirmed that there was a moratorium on executions but in 2012 this was described as "voluntary".\textsuperscript{61}

In addition to judicial executions, Human Rights Watch has reported a number of extrajudicial killings in Nigeria related to the Boko Haram insurgency. Troops deployed to enforce the state of emergency allegedly “engaged in the indiscriminate arrest, detention, torture, and extra-judicial killing of those suspected to be supporters or members of the Islamist group."\textsuperscript{62}

In November 2013, the Nigerian newspaper \textit{Premium Times} reported that eight unarmed people had been killed by security operatives, in relation to Boko Haram, in an empty building. Local residents and witnesses to the incidents insisted that the victims were homeless artisans and petty traders, squatting in the building, but the Army and Department of State Security services, who jointly carried out the killings later claimed that they were armed, suspected members of the Boko Haram sect. A report by the Senate Joint Committee on National Security and Intelligence, Judiciary, and Human Rights and Legal Matters, found that these deaths were not extrajudicial killings, but rather the result of a “hastily executed operation” against “confessed Boko Haram members.” The Deputy Senate President, Ike Ekweremadu, said that 18 out of 20 committee members had agreed with the report, and as such concluded that it was not biased. \textit{Premium Times}, however, reported scepticism over the committee’s claims, as “contrary to the norm with Nigerian security agencies, the alleged arms of the victims were never recovered or displayed.”\textsuperscript{63}

\textbf{South Sudan}

Under the 2008 Penal Code Act, the death penalty can be applied in cases of treason, insurgency, banditry, sabotage or terrorism resulting in death; perjury in a capital case leading to wrongful execution; murder; attempted murder causing injury by a person sentenced to life for a previous murder; brigandage with murder; and drug dealing under aggravated circumstances. People under the age of 18 or over the age of 70 are immune.

The Transitional Constitution of July 2011 continued to provide for death penalty. However, popular dislike of the death penalty is said to be growing in the country, especially among its Christian population. Some also argue that the death penalty is a left-over of colonialism which is incompatible with local custom. In most communities, customary laws demand that people found guilty of murder pay compensation to the family of the deceased in order to restore relationships, rather than taking away the perpetrator’s life. President Salva Kiir is said to be extremely uncomfortable signing death warrants.\textsuperscript{64}

Despite this, the Justice Minister John Luk Jok said, in November 2012, that the death sentence would continue to be applied in cases of treason and murder when a new constitution is enacted. The minister promised that a new “fund basket” was being created in order to provide legal aid for those unable to hire their own lawyers.\textsuperscript{65} According to Human Rights Watch, an estimated 95% of prisoners in the country go through the criminal justice system without counsel. Often unable to

\textsuperscript{61} Amnesty International \textit{Death Sentences and Execution 2013} p.45.
\textsuperscript{62} Human Rights Watch \textit{World Report 2014} p.150.
\textsuperscript{64} Elizabeth Ashamu & David Deng ‘Potential paths toward ending capital punishment in South Sudan’ (14 September 2012) \textit{Sudan Tribune} [\texttt{http://www.sudantribune.com/spip.php?article43895}].
\textsuperscript{65} Machel Amos ‘South Sudan to uphold death penalty’ \textit{Africa Review} (14 November 2012) [\texttt{http://www.africareview.com/News/South-Sudan-to-uphold-death-penalty/-/979180/1620090/-/zqnhmz/-/index.html}].
read or write, defendants can go through trial without knowing the charges against them and unable to call or prepare witnesses in their defence.66

In September 2012, a Permanent Representative of South Sudan in Geneva (Riek Puok Riek) told the UN Human Rights Council that South Sudan agreed with the logic of abolishing capital punishment, but that the process of abolition should be gradual. In December 2012, South Sudan voted in favour of the General Assembly resolution calling for a global moratorium, the only resolution for which it has been a member state. However, despite this expressions in favour of a moratorium, in 2013 there were at least four executions in November 2013. 67 In response, the UN called on South Sudan to adopt a moratorium on executions, expressing its concern that the 200 individuals on death row had been denied fair trials.68

Uganda

Article 22 (1) of Uganda’s 1995 Constitution states that “No person shall be deprived of life intentionally except in execution of a sentence passed in a fair trial by a court of competent jurisdiction in respect of a criminal offence under the laws of Uganda and the conviction and sentence have been confirmed by the highest appellate court.” The number of crimes for which the death penalty may be imposed has been expanded. In March 2002, Parliament imposed a mandatory death sentence for terrorists as part of its anti-terrorism bill. Intentionally transmitting HIV was made a capital offence in 2007, and in 2009, a new clause was created in the ‘Prevention of Trafficking of Persons Bill 2007’ allowing death penalty in cases of human trafficking.

However there have been other ways in which legislation has been brought closer to international standards: in June 2005, Uganda’s Constitutional Court passed a judgement that the mandatory death penalty imposed for certain serious crimes was unconstitutional and must be abolished. In 2009, the Supreme Court confirmed that the mandatory death penalty and excessive delays on death row were unconstitutional and ordered that death sentences be commuted to life imprisonment after 3 years.69

Though it has not executed since 2006, Uganda has voted against all four UN General Assembly resolutions calling for a global moratorium on the application of the death penalty.

Homosexual behaviour was recently outlawed in Uganda, with those found guilty current facing up to 14 years in prison. On 20 December 2012, following intense international pressure, President Museveni condemned the punitive clause of an anti-gay bill being considered by Parliament that called for hanging for those convicted of having consensual homosexual sex. Nonetheless, a powerful pressure group still pushes for a clause in the Ugandan Anti-Homosexuality Bill, proposing the death penalty for those guilty of ‘aggravated homosexuality’. The clause has been rejected by Parliament twice, but newspaper reports “outing” gays have called for their deaths.

In late-2010, the Rolling Stone newspaper ran a front page displaying the pictures of two ‘exposed’ gay men, under a banner saying “Hang Them”. The paper promised to expose 100 gay people as well as printing their names, photographs, and sometimes information on where they lived. A few weeks after their first front-page story, Rolling Stone had another, which gave the identities of 17

67 Amnesty International Death Sentences and Execution 2013 p.47.
more alleged “gays”.70 One of the first men “outed” was David Kato, who was beaten to death with a hammer near his home in January 2011. The murder is widely believed to have been motivated by hatred for homosexuals, as a punishment in lieu of the death penalty which Kato had been a leading voice against.71 Kato and other activists had complained of increasing harassment before his death, and specifically threats that the harassers would “deal with him.”72

B: Perpetrators & Victims

Certain common characteristics can be found which make people more likely to become “victims” of execution in Africa. Archbishop Desmond Tutu has written that “in country after country, [the death penalty] is used disproportionately against the poor or against racial or ethnic minorities. It is often used as a tool of political repression.”73 Assertions to this effect are frequent and highly credible, but finding evidence to specifically back up each claim is difficult. However one can generalize that a number of broad characteristics can determine the impact of the death penalty.

The most obvious of these characteristics is poverty. Wealth becomes a determining factor throughout the entire process: firstly in terms of living in an environment where you are more likely to be caught up in criminal activity; secondly in terms of paying the police to carry out a proper investigation; thirdly to afford an adequate lawyer for representation in court; and finally in order to get your name onto the list of those eligible for pardon. When a defendant is unable to afford their own lawyer, depending on legal aid is often hopeless as very few countries have adequately-funded schemes to give proper representation to the poor.

Poor education is another great disadvantage. Defendants cannot properly understanding the trial process, and the risks that they face, and so are unable to take appropriate self-help action. Language can also be a barrier in countries like Uganda where the language of the courts in English, which many rural Ugandans cannot properly understand.

Coming from a remote location can also have other disadvantages. A disproportionate number of those sentenced to death come from rural areas, far removed from the location of the court which hears their case, making it difficult to get witnesses to testify on their behalf.

Foreign nationals are also potentially vulnerable. When facing the death penalty foreign nationals face the extra difficulties of a language barrier which they rarely receive assistance in overcoming. Moreover they do not having family or community networks to help provide funds and other support.

Country-specific research substantiates these general observations. In a 2005 study of the death penalty in Uganda, FIDR found that “the overwhelming majority of the people sentenced to death in Uganda have the same characteristics: they are poor, have little or no education, and live in rural and/or up-country areas, away from the main urban centres.” Research into death row prisoners 1995-1997 found that 94% were from the ‘lower classes’, with 72% being either

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peasants or small traders, and 22% soldiers. 12% had no education at all, and only 4% had college/university education. 68% had either no education at all, or rudimental primary education.74

Interviews with 417 death row inmates in 2003 found that most were very poor, with 86% being unable to hire private lawyers to defend them against their charges. It also found that 87% had no knowledge or only very basic skills in English – the language of the courts. 75

Further, 22% of condemned persons were found to be soldiers, mostly of the lowest rank. There have been suggestions that those convicted have actually been scapegoats to cover the wider scourge of abuses by the army. 76

C. Structural Factors & Social Norms/Phenomena

If lack of private funds can be seen to have a negative effect on victimisation, it is also the case at a more structural level that lack of public funds can lead to the application of the death penalty in a more arbitrary fashion. In their report on Nigeria, Amnesty International demonstrated that funds required for a police investigation which could prove the innocence of suspects were not available from the state, so must be provided by the suspects themselves. The poorest prisoners simply cannot afford this. More than half of convictions are therefore based on “confessions” rather than on investigative evidence.77

The structural problem of crime is clearly related to the phenomenon of the death penalty. In fact the UNODC homicide statistics (tabulated above in the Introduction) show that countries which maintain the death penalty have higher crime rates. Proponents would argue that this demonstrates the need for its continued application, but there has not been conclusive evidence of capital punishment’s deterrent effect, and many argue that it can have the reverse effect.

Social norms concerning the death penalty are clearly highly relevant in justifying its continued practice. This has been studied with respect to the extent to which judiciaries in Africa defer to public opinion rather than constitutional protections of human rights.78 The ACHPR has found (in general) that justifications for limiting rights “cannot be derived solely from popular will.”79 It has also been observed that “reliance on public opinion rather than on the constitution would substitute the supremacy of the constitution with majoritarian supremacy, which contradicts the very purpose of human rights protecting vulnerable individuals and groups, whether of a majority or minority, from abuse by an individual, the government, or the public at large.”80

This was found to be the case in South Africa, where a challenge by the Attorney General to retain the death penalty on the grounds that the majority of South Africans favoured it in extreme cases was rejected on the grounds that “the question before us... is not what the majority of South

75 Ibid.
76 Ibid. p.23.
77 Amnesty International Waiting for the Hangman p.49
80 Abebe ‘Abdication of Responsibility or Justifiable Fear of Illegitimacy?’ p.611.
Africans believe a proper sentence for murder should be. It is whether the Constitution allows the sentence.”

While majoritarian will was not deemed irrelevant, it was held that

Public opinion may have some relevance to the enquiry, but in itself, it is no substitute for the duty vested in the Courts to interpret the Constitution and to uphold its provisions without fear or favour. If public opinion were to be decisive there would be no need for constitutional adjudication. The protection of rights could then be left to Parliament, which has a mandate from the public, and is answerable to the public for the way its mandate is exercised, but this would be a return to parliamentary sovereignty, and a retreat from the new legal order established by the 1993 Constitution.

By contrast, in Tanzania, the Court of Appeal upheld the death penalty arguing that the determination of whether the death penalty was necessary to protect the right to life should be decided by elected representatives of the people. It stated that “the death penalty is cruel, inhuman and degrading … But the crucial question is whether it is reasonably necessary to protect the right to life. For this, we say it is the society which decides. The trial judge acknowledges that presently the society deems the death penalty as reasonably necessary.”

The concerns regarding the death penalty in North Africa tend to be those of “most serious crimes” and method of execution. This is not only because of the application of Shari’a principles to penal law but also, as Amnesty International has noted of the Middle East / North Africa region, the imposition of capital punishment for “vaguely worded political “offences”, including charges under anti-terrorism laws.” In sub-Saharan Africa the challenges are generally those of transparency and access to justice.

**D: “Best Practice”**

In April 2013, the World Coalition against the Death Penalty noted a strong trend towards abolition in Africa as a whole. In 2013, only 19 countries imposed death sentences, and only 5 carried out executions. Although the number of people executed increased dramatically, this was a result of increases in Somalia and Sudan (which together accounted for more than 85% of executions on the continent).

Particularly in North Africa, Amnesty International have reported some progress in terms of death penalty practice, but a reluctance to formalise reform: “It appeared that some governments in the region reduced their use of the death penalty through measures such as the imposition of fewer death sentences, commutations, or simply refraining from executions in practice. However, very few wanted to be seen as taking demonstrative steps, such as changes to their national laws or international legal obligations.” For example, in 2012 Tunisia commuted the death sentences of 125 people, but the new draft constitution still did not rule out the death penalty. Egypt’s new constitution in 2014 similarly fails to rule out death penalty, although practice appears to be in decline. During their respective UPRs, Morocco and Tunisia (neither of which have executed since the early-1990s) both received recommendations to abolish the death penalty and ratify the Second Optional Protocol of the ICCPR, but both rejected those recommendations.

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82 Ibid. ¶88.
83 Quoted in Abebe ‘Abdication of Responsibility or Justifiable Fear of Illegitimacy?’ p.614.
84 Amnesty International Death Sentences and Executions 2012 p.29.
85 Ibid.
86 Ibid. p.28.
In general, however, it is possible to point to progress on various fronts:

**Presidential Decisions**

In Zambia, on 26 May 2013, President Michael Chilufya Sata commuted the death sentences of 113 prisoners to life imprisonment. In Kenya, in 2009, over 4,000 people were similarly spared when a presidential decision saw their death sentences commuted to life imprisonment.87

In 2011, on the country’s 50th anniversary of Independence, President Koroma of Sierra Leone and commuted the sentences of all prisoners on death row to sentences of life imprisonment, earning him the “Abolitionist of the Year Award 2012” from Hands Off Cain.

**Domestic legal challenges**

In 2010, the mandatory death penalty was challenged in Zambia in the case of Alex Njamba, and in Kenya a court found that the mandatory death penalty was unconstitutional and in violation of constitutional provision on protection against inhuman treatment.88

In Malawi in 2007, the case of Francis Kanfantayeni and five others v. Attorney General where the court found the mandatory death penalty to violate individual rights, by negating the right to a fair trial and the review of the sentence by a superior court.89

**International Treaties, Resolutions and other Commitments**

In December 2012, 22 African states voted in favour of the fourth UN General Assembly resolution calling for a moratorium on the death penalty. Importantly, the Central African Republic, Chad, Seychelles, South Sudan, and Tunisia were among those to vote in favour of the resolution, despite having previously abstained or been absent at the vote for the 2010 resolution. 2012 was also the first time that Somalia co-sponsored the resolution. The only backwards step in the respect was by Namibia which had previously voted in favour in 2010, but abstained in 2012. It is important to note, however, that both Somalia and South Sudan ostensibly have no difficulty in reconciling these votes with a continued policy of executions in 2013.

Benin, Djibouti and Rwanda co-sponsored a resolution aiming to convene a high-level panel discussion on the question of the death penalty, which was adopted by the UN Human Rights Council in March 2013. This was designed to be a chance for states to exchange their views on advances, best practices, and challenges relating to abolition or moratoriums.90

In January 2014, a Regional Conference on the Abolition of the Death Penalty and/or a Moratorium of Capital Executions was held in Sierra Leone. The conference was in collaboration

89 Ibid.
with Hands Off Cain and Manifesto 99, and included delegates from Mali, Italy and Rwanda, as well as dignitaries from the Sierra Leone government. Addressing the conference, the Sierra Leone Minister of Foreign Affairs highlighted the country’s place among the growing number of de facto abolitionist states. He did not make a commitment that the country would remove the death penalty completely from its penal code, suggesting that such a measure could undermine national security. The conference was the third African conference on death penalty organized by ‘Hands Off Cain’ aimed at finding consensus among countries to adopt a moratorium on executions, two others having taken place in Libreville in 2007 and Kigali in 2001.91

The Conference approved a Final Declaration asking all African states to define an Additional Protocol to the African Charter on Human and Peoples’ Rights regarding the Abolition of the Death Penalty. It also urges states to conform internal legislation to the principles of this new Additional Protocol and to aspire to principles of restorative justice that take account of the experience of victims and therefore pursue peaceful national reconciliations.

Various African countries have joined the Second Optional Protocol, although not all have been effective in implementing the changes it demands. In 2012: Benin joined on 5 July. Although the death penalty remains within its jurisdiction until the criminal laws providing for it are repealed, the ratification without reservations of the Second Protocol makes Benin totally abolitionist. Madagascar also signed on 24 September. In January, the President of Burkina Faso reiterated his support for the eventual ratification of the Second Optional Protocol, but has yet to take any legislative steps. In 2013 Angola signed the Protocol, but has yet to ratify it. Guinea-Bissau ratified the protocol, having signed in 2000.


For abolitionist states

The Human Rights Committee has found that abolitionist States would violate article 6 (1) not only were they to reinstate the death penalty, but also if they were to transfer a person to a country where he or she would risk the imposition of the death penalty, stating that, “for countries that have abolished the death penalty, there is an obligation not to expose a person to the real risk of its application.”92

This ruling has been confirmed at domestic level within Africa. In July 2012 the Constitutional Court of South Africa found that deporting individuals to a State in which they might face execution would violate the right to life of the persons concerned.93


93 Minister of Home Affairs and Others v Tsebe and Others, Minister of Justice and Constitutional Development and Another v Tsebe and Others (CCT 110/11, CCT 126/11) [2012] ZACC 16 ¶73.
Bibliography & Further Reading

Conditioned Homicide

Infanticide

This section explores the incidence of infanticide—the killing of an infant (usually a new born baby) either by its parents or with their consent. It can be practiced for various reasons, either culturally, socially or economically determined.

Infanticide is a regular occurrence in a number of countries, including Benin, Rwanda, South Africa, and Namibia. It is a practice also reported in Burkina Faso, Ethiopia, Madagascar, Tanzania, Togo, Zimbabwe, Uganda, Niger, and Senegal. In some countries, such as Kenya and Nigeria, certain tribes ritually murder or abandon twins.

A: Geographical Distribution

In most countries infanticide is predominantly a regional phenomenon, concentrated in a number of regions where traditional norms are persistent. There is reason to suspect it is a greater phenomenon in rural than in urban areas. As with other practices described in this report, this can mean the problem is structurally under-reported.

Benin

Infanticide of babies considered unlucky is described as “widespread” in remote areas of Benin among the Baatonu. Babies are marked as unlucky either because they are born disabled or due to the circumstances of their birth. Child Rights International Network has highlighted the issue as a violation of the rights of children and it has been highlighted in UN country reports by the Committee on the Rights of the Child. A local charity, Espoir Lutte contre l’Infanticide has achieved some success in finding abandoned children and taking them to UNICEF-aided programmes.

1 The principal researchers on this section were Sophie Roborgh and Charlotte Kelly.
Attempts to change attitudes, both by the Beninese government and foreign agencies have proved largely unsuccessful, due to the conservatism and insolation of the affected communities.\footnote{Gerard Guédégbé ‘Child witches and ritual infanticide in Benin’ (2007) p.15 [http://fairreporters.files.wordpress.com/2011/11/fair-grants-investigations-2007.pdf].}

**Ethiopia**

In the lower Omo valley infanticide is practised by the Kara and a few other tribes. Infanticide occurs due to beliefs that children are cursed, or mingi, as a result of some aspect of their birth. This includes babies born disabled, babies born out of wedlock, babies born in a non-typical fashion and older children who first tooth appears in the upper jaw instead of the lower.\footnote{Richard Grant ‘Saving the condemned children of Ethiopia’ Daily Telegraph (14 April 2012) [http://www.telegraph.co.uk/news/worldnews/africaandindianocean/ethiopia/9189136/Saving-the-condemned-children-of-Ethiopia.html].} Omo Child, a charity, provides care for abandoned children.\footnote{Omo Child [http://omochild.org/about-us/mission/].} The practise of ritualistic infanticide is illegal but “A tiny handful of people, only a few, have been arrested in connection with these killings and have been given minor prison sentences. However, the government is seen as a distant agent in the tribal regions where government officials rarely travel. Rather than halting the practice, the new laws have simply driven it underground.”\footnote{‘Christians fighting losing battle against infanticide in Ethiopia’ Catholic Online (7 November 2011) [http://www.catholic.org/international/international_story.php?id=43570].}

**Namibia**

Namibia has for several years been confronted by the problem of infanticide and the associated practice of “baby-dumping.”\footnote{Dianne Hubbard Baby-dumping and Infanticide (Windhoek: Legal Assistance Centre, 2008) [http://www.lac.org.na/projects/grap/Pdf/mono1infant.pdf].} Such events are often reported in the media, but little attention is given to initiatives aimed at those women and children who are consistently exposed. While inconsistent reporting about the incidence of such killings makes policy guidance difficult, media emphasis on social problems such as teenage pregnancy can exacerbate the problem.\footnote{‘Say no to baby dumping’ Namibia Economist (21 February 2014) [http://www.economist.com.na/2011-12-07-11-05-31/community-and-culture/4897-say-no-to-baby-dumping].}

**Rwanda**

In 2011, 33 cases of infanticide have been documented. A spokesperson for the Rwanda National Police characterised the typical perpetrator as a young, unwed woman who had been abandoned by her partner. Some are also high school students who are concerned about being excluded from school if they have a child.\footnote{Jenny Ford ‘Infanticide in Rwanda: the silent tragedy’ New Times (4 June 2012) [http://www.newtimes.co.rw/news/index.php?f=15013&a=54393].}

The associated problem of “baby dumping” is still considered involuntary murder or negligence if the baby dies.\footnote{Ibid.}
South Africa

In 2011 a woman was sentenced to twelve years (half suspended) for killing her 9-day-old baby with a pair of scissors. She claimed she had done so because the baby’s father had abandoned her for another woman and she could not care for the child alone. This fits with an overall trend observed by Carina van der Westerhuizen in her study of the legal regimes concerning infanticide: she noted that despite the fact that there are legislative measures (such as the Children’s Act of 2007) to protect children in South Africa, “the brutal killing of babies by their mothers has not decreased. Media reports affirm that socio-economic circumstances impact on the occurrence of this crime: the reasons for killing babies vary from AIDS and extramarital affairs to poverty.”

B: Perpetrators & Victims

The perpetrators of this type of killing tend to living in very difficult circumstances themselves. Often the act of killing will sometimes be one of desperation: forced upon a mother by extreme poverty or isolation. However such killings can also be conditioned by societal pressures, or the desire to avoid them. In this latter respect perpetrators are often young, unmarried women who fear being ostricised by their communities were they to keep their child.

C: Structural Factors & Social Norms/Phenomena

The practice of infanticide is sometimes driven by societal pressures, for instance when children are born out of wedlock or as a result of rape, when women fear they may not be able to support their children, or when fathers deny paternal responsibilities. However, in some cases the problem has deeper roots and draws on more primordial traditions.

In some states, such as Benin and Ethiopia, infanticide is steeped in superstition and takes the shape of ritual killings. In some regions in Benin, infanticide takes place of children who are not born in a particular way, who are not developing according to norms, and are therefore considered possessed by evil forces. Baby girls and children suffering from disabilities are at particular risk in Benin, Burkina Faso, Madagascar, Namibia, Senegal and Niger. In Madagascar and Benin, death of (one of) twin children occurs as well.

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18 ‘Judge give mom 12 years for killing her baby’ Sowetan Live (4 April 2011) [http://www.sowetanlive.co.za/news/2011/04/04/judge-gives-mom-12-years-for-killing-her-baby].
Infanticide is one of several examples of unlawful killings made more difficult to track because of the unavailability of birth-registration data. This is a development priority for several reasons in respect of children’s rights, but the greater protection of the right to life would be among them.  

D: “Best Practices”

It is important that states foster a climate of accountability for all killings, including infanticides. Not all states prosecute the perpetrators of these attacks, but some, such as Niger, have made considerable progress. It has been reported that at least half of the female prison population of Niger was incarcerated for this crime. Equally in Senegal, if police succeeded in discovering the identity of the mother, she would be arrested and prosecuted. It should also be noted that some scholars have suggested that too closely identifying infanticide with murder may be counterproductive, and that a new part of the criminal code should be created.

Aside from accountability there are also promotional activities that might be undertaken by the state. Several countries are setting up programmes to prevent infanticide and combat the roots of its occurrence. Benin, one of the states where infanticide is relatively prevalent, is currently attempting to curb these practices by organizing forums to raise awareness. Education campaigns have also set up in Ethiopia.

Bibliography & Further Reading

Killings Associated with Spiritual Beliefs

This section explores various types of killings motivated in some way by belief in the supernatural.\(^1\) This ranges from one of the most commonly characterised “harmful traditional practice”, witch-killing, to conditioned forms of discrimination such as that against people with albinism and the LGBT community.

As was observed by the Office of the High Commissioner for Human Rights in 2013 with respect to violence against persons with albinism,

> “Whether any particular ritual killing...is attributable to a State agent needs to be determined on a case-by-case basis. In addition to cases of direct liability, the State violates its obligation to ensure the right to life and the prohibition of torture and ill-treatment by failing to take appropriate measures to prevent, investigate, prosecute, punish or redress the harm caused by the attacks...committed by non-State actors. The responsibility to protect and prevent is particularly relevant in cases of persons in vulnerable situations, such as persons with albinism, and in circumstances where the authorities are aware of the real and imminent danger faced by such persons and communities.”\(^2\)

A: Geographical Distribution

This geographic study will survey the incidence of three types of killing – witch-killing, the particular example of the killing of persons with albinism, and more general ritual murders (including those believed to be associated with “muti”).

I. Witch-Killing

Witchcraft has been widely practiced in African Societies since before the colonial time. Belief in how witchcraft is practiced varies from state to state, but the belief and practice of witchcraft is often to give a justification for why bad things happen to certain people. This leads to accusations against certain individuals who are suspected to have been directly involved in the acts of witchcraft. Accusations of witchcraft can lead to violations of a wide range of human rights, including the right to life. Women, people of old age, children and the poor are particularly vulnerable.\(^3\)

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\(^1\) The principal researchers on this section were Sophie Roborgh and Charlotte Kelly.


**Tanzania**

Statistics compiled by Legal and Human Rights Centre from the Tanzanian Police Force’s figures indicated an increase in violation of the right to life due to witchcraft-related killings in 2013. In the year 2012, statistics showed that 630 people were killed due to witchcraft beliefs, whereas in the year 2013, witchcraft related killings claimed the lives of 765 people. Of those killed, 505 were women and 260 were men.\(^4\)

In 2012 it was estimated that over the previous six years more than 3,000 people were killed across Tanzania because of suspicions of witchcraft. It was alleged that in Shinyanga province alone 242 people were killed from January 2010 to January 2011.\(^5\)

**Ghana**

Many people accused of witchcraft face shunning and isolation by their communities, or community expulsion. A significant example of this is the several witch camps in Ghana, where approximately 1,000 women and 700 children are living. In these camps living conditions are considered extremely difficult, leading the Ghanaian government to decide to close the camps. However, this plan has resulted in panic among the inhabitants, with few inhabitants having faith in their ability to rebuild a life outside of the camps in a mostly even more hostile environment.\(^6\)

Concurrently, a belief in spiritual healing can lead to various abuses against those who are physically or mentally ill. In Ghana, “prayer camps” were set up for people considered to be suffering from mental health problems or physical disabilities, where they faced severe abuse to “exorcise” the evil spirits possessing them. These camps hosted young children as well. Despite efforts by HRW and other NGOs, regulation of prayer camps continues to be minimal.\(^7\)

**Angola**

In Angola, the practice of accusing children of witchcraft appears to be on the decline due to a more broadly implemented programme by the government that endeavours to reduce shamanism, sacrifices, witchcraft and similar indigenous religious practices.\(^8\) However a Catholic priest recently warned that such killings continue to present a threat to the lives of elderly persons in the northeastern Luanda Norte province.\(^9\)

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5. ‘3,000 Lynched In Tanzania For “Witchcraft in Past Six Years’ World Post (29 May 2012) [http://www.huffingtonpost.com/2012/05/29/tanzania-witchcraft-3000-lynchings-witches_n_1553448.html].
Nigeria

Nigeria is an especially horrific case in point, where children accused of witchcraft have subjected to attacks including acid burns. It has been estimated that in the first decade of the twentieth century, as many as 15,000 children in Nigeria’s Akwa Ibom and Cross River states have been branded witches by a small number of extremist pastors, who then charge large sums for “exorcisms”. In the course of these ceremonies more than 1,000 have been killed.10

In Nigerian law, the Criminal Code 2004 (§210) does prohibit accusations of witchcraft against both adults and children, but the Child Rights Act does not. Moreover there is a great deal of legal variation between different states of the country.11 The laws have not been applied with any consistency, and perpetrators of witch killings often act within a culture of impunity.12 In Nigeria, the authorities prosecuted some extremist exorcists, pressing charges for torture and murder.13

The phenomenon of accusations against children should not obscure the fact that the elderly, historically the social group most victimised as a result of belief in witchcraft, continue to be at risk in Nigeria. In Ekiti in 2012 a 70-year-old woman was murdered by a gang of youths after an accusation she had caused a sickness of a local preacher. The woman was dragged to the local chief and forced to drink a potion supposed to force confession. When after a week she had neither confessed nor died, a group attacked her, flogged her, cut her fingers with scissors and then burned her alive.14

Democratic Republic of Congo

As in Nigeria, the DRC has in recent years witnessed a tide of accusations of witchcraft against children.15 In 2013 a BBC documentary highlighted the fate of around 50,000 children being held in churches in the accused of possessing “kindoki” or magic powers.16

Philip Alston pointed to the fact that 25-50,000 of the children living on the streets of Kinshasa may be there because they have been rejected by their families because of witchcraft. While these are not technically killings they are obviously a grave concern.17

14 Igwe ‘Witch Killing and the Rule of Law’
16 ‘DR Congo’s Witchcraft Epidemic: 50,000 Children Accused of Sorcery’ International Business Times (20 May 2013) [http://www.ibtimes.co.uk/branded-witch-bbc-democratic-republic-congo-kindoki-469216]
II. Attacks Against People with Albinism

Across many African states, persons with albinism are killed because their body parts are believed by some to be imbued with magical properties, and are sold to witch doctors to be made into potions. Death is typically by dismemberment, as some believe that body parts are more powerful if cut from living victims, and the UN notes that children are increasingly being targeted. The ritual murder of people with albinism takes place in the context of wider discrimination.

Much of the reporting collated below has been presented by Under the Same Sun, an NGO based in Tanzania but which collates information concerning attacks on persons with albinism from across the continent.

Tanzania

According to a 2013 report by the UN High Commissioner for Human Rights, at least 72 persons with albinism have been killed in Tanzania since 2000, of which only five cases have resulted in successful prosecutions for murder. Media reporting suggests that more than 62 have been killed between 2008-11, with many others experiencing extreme violence.

The surge of killings in 2008 drew attention to the problem, including within the European donor community. In 2009, President Jakaya Kikwete condemned the killing. 2010, Salum Bar’wani became the first person with albinism to be elected an MP in Tanzania. Tanzanian courts handed down 10 death sentences in 2010 for murderers of persons with albinism. Although 2011 appeared to show a decrease in attacks on persons with albinism, in 2012 reports of killings and violent attacks resurfaced.

The government also took some more promotional steps, opening shelters for albino children and commissioning task forces to investigate the killings, but the UN, human rights groups and Tanzanian albino groups have criticised the speed of government reaction and a failure to prosecute those responsible for the killings.

A fresh spate of attacks began in early 2013 drawing renewed international attention to the problem, with four attacks taking place in a 16-day period. In a particularly gruesome development, many of these attacks involved amputating body parts while the victim was still alive.

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19 Under the Same Sun Reported Attacks of Persons with Albinism [http://www.underthesamesun.com/sites/default/files/PWA%20Attacks%20in%20Africa.pdf].
23 UN’s Navi Pillay condemns Tanzania attacks on albino’s BBC News (5 March 2013) [http://www.bbc.co.uk/news/world-africa-21675536].
The founder of Under the Same Sun, Peter Ash, suggested to media that the amount of money demanded by albino body parts implied international networks: "The people who are buying these organs are spending thousands of dollars...The arm or leg of a person with albinism sells for between $2,000 to $4,000. A complete set of organs of a person with albinism sells for over $100,000. Now you have to ask yourself, in such a black market, who in a poor country like Tanzania has that kind of money? Very, very few people."27

In May 2014 40-year-old woman with albinism was murdered in northwestern Tanzania. Her attackers chopped off one of her legs above the knee, two of her fingers and part of her thumb, apparently while she was still alive. The UN High Commissioner welcomed the rapid response of the police, who arrested two local witchdoctors.28

### Burundi

The killing of a woman and her son, both with albinism, was reported by an NGO on 2 May 2010 in Cendajuru, on Burundi’s border with Tanzania. Both were killed by dismemberment, as was a relative who sought to intervene. The killing was one of 14 between 2000 and 2010.29 In a 2009 trial, 11 people were accused of planning to murder people with albinism and send their body parts abroad to Tanzania, leading to suggestions that the killing for body parts of people with albinism has spread from Tanzania to other East African Countries.30

While there have been more successful prosecutions of those accused of the murder of people with albinism in Burundi than in Tanzania, the chairman of Albinos without Borders, Kassim Kazungu, has called for more to be done and even for such killing to be a capital offence. He has recommended that the government provide sanctuary for albinos. “However, government spokesperson Philippe Nzobonariba said the government had done its best to stem the practice by prosecuting offenders. “The security of albinos is the responsibility of the local administration who in collaboration with the community are working hard to stem the vice,” he said”.31

In her report to the Human Rights Council, the UN High Commissioner for Human Rights expressed concern about poor living standards in shelters provided for people with albinism, but did note that the Burundian government is launching a national policy to promote and protect the rights of people with albinism.32

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27 Ibid.
Côte D’Ivoire

Under the Same Sun have received at least 25 recent reports of attacks on persons with albinism, including six killings. In March 2011 three people were abducted, and later reported murdered, in the town of Duékoué. In March 2014 a man in Port-Bouët narrowly escaped abduction after a fracas with two men claiming to want his head.\[33\]

Democratic Republic of Congo

There have been 27 recent reports of attacks on persons with albinism in the DRC, including seven killings. The DRC is also reportedly a country known to be involved in the international trade of persons with albinism (trafficking) and of their body-parts.\[34\]

A Congolese refugee told UNHCR of fleeing his home town in South Kivu after a member of a Mai Mai militia group broke into his house, knocked his five-year-old albino son unconscious and stuffed him into a bag. After fighting him off, the family were told by the Mai Mai either to surrender their son or pay $10,000.\[35\]

Killings of persons with albinism are also recorded as having taken place in Kenya, Burkina Faso, Cameroon, Guinea, Mali, Namibia, Nigeria, Senegal, South Africa, Swaziland, Zambia, and Zimbabwe.\[36\]

III. Other Ritual Murder (including Muti killings)

Ritual killings are based on the belief that particular body parts harvested through a particular process and from selected victims can enhance health, strength, wealth or power. In states such as Gabon, for instance, it is believed that organs provide strength, especially when harvested from living people. In Liberia, former warlord Milton Blahyi mentioned in 2008 that he believed that eating children’s hearts brought victory in battle, and notions that a certain candidate for office has special powers can boost their status in election season.\[37\]

Combatting ritual killings in Africa has been haphazard at best, partially because in certain countries high level politicians are implicated, or because ritual killings are not recorded separately from other murders therefore not considered a particular problem.

Gabon

In Gabon, the fighting of ritual killings gained a high profile recently, as high government functionaries, such as Senator Eyeghe Ekome, were implicated in court cases related to the

\[33\] Under the Same Sun Reported Attacks of Persons with Albinism.  
\[34\] Ibid.  
\[35\] ‘UNHCR helps young Congolese albino on the run from witchcraft’ [14 October 2013] [http://www.unhcr.org/525be9c89.html].  
\[36\] Under the Same Sun Reported Attacks of Persons with Albinism.  
phenomenon. The Senate decided to lift Ekomie’s immunity, however more concrete steps are yet to follow in his prosecution (complicated by health factors).³⁸

A climate of general condemnation of ritual killings among government members such as the president and the prime minister, as well as among religious leaders, pointed at a decline in social acceptance of the practice. Nevertheless, journalist Olivier Ndembi faced harassment from the General Directorate for Investigation regarding his research on the possible involvement of Gabonese politicians in ritual killings.³⁹

However this recent high profile case has drawn attention to a broader underlying issue. In Gabon the Association de lutte contre les crimes rituels (ALCR) received evidence of 20 ritual killings between January and March 2013.⁴⁰ Between January and May 2012 the association received reports of 31 ritual killings of which, ten were of children, seven of women and fifteen of men.⁴¹ The association has criticised the lack of government involvement, despite popular demand and a major protest against the practice in Lambaréné in January 2013, lead by Church groups.⁴²

In May 2012 special criminal sessions were held in Libreville, created by the President of the Republic, in order to tackle public concern about ritual crimes. It was during the first day of this session that a convicted criminal accused Senator Ekomie of having instigated the killing in 2009 of a 12-year-old girl for ritual purposes.⁴³

Liberia

In Liberia, there are according to local media tens of ritual killings cases per year, some also implicating high level politicians (who seek assistance from spiritual magic for political success or advancement). Despite popular outrage over the killings leading to demonstrations, law enforcement remains limited. Many such murders were considered as homicides or suicides, even when particular body parts were missing from the victim.⁴⁴

Ghana

In Ghana, “spirit children”, who were born in a particular manner, or who suffered from disabilities, were killed by making them drink poisonous concoctions. In 2013, local leaders in

northern Ghana announced a ban on these ritual killings, while the police made several arrests in the case of ritual killings.\textsuperscript{45}

An investigative journalist told the BBC that he had taken a plastic doll to a soothsayer in the region, saying that it had eating problems and physical disabilities: “He consulted the oracles, jumped up and down and after this said that the oracles confirmed that the child was an evil child and that the child needed to be killed immediately, and that the child had already killed two members of my family.”\textsuperscript{46}

**South Africa**

In South Africa, so-called ‘muti killings’ occurred where body parts were used for traditional medicine, targeting children in particular.\textsuperscript{47} The South African authorities try to counter ritual killing by organizing discussions with the National Traditional Healers Organisation and by prosecuting perpetrators of the crime, when possible.\textsuperscript{48} Prosecution, however, continues to be haphazard, partially due to the culture of secrecy and silence surrounding the topic.\textsuperscript{49}

It has been estimated that 300 people have been killed for their body parts in muti killings in South Africa between 1998 and 2008, though some put the figure far higher with 250 muti killings in Limpopo province along in a single year.\textsuperscript{50} Louise Vincent suggests that such killings in South Africa, which seem to be on the rise, are best understood as a “magical” response to a background of social, political and economic uncertainty and strife.

One recent possible muti murder was that of a young child in Diepsloot, where though the mother claimed that the child had been eaten by rats, it was suspected that it was a muti killing. Two people were charged with murder.\textsuperscript{51}

**Uganda**

In November 2013 eight people were arrested in Nakasongola District in connection with a suspected human sacrifice killing.\textsuperscript{52}

The ritual killing of children (termed “child sacrifice”) in Uganda has attracted particular attention.\textsuperscript{53} Field research by Humane Africa, an NGO set up to address child mutilation in Uganda, found that between June and September 2012, in the 25 communities where detailed research

\textsuperscript{46} ‘Ghanaians ban “spirit child” killing’ BBC News (29 April 2013) [http://www.bbc.co.uk/news/world-africa-22335634].
\textsuperscript{52} ‘Eight arrested in suspected ritual murder’ Monitor (18 November 2013) [http://www.monitor.co.ug/News/National/Eight-arrested-in-suspected-ritual-murder/-/688334/2076536/-/p0abz/-/index.html].
was conducted, 20 mutilations occurred where the research team acquired at least one first hand account.\(^54\) A wider estimate of prevalence of mutilation can be gathered from a survey sent out via SMS text under the UNICEF U-report scheme, in which 10,317 people (37% of respondents) confirmed that they had heard of a child sacrifice in their community.\(^55\) The sacrifice of children appears to be closely linked to the work of witch doctors, who use the blood and extracted body parts in the preparation of tradition medicine.\(^56\) Body parts are by no means used by the majority of traditional healers, who use only plant-based traditional medicine, but it has been speculated that the increase in demand for body-part remedies is linked to a belief that such remedies are particularly powerful and effective for gaining wealth.\(^57\) Moses Binoga, head of the Anti-Human Sacrifice Taskforce in Uganda, suggested that violent Nigerian films which show families reaping riches after sacrificing a human have played an important part in popularising such beliefs.\(^58\)

Though a taskforce to address human sacrifice was established in 2009 there have been consistent concerns that their work is hampered by a lack of successful prosecutions. Of the 135 arrests made between 2006 and 2010 relating to human sacrifice, 83 cases were prosecuted, but only one person was convicted.\(^59\)

Humane Africa in partnership with the Muslim Centre for Justice and Law are currently running a project aimed at community sensitization to persuade people to avoid witchdoctors who trade in body parts.\(^60\) EACO, a charity in Mukono, are running a scheme to dig boreholes closes to villages to avoid children being required to travel long distances to obtain water and exposing themselves to a risk of kidnap.\(^61\)

**Botswana**

The killing in 1994 of a teenage girl in a suspected case of ritual murder lead to widespread protests and rioting in Botswana, and served to sensitize the population to the problem of ritual murder, something which was not previously considered to have been a problem in Botswanan society.\(^62\) On 29 September 2013, a Zimbabwean man working in Botswana was killed and body parts removed.\(^63\)

In an anthropological study Charlanne Burke suggests that children are typically the targets for ritual killing due to their vulnerability, with those ordering the killing typically the prosperous and powerful.\(^64\)

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\(^54\) Humane Africa *Child Sacrifice and the mutilation of children in Uganda* (2013) p.15
\(^55\) Ibid. p.25
\(^56\) Ibid. p.30-1; Whewell, ‘Witch-doctors reveal extent of child sacrifice in Uganda’.
\(^57\) Humane Africa *Child Sacrifice and the mutilation of children in Uganda* p.33.
\(^61\) Shadrak Kyobe ‘Child Safety Fund - Preventing Child Sacrifice’ *EACO Uganda* (19 May 2013) [http://eacouganda.org/site/2013/05/19/child-safety-fund-boreholes-help-prevent-child-sacrifice/].
\(^62\) Charlanne Burke ‘They cut Segametsi into parts: Ritual murder, youth and the politics of knowledge in Botswana’ *Anthropological Quarterly*, 73 (October 2000) p.204-214
\(^64\) Burke, ‘They cut Segametsi into parts’ p. 209
Nigeria

A 2012 report by the Immigration and Refugee Board of Canada, collating newspaper reports of ritual killing, reported that ritual murder is considered to be a common practice in Nigeria, and increasing in frequency.\(^{65}\) Also reported in the paper however, a research associate at the School of Oriental and African Studies at the University of London who has researched and written on Nigerian religions stated that, while ritual murder does occur in Nigeria, it is not a "systematic practice".

Ritual killings are widely reported in the Nigerian press. Among those arrested on suspicion of ritual killing are police officers.\(^{66}\) Moreover evidence suggests the existence of trafficking rings in Nigeria, through which children have been trafficked with the intention to be used in witchcraft.\(^{67}\)

At the 48th Session of the African Commission on Human and Peoples Rights in 2010, the International Humanist and Ethical Union named Nigeria, among other African countries, as a place where ritual killing continues to be underinvestigated and the perpetrators go unpunished.\(^{68}\) In response the Nigerian government claimed that while cases of ritual killings and human sacrifice have occurred and have been reported in Nigeria, “the government of Nigeria and the vast majority of Nigerians condemn such evil and barbaric actions perpetrated by a negligible number of people in our society and reiterate that this does not represent the overwhelming attitude of Nigerians today.”\(^{69}\)

In March 2014 Nigerian police rescued sixteen people from an underground “dungeon” in Oyo state, believed to have been a ritual killing site. Officers also discovered several decomposing bodies, hundreds of human skulls, old clothes and other belongings. In a nearby building police found pools of blood where the captives were apparently slaughtered and from which the body-parts were sold for medicinal purposes.\(^{70}\)

Cameroon

In January 2013 eighteen mutilated bodies were found in Yaounde, provoking fears of a wave of ritual killings. Security officials warned pedestrians, especially girls, not to walk alone. The security forces were criticised by the sister of one of the murdered girls for laxity. In late January 24 suspects were arrested, suspected of having perpetrated the murders. This issue escalated concerns which had been raised in late 2012 when the Ministry of Health dismissed a laboratory technician and four mortuary attendants from the state regional hospital in Douala after they admitted involvement in the trade of organs harvested from dead bodies.\(^{71}\)

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\(^{65}\) Immigration and Refugee Board of Canada *Nigeria: Prevalence of ritual murder and human sacrifice; police and state response (2009-2012)* (20 November 2012) [http://www.refworld.org/docid/50c84a6d2.html].


**Liberia**

In Liberia buying body parts from ritual killing has long been seen by some as a means of gaining political power. Welemonger Ciapha, a seasoned newspaper man, says the killings are “rampant” and increasing. Local media report tens of cases each year.\(^{72}\) Such murder often goes unpunished as suspects are able to use political influence to avoid prosecution. Ritual killing and occult power played a considerable part in Liberia’s civil war and a popular association has built up between political and occult power.\(^{73}\)

A survey of Liberians found that in 11 out of 16 regions witchcraft and ritual killing was cited as the second or third most commonly named safety issue.\(^{74}\) A UN report in 2009 described the situation as follows: “Harmful traditional practices, including trials by ordeal, ritual killings and female genital mutilation, continue to be widely practiced, in some cases with the knowledge or encouragement of local authorities. The conviction of 14 persons for a murder committed in the course of a trial by ordeal in November 2007 was a positive development. However, the presidential clemency granted to them in September 2008, following an appeal made by the victim, perpetrators, County Legislators, local leaders and communities, illustrates how deeply entrenched such practices are.”\(^{75}\)

The most recent UN report on Liberia stated that, despite government initiatives, harmful traditional practices continue to be reported with access to justice limited and the efficiency of the justice system limited by inadequate coordination between different branches.\(^{76}\)

**Swaziland**

Times of Swaziland, the major newspaper, has written of ritual killing in Swaziland “Stepping on mutilated cadavers to win elections is not an unknown experience in Swaziland. Ritual killing is a fact in this kingdom and it is closely linked with our politics.”\(^{77}\)

**Zimbabwe**

There have been a number of reported ritual killings in Zimbabwe over the past year, most recently in February 2014 when a 16 year old girl was killed and her body parts mutilated.\(^{78}\) The police have been criticised by the victim’s family for failing to respond quickly.


\(^{77}\) Khaya Mpembe ‘Fear of ritual attacks undermines traditional healing’ Times of Swaziland (22 May 2013) [http://www.times.co.sz/features/87584-fear-of-ritual-attacks-undermines-traditional-healing.html].

In December 2013 during the trial of five people for involvement in the kidnapping of children for ritual purposes a Zanu PF MP was implicated in ordering the kidnapping in order to boost his chances of electoral success. No investigation into this claim appears to have occurred. Ritual killing in Zimbabwe has been described as “more common than it is reported in the media. The motives underlying such killings, as in the above examples, is usually some form of material success.”

Zambia

Ritual killings have been described as being on the rise in Zambia. According to Police Deputy-Inspection Solomon Jere “We’re amazed by the increased number of bodies discovered with parts missing... Sometimes, we’re forced to agree with... people claiming that these acts are nothing less than acts of ritual killing”.

In September 2013 the Tourism and Arts Minister stressed that the government was implementing new procedures to try and reduce the incidence of ritual killing.

B: Perpetrators & Victims

The victims of witchcraft-related killings are often women and children, though the generalisation that witch-killing particularly victimises elderly (widowed or unmarried) women is no longer the case in some countries, where the killing of children as witches appears to be increasing. The supposed “victims” of possession faced threats as well. In Zimbabwe, people with disabilities were sometimes considered bewitched, and therefore faced the risk of being “locked away”. In some cases, such as in Angola, the Central African Republic, Nigeria and in the DRC, children have been subjected to practices of “exorcism.”

Children who are orphans or street children, suffer from disabilities, children with albinism, or whose birthing process is considered abnormal, run an extra risk of being accused of sorcery, possession by evil spirits, and becoming a victim of ritual killings. Aggressive behaviour or a

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81 ‘Ritual killings on the rise in Zambia’ Lusaka Voice (6 February 2014) [http://lusakavoice.com/2014/02/06/ritual-killings-on-the-rise-in-zambia/].
82 ‘Government saddened by the number of ritual killings recorded in the country’ Lusaka Times (30 September 2013) [http://www.lusakatimes.com/2013/09/30/government-saddened-by-the-number-of-ritual-killings-recorded-in-the-country/].
solitary temperament can leave children vulnerable to accusations of witchcraft, as can physical deformities or conditions such as autism.\textsuperscript{85}

The victims of muti-related killings can be diverse, but persons with albinism are a particularly vulnerable group, around whom certain protective or promotional measures may be undertaken.

Though underpinned by a set of traditional beliefs, the acts of violence themselves may not always be perpetrated for those convictions. Financial incentives for violence in this context are particularly large and there is a suspicion that certain witch-doctors or exorcisms are conducted merely for profit. Similarly there is evidence (especially around the Great Lakes region) of an extensive black market in body-parts.

Conversely, far from all practitioners of “traditional healing” are involved in violence. Indeed it may well be the case that local witch-doctors may be unjustly accused for the crimes of external traffickers.

\textbf{C: Structural Factors & Social Norms/Phenomena}

While (as noted above) traditional beliefs may not always be the direct motivation for acts of violence, which can instead be in pursuit of profit, there is an undeniable social underpinning to this type of killing. Traditional beliefs can be a very sensitive subject in many political systems across Africa, but they can also have grave consequences. Violence against persons with albinism is often connected to ideas that albinos may bring bad fortune.\textsuperscript{86} Others contend that body parts of albinos may hold particular healing or sexual powers or offer wealth, as held in Burundi, DRC, Uganda, Kenya, Tanzania and Mozambique.

It is difficult to distinguish ritual killings from witch killings or killings of people with albinism, because the latter two can encompass elements of ritual killings in their ends as well as in the way in which the murder takes place. Connected to ritual killings is trafficking in body parts to be used in rituals that purport to bring power and wealth.\textsuperscript{87}

There are, however, also structural factors which weaken the state’s response to such killings. Their prevalence is itself sometimes difficult to assess. In countries such as South Africa murders are not classified by motive.\textsuperscript{88}

In conflict and post-conflict societies, witchcraft accusations appeared to be on the rise. Among those accused of witchcraft were many children. The targeting of children based on witchcraft accusations is widespread, and on the rise.\textsuperscript{89} Some children were suspected of witchcraft, and became a victim of witch killings and forms of extreme violence, for instance in Benin, Angola,

\textsuperscript{85} Cimpric [UNICEF], \textit{Children Accused of Witchcraft} p.2.
Ghana, the DRC, Liberia, Uganda, and South Africa. A report for Save the Children on accusation of witchcraft against children in the DRC observed that “Accusations of witchcraft against children seem to take shape during African families’ often violent transition from traditional organisation to urban life. To pastors and parents, child witchcraft represents an ‘invisible order’ that acts according to its own logic and lives alongside the social world. It is important to note that the fusion of the imaginary and the real leads to violent actions against children and even murder.”

In general some complain of a lack of political will to prosecute witchcraft-accusers leading to a culture of impunity. Reluctance of judges and law-enforcement to tamper with “occult crime” combined, often, with the involvement of traditional chiefs or community leaders, makes accountability for this type of killing difficult to achieve. This reluctance is reinforced in many countries by the fact that the justice system does not record killings related to spiritual beliefs separately from other homicide.

D: “Best Practices”

A research paper produced for UNHCR on witchcraft allegations highlighted that international and national organizations should work with local justice systems to promote and facilitate environments where victims feel comfortable and safe making statements against their perpetrators. Many abusers are never formally charged and have relative impunity, because of the secretive nature of the abuse and fear of secondary victimization of the child should they try to find a judicial solution to the issue.

Some governments fail to prosecute the perpetrators of attacks or offer insufficient protection to persons with albinism. In Swaziland, for instance, public condemnation by the government of discrimination against persons with albinism takes place, but government response goes little beyond that, and albinos have argued for additional protection, especially around election days.

Tanzania is one of the countries, where attacks on people with albinism are most prevalent. Here, the persons with albinism community, officially registered as comprising several thousand people with advocacy groups claiming there are over 100,000 persons with albinism in the country, has become increasingly vulnerable to attacks. Specialized schools aided by NGOs such as the Canadian NGO “Under the Same Sun” attempt to increase the protection of children with albinism, increasing awareness, providing practical support, etc.


94 UN Human Rights Council Persons with albinism (12 September 2013) [A/HRC/24/57]

In Southern Africa, there seems to be an increase in prosecution of the perpetrators of witch killings, for instance in Zambia.\textsuperscript{96} To fight attacks on those accused of witchcraft, some authorities embark on programmess to fight community belief in the existence of witchcraft (for instance in Kenya), and prosecute those responsible for witch attacks.\textsuperscript{97}

With respect to all types of killings discussed in this section there is a need for greater information gathering. On-the-ground research (for example, as discussed above in Uganda) suggests that at community-level there is widespread knowledge of the existence of these practices, but this information does not always reach policy-making levels.

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Honour Killing & Other Domestic Killings

This section explores killings within domestic settings, especially those conditioned by particular societal (or legal) values. It should be emphasised at the outset that laws which allow for “honour” killing are in most cases not derived from Islamic precepts, but rather from the penal codes of the Napoleonic Empire which legislated for crimes of “passion.” Such laws have come under sustained opposition from women’s rights activists. In general this section emphasises the disproportionate victimisation of women.

A: Geographical Distribution

Women continue to face wide-scale discrimination, and a precarious position in many states in Africa. Nevertheless, as UNICEF has emphasised with respect to young women and girls in particular, information about violence against women remains limited. According to a UN Experts Group, there are 12 forms of violence that still require more insight, among which are killing of women by intimate partners, female infanticide, crimes committed against women in the name of ‘honour’, conflict/crisis-related violence against women, femicide, sexual exploitation, and trafficking. Specific groups of women face particular risks, such as refugees, or women in situations of conflict. Although killings occur less frequently, widespread abuse and rape, based on deeply ingrained social norms, have the potential to lead to more lethal violence, when more conducive circumstances develop.

Women continue to suffer from abuse and (sexual violence) in many societies in Africa, with almost all African states facing challenges regarding abuse of women and gender equality to a certain degree. In Swaziland, for instance, one in three girls had become the victim of sexual violence before the age of 18. In post-Mubarak Egypt, one UN survey suggested that 99.3% of women had been subjected to sexual harassment.

Meanwhile, at least 200,000 cases of sexual violence have been documented in the DRC since 1996. The true extent of sexual violence in the country is expected to exceed this number.

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1 The principal researchers on this section were Sophie Roborgh and Charlotte Kelly.
2 UNICEF Breaking the Silence on Violence against Indigenous Girls, Adolescents and Young Women - A call to action based on an overview of existing evidence from Africa, Asia Pacific and Latin America (May 2013), p. 7,8
In conflict situations, the rape, abuse and killing of women is a regular occurrence. In the political tensions surrounding the 2008 election in Zimbabwe as well, rape was employed as a political instrument, by members of the ZANU-PF party against at least 84 people.8

In some states, such as Somalia, the application of sharia law by actors such as al-Shabaab resulted in excesses, such as the stoning to death of couples accused of adultery and premarital sex.9 In Mali, a couple was stoned to death for living together without being married.10

In addition, in some countries, such as Kenya, Mali, Gambia and Cote d’Ivoire, traditional practices such as sororate (where women have to marry the husband of their deceased sister), levirate (where widows have to marry the brother of their deceased husband) or dowry deaths (where a dowry dispute may lead to the killing of the bride) continue to take place. In Kenya, Zambia, Malawi, and Mozambique, purification practices of widows in the shape of (often unprotected) sexual relations with oftentimes relatives of the deceased husband occurred in rural areas.11 In some traditional communities in the southern part of Nigeria, widows were sometimes forced to consume ‘purifying’ concoctions. The latter has led to deaths on a number of occasions.12

**Libya**

During the war of 2011, rape was a widespread form of violence, with various actors alleging that Libyan forces may have been using rape as a weapon of war (and suggesting that the ICC should address that violation).13 Libyan women and girls who had suffered such rape then faced the risk of being killed by male relatives in an attempt to restore “honour” to the family.14 One such incident, where a father in Tomina killed his three daughters after they were raped by Gaddafi’s troops, was reported by Physicians for Human Rights in 2011.15

Article 375 of Libya’s penal code prescribes a lower penalty for a man who immediately kills his close female relative after witnessing her engaging in extramarital sexual activity, as compared to other homicides.16 Though concerns remain about violence towards women and the legal and social constraints upon women seeking help, accounts of honour crimes have decreased since the end of hostilities.

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Morocco

Honour killing in Morocco has been reported by Amnesty International though no further details were given.\(^\text{18}\) It has not been possible to find any specific news reports of honour killings in Morocco. Research by the Immigration and Refugee Board of Canada found that while honour crimes did occur they were “fairly rare”.\(^\text{19}\)

Algeria

In June 2013 an Algerian man killed five people in an apparent honour killing.\(^\text{20}\) In March 2012 a man killed his daughter after finding pictures of foreign actors on her phone.\(^\text{21}\) Honour killings are more common in rural areas and “rare and unlikely” in urban areas.\(^\text{22}\)

Under the Algerian penal code there is a reduction of penalty for either a husband or a wife who catches the other committing adultery; it has been suggested that this is a progressive provision when compared to other Arab penal codes where only a husband may benefit from such an exemption.\(^\text{23}\)

Egypt

The Honour Based Violence Awareness Network has described honour killing as “not unusual” in Egypt, pointing to the arrest in May 2013 of five men over the deaths of three female relatives whom they believed has been having extra-marital affairs and the shooting of a man believed to be engaging in pre-marital sex.\(^\text{24}\) In 2012 a video apparently showing the public honour killing of an Egyptian woman went viral; one conservative Christian commentator linked the violence to the growing influence of the Muslim Brotherhood in Egypt.\(^\text{25}\)

Research by CEWLA—an Egyptian NGO tackling gender-based violence—found evidence of 125 honour crimes (not all of them fatal) between 1998 and 2001.\(^\text{26}\) In official statistics in Egypt there are no honour crimes and such crimes are often classified as suicides.\(^\text{27}\) According to Azza Suleiman of CEWLA, honour killing represents a significant problem in Egypt, one which is

\(^\text{19}\) Immigration and Refugee Board of Canada *Morocco: Honour crimes, including frequency; government protection for victims (2011-March 2013)* (17 April 2013) [http://www.refworld.org/topic,50fbce4c9,50fbce4f6,52fa091c4,0,,QUERYRESPONSE,.html].
\(^\text{23}\) Lamah Abu-Odeh ‘Crimes of Honour and the Construction of Gender in Arab Societies’ *Comparative Law Review* 2 (2011) p.6
\(^\text{25}\) Theodore Shoebat ‘Honour Killing Caught on Film’ (23 September 2012) [http://tedshoebat.com/2012/09/23/honor-killing-caught-on-film/].
\(^\text{27}\) Robert Fisk ‘The lie behind mass “suicides” of Egypt’s young women’ *The Independent* (9 September 2010) [http://www.independent.co.uk/voices/commentators/fisk/robert-fisk-the-lie-behind-mass-suicides-of-egypts-young-women-2074229.html].
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exacerbated by judicial attitudes to such crime. Article 17 of the Penal Code gives the judge a special authority to use clemency if he wishes to reduce sentences, and this authority is used to heavily reduce the sentences of those who claim they acted because of religious or cultural dictates. In upper Egypt Suleiman found that police were listing honour killings as suicide with the effect that perpetrators are shielded from prosecution.28

South Africa

A study of South African homicide in 1999 demonstrated that a woman was killed by her husband or boyfriend (intimate femicide) on average once every six hours. Ten years later a follow-up study by the South African Medical Research Council showed that while the rate had diminished, it had done so to a lesser degree than total femicide, and only to the extent that an intimate femicide was occurring every eight hours.29 In both studies, more than half of all femicide was committed by an intimate partner.

B: Perpetrators & Victims

A global challenge in confronting violence against women is under-reporting. While less of a statistical concern with respect to killing, the structural knock-on effect is clear. Many victims of intimate femicide will have been subject to other violence beforehand. The possible ramifications of better information-gathering regarding violence against women and girls have recently been explored by the UN Population Fund.30

Other than the connection to the victim it is difficult to generalise about the perpetrator of this type of violence. In general a rural/urban and education-based profile might be adopted, but these structural factors are discussed in greater detail below.

C: Structural Factors & Social Norms/Phenomena

Factors that increase the vulnerability of women include judicial frameworks that do not recognise particular elements of abuse, the existence of a prevailing culture of discrimination against women, including deeply entrenched societal norms of (family) honour and shame that results in a lack of addressing abuse. Domestic abuse of women and children, even if criminalized officially, continues to be considered as societally acceptable in a number of countries among both men and women. As Barker and Ricardo summarized:

There is a range of perceptions and definitions among young men of what qualifies as violence against women and many young men may view violence against women as a socially sanctioned extension of male authority to the private realm. This internalization of

28 Ibid.
30 UNFPA The Role of Data in Addressing Violence against Women and Girls.
violence against women as a norm also occurs among young women, who sometimes interpret violence as an indicator that a man is emotionally invested in a relationship.\textsuperscript{31}

A similar picture is visible in the occurrence of domestic violence. In Ethiopia, for instance, 68.4 percent of women believe wife beating was justified. In Tanzania seventy percent of husbands believed that wife beating was justified, compared to 45% of men in Uganda and Kenya.\textsuperscript{32}

These perceptions on sexual and domestic conduct are socially constructed and may change over time.\textsuperscript{33} In the example of wife beating, for instance, norms are slowly changing, with approval of wife beating decreasing considerably in comparison to past survey outcomes, for instance in Nigeria. In addition, there is significant variety in what constitutes a justified ground for wife beating, both among education levels, and between urban and rural areas.\textsuperscript{34}

Factors influencing the recognition men receive in society and their sense of masculinity are influenced by a number of structural factors, among which lack of employment, the presence of a more powerful, older man who serves as a gatekeeper to social recognition. Conversely, processes such as urbanization, and formal education for both women and men, contribute to changes in gender perspectives.\textsuperscript{35}

The overall weaker position of women in society often leads to a slippery slope where permissive practices of rape and abuse slip into more structural violence against women, particularly in times of uncertainty and political conflict. Rape and abuse cannot be seen as isolated from killings, they are part of the same continuum. This dynamic is visible in South Africa: where femicide often takes the shape of ‘intimate femicide’ and where murder victims have often endured rape as well.\textsuperscript{36}

\textbf{D: “Best Practices”}

Several laws have been adopted in Africa to combat violence against women, such as the African Platform for Action (Dakar Declaration) in 1994, and the ("Maputo") Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa in 2005. States ranging from Sierra Leone to Rwanda have adopted laws that address gender-based violence.\textsuperscript{37} In many states, however, there is only limited legal recourse for women to pursue. In some countries, abuse is considered part of family law (for instance in Guinea Bissau\textsuperscript{38}) and solved through

\begin{itemize}
\item \textsuperscript{32} UN Women ‘In Ethiopia, church bells ring for women and girls’ (08 October 2013) [http://www.unwomen.org/en/news/stories/2013/10/in-ethiopia-church-bells-ring-for-women-and-girls].
\item \textsuperscript{33} Barker & Ricardo, ‘Young Men and the Construction of Masculinity in Sub-Saharan Africa’
\item \textsuperscript{34} Wachira Kigotho ‘Why fewer men are beating their wives’ \textit{Standard Media} (27 May 2013) [http://www.standardmedia.co.ke/lifestyle/article/2000084585/decline-in-wife-battery], drawing on a study of 26 countries published in the \textit{American Sociological Review} and led by DR Pierotti, University of Michigan.
\item \textsuperscript{35} Barker & Ricardo, ‘Young Men and the Construction of Masculinity in Sub-Saharan Africa’ p.v, vi. The authors note however that education and creating awareness is not a panacea, as shown by the discrepancy between young men’s awareness of the need to use condoms and HIV/AIDS, and the actual use of condoms.
\item \textsuperscript{36} Michelle Faul ‘South Africa Violence Against Women Rated Highest In the World’ (08 March 2013) \textit{Huffington Post} [http://www.huffingtonpost.com/2013/03/08/south-africa-violence-against-women_n_2837804.html]; UNIFEM The Violence against Women Prevalence Data: Surveys by Country (2011) [http://www.unifem.org/gender_issues/violence_against_women/facts_figures.html].
\item \textsuperscript{37} Takyiwaa Manuh ‘African women and domestic violence’ (26 November 2007) [http://www.opendemocracy.net/article/5050/ghana_domestic_violence].
\end{itemize}
traditional dispute settlement mechanisms, or Shari’a law, for instance in Mauritania. Moreover, some of the states that have strong laws against gender violence, such as South Africa, fail to effectively apply them, sometimes due to widespread complicity of police in rape as well.

Best practices have been formulated based on a number of successful programmes combating violence against women. Examples of best practices have been found in programmes such as the Moroccan Tamkine programme, Justice for Women and Orphans Project (JWOP) in Zambia, Grassroots Organizations Operating Together in Sisterhood (GROOTS) in Kenya, and Mothertongue in South Africa. These include aiding women in maintaining autonomy, avoiding prolonged or renewed disempowerment through (re-)victimization; fostering strong partnerships with other societal actors on national and local levels; decentralization of governance of the projects to ensure representation, empowerment and reflection of (local) needs of victims; and reaching out to young women during recreational activities to debate more serious concerns.

Many youth programmes look to promote gender equality and combat violence. However, they are generally victim-orientated. In order to influence the societal structures within which these abuses take place it is also necessary to design programmes targeted at men. Generally, successful programmes focused on development of young men have incorporated a number of best practices. Barker and Ricardo highlight the importance of various strategies: focusing on developing “a positive sense of identity and belonging” as visible in projects such as Conscientizing Male Adolescents (CAM) in Nigeria, which is an education programme for young men, and Men as Partners (MAP) in South Africa, which incorporates both an individual and a community approach to combating gender-based violence and HIV/AIDS. Part of this is offering a space to self-reflect and to practice new behaviors without being subjected to the pressure of their (usual) peers. Often these programmes work with “peer promoters”, young men who can take on a leading role among their peers in society. To encourage a sense of belonging, traditional rites of passage are imbued with new meaning and information, as visible in some projects in South Africa and Uganda.

International actors, such as the US Department of State and USAID are developing long-term strategies to incorporate the combating of gender-based violence in their programmes as well. Principles such as the sharpening of programme priorities, the expansion of collaborative efforts are key in this. USAID for instance looks to increase the role of women and girls as change agents and leaders in both programming and policy implementation, to increase the engagement of men as participants and strategic partners in programmes, and to collaborate more with civil society as well as the private sector.

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Bibliography & Further Reading

Hate Crime

This section explores hate crime, or criminal acts (in this case killings) motivated by prejudice or hate towards the victim as a representative of a wider social group. The perpetrator is biased against the group the victim is thought to represent, which need not necessarily be a minority or vulnerable group. The singular nature of hate crimes mean that significant individual action can be taken against another individual due to prejudices that are usually built upon social differences that commonly include race, gender, nationality, sexuality, religion or ethnicity. Hate crime can include “message crimes” designed to gain popular and potentially media attention in order to symbolise prejudice or threat towards the group of which the victim is supposed to be a member.

The term ‘hate crime’ is rarely used in popular and public discourse on the continent, as a concept most commonly utilised in literature from the UK, USA and European contexts. That is not to say that criminal activity motivated by prejudice is also rare, so in this survey the examples used display the characteristics of a “hate crime” even if they have not necessarily been identified as such in their domestic context.

A: Geographical Distribution

Unfortunately the patterns of prevalence of hate crime are difficult to trace because in most states there is no real mechanism for reporting crimes specifically as hate crimes. Information about levels and distribution of killings that amount to hate crime has to therefore be based on the particular incidences that have been linked to group prejudices and as a result have received media attention, which inevitably leaves many other cases hidden.

I. Xenophobic Violence, Especially Against Refugees & IDPs

The past few years witnessed the outbreak of a number of new conflicts in addition to the continuation of present ones. The outbreak of conflict in South Sudan and the Central African Republic led to new waves of refugees from these areas, with some 400,000 people from the CAR internally displaced, and some 220,000 refugees.

IDPs and refugees faced an uncertain situation in a number of countries, among which Kenya, Congo-Kinshasa, South Africa, Chad, Somalia, Sudan, South Sudan, Zambia, and Rwanda.

1 The principal researchers on this section were Lou Cantwell and Sophie Roborgh.
3 UNHCR ‘2014 UNHCR country operations profile - Central African Republic’ [http://www.unhcr.org/pages/49e45c156.html].
against migrants, refugees, and IDPs can be the result of different processes. The picture differs considerably across the continent, with some states, such as Niger, Malawi, and Botswana receiving praise from the U.S. Committee for Refugees and Immigrants (USCRI) for the protection of their refugees, and Senegal, Congo-Brazzaville and Malawi celebrated for the opportunities they allow refugees.\(^5\)

Killings of refugees in some instances occurred as a result of insufficient protection from host governments, causing the existence of a culture of impunity in some refugee camps, resulting in violence, abuse and trafficking.\(^6\) This was for instance the case in Sudan, where internal conflicts in IDP camps led to several deaths, Kenya, Ethiopia and in Rwanda, where security of refugee camps remained unsatisfactory, with gender-based violence, human trafficking, and the recruitment of child soldiers as a result.\(^7\) In Namibia, refugees from the DRC received death threats when they complained about the circumstances in the Osire refugee camp.\(^8\)

Egypt and Sudan offer a special case. In February 2014, a Human Rights Watch report called attention to the human trafficking of Eritreans in Sudan and Egypt. Eritreans suffered torture at the hands of their traffickers in the Sinai Peninsula, where they experienced burning, mutilation and rape. Security officers are accused of refraining from stopping these abuses, while officials in Egypt deny the existence of these trafficker “safe havens”.\(^9\) Another Human Rights Watch report similarly addressed ill-treatment of refugees across North Africa, highlighting the practice (now apparently halted) of expelling of migrants across the Algerian border, and the continuing violence used against Sub-Saharan African Migrants by Morocco.\(^10\) Finally, the problems that refugees and migrants encounter in Libya are among the most well-known cases in North Africa. Before the revolution Libya hosted approximately a million migrant workers. Many of them experienced harassment and violence at the hands of militias during and after the war, partly brought about by the widespread image that the Sub-Saharan migrants had en masse taken the side of Colonel Gaddafi, who drew on black mercenaries to combat the rebels.\(^11\)

Refugees and migrants faced hostility and even violence, occasionally resulting in deaths from the local population as well, for instance in South Africa, Sudan, and Cote d’Ivoire.\(^12\) Kenya, in particular, faced violence, including killings, by security forces of refugees from Somalia and Kenyans of Somali descent. In addition, police abuse sometimes led to outright conflict between

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\(^5\) USCRI, ‘Too Many African Nations Fail Refugees’.

\(^6\) UNHCR ‘Refugee camps in the Horn of Africa at risk’ (13 January 2012) [http://www.unhcr.org/4f1031359.html].


\(^8\) USCRI, ‘Too Many African Nations Fail Refugees’.

\(^9\) Human Rights Watch “I Wanted to Lie Down and Die” - Trafficking and Torture of Eritreans in Sudan and Egypt’ (11 February 2014), [http://www.hrw.org/reports/2014/02/11/i-wanted-lie-down-and-die-0]

\(^10\) Human Rights Watch “Abused and Expelled - Ill-Treatment of Sub-Saharan African Migrants in Morocco” (10 February 2014), [http://www.hrw.org/reports/2014/02/10/abused-and-expelled]

\(^11\) Rebecca Murray ‘For refugees in Libya, hard to stay or go’ Al Jazeera (12 March 2012), [http://www.aljazeera.com/inddepth/features/2012/03/20123118392524682.html%5d].

refugees and police as visible in the Dabaab refugee camps. After the recent al-Shabaab raid on the Westgate mall, Somali refugees have expressed fear for additional repercussions.

The xenophobic attacks in South Africa on foreign African refugees deserve special mention. South Africa has faced numerous instances of xenophobic deadly attacks against African foreigners in the past few years, including against Somalis in 2006, against Mozambicans in 2008, and against Zimbabweans. The country hosts a relatively limited number of 83,000 recognized refugees, in addition to roughly 400,000 asylum seekers, the majority of whom fled the violence in Zimbabwe.

Despite South Africa’s Constitutional vision for a country that “belongs to all who live in it, united in our diversity”, prejudice and mistrust towards particular non-national groups is widespread. This prejudice manifests itself in hate crimes that have targeted members of minority populations. Commonly cited motivating factors include immigration controls, economic conditions, and a change in national leadership. Foreign nationals are commonly held responsible for the persistence of unemployment and poverty across the country. In May 2008, the levels of violence directed towards minority populations and the number of killings intensified. Violence sporadically broke out in urban centres and informal settlements across the country, in attacks targeting foreign nationals including Mozambicans, Zimbabweans, and Somalis. Over a two week period, forty-one foreign nationals had been reported killed in the violence. Since 2008, similar attacks have been commonplace across the country. On 30 May 2013, Abdi Nasir Mahmoud Good, a Somali shopkeeper in Port Elizabeth, was stoned to death whilst trying to protect his shop from looters. In June 2012, ten Somali businessmen were murdered in Cape Town in a ten day period. Human Rights First reported that at least one hundred and twenty people were killed in xenophobic violence in 2011 and at least one hundred and forty in 2012.

Attacks against foreigners in South Africa generally take place in poorer areas. Victims of attacks were mostly African migrants who ran small ‘spaza’ (grocery) shops in townships. As was visible in Limpopo, South Africa, police sometimes actively participated in the crackdown on foreigners as well, with police raiding and closing many shops mostly owned by registered Somali refugees in “Operation Hardstick”. Efforts by the refugee community against the crackdown on these small shop-owners, who held they were unjustly discriminated against, have not been upheld in the Pretoria High Court, which claimed they lacked the right permits to run the shops.

Rape of refugees and IDPs occurred in several states, including Kenya, where, according to CARE International, rape in the Dabaab camp increased from 75 instances of sexual and gender-based

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violence in January-June 2010 to 358 in the same period a year later.\(^{21}\) Incidents of sexual violence against refugees are also reported in Sudan (including among Eritrean refugees), Chad, Somalia, Zambia, and in Cote d’Ivoire.\(^{22}\) Prosecution of perpetrators of rape often does not take place: as was shown in for instance Somalia, refugees subjected to rape have little recourse to legal action, with many facing additional police abuse and social stigmatization if they report the crime.\(^{23}\)

Sometimes refugees were also recruited as child soldiers, for instance by Sudanese rebels in South Sudan and in Rwanda, where under-aged Congolese refugees are drafted for participation in the M23 armed group. Rwanda is facing increasing international pressure more actively to combat these practices. For the moment, the Rwandan government continues to deny allegations that it supports M23, and fails to conduct an inquiry into possible support of officials for M23, including the recruitment of child soldiers.\(^{24}\)

II. Violence Motivated by Religion, Race or Ethnicity

Many instances of hate crime killings centre on issues of prejudice against individuals or small groups on the basis of religion, race or ethnicity. For the purposes of this survey, hate crime motivated by any of these factors is defined as attacks by an individual or small group on an individual or small group. The distinction between hate crime and larger-scale conflict driven by race, religion or ethnicity is somewhat blurred, however the larger-scale conflicts of this type are likely to be included in vigilante/mob attacks and will be discussed in the next section under mass actors.

Here, just one illustrative example from Tanzania will be used. On 17 February 2013, Father Evarist Mushi was shot dead in Mtoni on the semi-autonomous island of Zanzibar upon arriving at his church before the Sunday morning service. The attack on Father Mushi came at the end of the Sounds of Wisdom music festival that was dedicated to religious tolerance,\(^{25}\) and followed a similar shooting on Christmas Day 2012 in which the Reverend Ambrose Mkenda was seriously wounded. Similar attacks have also taken place in mainland Tanzania, including the beheading of Pastor Mathayo Kachila in the town of Buseresere on 11th February 2013. The motivation for all three of these attacks was said to be the ongoing tension between the Muslim and Christian


communities in the country, which is focussed on Zanzibar. Ninety-nine percent of the island’s population is Muslim, and these attacks come within a context of increasing tension between groups aiming for Zanzibari independence and the minority Christian population, and amid suggestions of al-Shabaab involvement.

III. Homophobic Violence

Violence and killings of members of the LGBT community has occurred in several countries, including Kenya, Senegal and Sierra Leone. In Madagascar, LGBT sex workers in particular, were targeted. Also in South Africa attacks on the LGBT community continues to be a pervasive problem. Mass arrests of LGBT suspects occurred in The Gambia, and arrests were also prevalent in Cameroon, and Ghana.

Governments continued to crack down on LGBT activism in Uganda and in Zimbabwe. Attacks on LGBT rights activists appeared in a number of countries, for instance in Tanzania. In Cameroon, human rights activist Eric Ohena Lembembe was killed in July 2013, with the Cameroonian government failing to forcefully condemn the killing.

The picture regarding the protection of LGBT rights and LGBT communities in Africa differs considerably among countries, as well as within states. Nigeria and Liberia introduced bills that increase penalties for same-sex activities. Nigeria’s “Same-Sex Marriage Prohibition Bill” potentially even could punish a hug or kiss with a 10 year stint in prison. On the international stage, 38 of 54 sub-Saharan countries continue to outlaw homosexuality. 13 African countries abstained and 28 opposed to support the Joint Statement on Sexual Orientation and Gender Identity (SOGI).

31 Ibid. p.9, 22
33 ‘Easy to Champion From Afar’
34 Amnesty International Africa: Making Love a Crime p.7
36 Amnesty International Africa: Making Love a Crime p.7
Homosexuality is even punishable by death penalty in areas of Sudan, Mauritania, Sudan and Nigeria. In Sudan, for instance, sodomy is punishable by death. However, the law seems to be rarely applied, if at all. In Nigeria, a number of northern states have adopted Shari’a law, according to which same-sex sexual activities are punishable by execution through stoning. Early drafts of the 2009 bill in Uganda call for the death penalty as well, as will be shown below.

Differentiation in legislation on same-sex activities is sometimes made between women and men, with the latter receiving harsher treatment than the former (for instance in Mauritania). In Sierra Leone male homosexual acts are prohibited in a law stemming from 1861, while lesbian sex is not prohibited. In Zimbabwe, the criminal code explicitly mentions ‘physical contact between males’. A similar situation exists in The Gambia.

Many countries have not criminalized consensual same-sex activities outright (see for instance Equatorial Guinea and Mozambique). In 2011 a number of African countries signed the Joint declaration to decriminalize homosexuality at the UN Assembly in Geneva in March 2011, including South Africa, Seychelles, Rwanda, Sierra Leone, Gabon, Sao Tome and Principe, Central African Republic, Cape Verde, Mauritius, Guinea Bissau and Angola. In Cape Verde, Mauritius, Sao Tome and Principe, Kenya and the Seychelles the judicial position of the LGBT community improved. Botswana, Mauritius, Mozambique, the Seychelles and Cape Verde adopted laws prohibiting the discrimination in employment based on sexual orientation.

A legislative framework supportive of LGBT rights does not necessarily translate in increased security for the community. In South Africa for instance, gay rights, including gay marriage, are supported by the constitution. Nonetheless, violence against the LBGT community was rampant, with at least 7 killings committed between June and November 2012. In some states, members of the LGBT community were subjected to ‘corrective’ rapes in order to ‘heal’ them. This occurred in South Africa, with an estimated 10 cases of corrective rape taking place in Cape Town on a weekly basis, and in Uganda and Zimbabwe as well.

Uganda has one of the most controversial records with regard to LGBT rights. In 2009 a law was drafted that would make same-sex relations punishable by death, with the law even criminalizing anybody who would fail to report a violation to the authorities within 24 hours. The draft was slightly adjusted, dropping the death penalty clause, but signed into law on 24 February 2014, drawing international outrage. Sexual conduct with somebody of the same sex can result in life imprisonment. Although people have been arrested for related activities, the government appears

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42 ‘Easy to Champion From Afar’.
43 International Lesbian Gay Bisexual Trans and Intersex Association State-sponsored Homophobia p.33
44 Amnesty International Africa: Making Love a Crime p.8
45 International Lesbian Gay Bisexual Trans and Intersex Association State-sponsored Homophobia p.41
46 ‘Easy to Champion From Afar’.
reluctant to apply the law. Meanwhile, Simon Lokodo, the State Minister for Ethics and Integrity, has threatened he wants to shut down all NGOs that support the rights of the LGBT community.

South Africa

In May 2011, the killing of activist Noxolo Nogwaza in Kwa-Thema, Gauteng, South Africa was condemned by Human Rights Watch as a homophobic hate killing. Her body was mutilated by stoning, and there was evidence that she had been raped. Nogwaza’s murder came within the context of an “epidemic” of homophobic attacks across the country, and its vicious nature pointed to the premeditated nature of many of the reported incidents. As an active member of the Ekurhuleni Pride Organizing Committee (EPOC), Nogwaza’s homosexuality was well known in the community. Members of the group reported frequent verbal and physical abuse that targeted them as a result of their sexuality, many incidences of which went unreported. Nogwaza’s killing echoed a very similar attack in the same area which took place in 2008. Activist groups report that the police do not deal specifically with LGBT-related hate crime, and have failed to address it as a trend within the context of all murders investigated. Despite the fact that South Africa’s constitution, unusually on the African continent, outlaws discrimination on the basis of sexual orientation, this has failed to filter through to the state policing bodies on the ground which has failed to tackle the issues behind prejudice directed towards the LGBT community that has resulted in a number of murders.

Corrective rape was first identified in South Africa, with incidences having been reported in Zimbabwe also. South Africa has one of the highest rates of rape in the world, with some reported attacks having culminated in the death of the victim. Corrective rape has been recognised as an increasing threat to female members of the LGBT community. In July 2013, Dudu Zozo was found murdered in Thokoza, South Africa as a result of an attack that involved ‘corrective rape’ and in which she was targeted as a result of her sexual orientation.

Cameroon

As Executive Director of Cameroonian Foundation for AIDS (CAMFAIDS), Eric Lembembe was the director of an organization fighting against HIV/AIDS and for LGBT rights in Cameroon. On July 15th, 2013, he was found dead in his home in Yaoundé having been tortured to death. Two weeks before his murder, he had spoken out against the recent attacks on the offices of gay rights activist groups, including the arson of one organisation, Alternatives-Cameroun. Lembembe had worked in collaboration with international advocacy groups to compile an investigative report on prosecutions for consensual relations in March 2013.

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53 Megan Brady ‘Uganda’s ethics minister threatens to ban charities for supporting gay rights’ (16 October 2013) [http://www.pinknews.co.uk/2013/10/16/ugandas-ethics-minister-threatens-to-ban-charities-for-supporting-gay-rights/].
Eric Lembembe’s murder took place within a context of institutionalised homophobia and complicit silence from state officials in Cameroon, despite numerous incidents in which individuals and groups involved in the campaign for LGBT rights were targeted. The Catholic Church in Cameroon is a particularly influential body that condemns homosexuality and incites public protests that encourage incidents of hate crime. Homophobic discourse is frequently seen on mass media platforms.

Uganda

In January 2011, David Kato, advocacy officer for Sexual Minorities Uganda, died on his way to hospital having been hit on the head in an attack outside his house in Kampala. As in Cameroon, the Ugandan authorities had been conspicuously silent on the topic of homophobic attacks and discriminatory rhetoric in the mass media — including publishing the personal contact details of members of the LGBT community. Police initially reported Kato’s death as a result of robbery, until the international outcry. Kato’s death occurred within the context of increasing discrimination against the LGBT community, with increasing reports of arbitrary arrests, detention and police brutality meted out on the basis of sexual orientation. Activists engaged in the fight for the rights of the LGBT community, like Kato, regularly reported attacks and threats to their life. In October 2010, local newspaper *Rolling Stone* had featured Kato’s picture on its front cover, under the banner headline ‘Hang them’. Increasing legislative discrimination included the prohibition of groups engaged in LGBT activism from registering as is necessary under Uganda law to operate as an NGO. As in Cameroon, conservative Christian groups spearhead the anti-gay movement and foster significant homophobic prejudice that is expressed in legislation that has been passed by parliament. The Anti-homosexuality Act was passed in December 2013, after first being submitted by David Bahati in 2009. The original proposal for the death penalty was scrapped, but the bill still deems homosexuality an offence punishable by life imprisonment. Failure to report incidences of homosexuality is also punishable by imprisonment.

IV. Violence Against Farmers

In Zimbabwe and South Africa violence was employed against predominantly white commercial farmers. In the period 2006-2011, the murder rate of commercial farmers increased with almost 50 percent in South Africa, with many attacks on white farmers (so-called ‘farm killings’ or ‘plaas moorde’) accompanied by a large amount of violence. South African police has stopped publishing figures for farm attacks, grouping them with other statistics. In Zimbabwe, white farmers faced...
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Pressure to leave their farms, and several attacks and killings of white farmers were committed as well.\(^{64}\)

Black farm workers belong to the poorest segment of the population. In South-Africa some are arguing for forced land redistribution as visible in Zimbabwe, instead of its current “willing buyer, willing seller” system, which has not led to much change in the balance of power in the countryside since the end of Apartheid. In post-Apartheid South Africa little economic change has occurred in rural areas, with approximately half of the population of rural areas surviving on less than $3 per day and many black farm workers vulnerable to continuing racial abuse.\(^{65}\) In Zimbabwe, the Mugabe government started a large scale land seizure program. Here as well reports continued that white employers abused black farm labourers.\(^{66}\)

Though this category of killings could fit into a number of definitions, the racial aspect that characterises them means that they can be considered as hate crime, while acknowledging that there is an economic and historical element that contextualises the attacks. Some members among the white population frame the attacks in racial terms, even talking about “genocide”.\(^{67}\)

**B: Perpetrators & Victims**

The key criterion of hate crime is prejudice directed towards the victim by the perpetrator, and in the African context this has typically been on the basis of difference and persecution in ethnicity, nationality, religion, or sexuality.

The international and donor support the refugees received sometimes resulted in ‘antirefugee sentiment’ among the local population, as visible in South Africa, where local population consider refugees as unwanted competitors for jobs and scarce resources.\(^{68}\) Returning refugees sometimes faced hostility from the original population as well, as visible in South Sudan and Senegal, who considered the international support for refugees and their demand of scarce resources to be a form of unfairness.\(^{69}\)

Discriminative attacks on members of the LGBT community have led to frequent deaths of prominent individuals and activists, although the actual levels are likely to be much higher given the stigma and criminalisation that still exists in most African countries that leads to under-reporting. Other victims of unlawful killings as a result of hate crime have been minority religious groups and minority groups of foreign nationals in violence as a result of xenophobia and socioeconomic concerns of the perpetrators.

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\(^{67}\) Ato Kwamena Onoma Anti-refugee Violence and African Politics (Cambridge: Cambridge University Press, 2013); McKnight ‘Through the Fear’.

C: Structural Factors & Social Norms/Phenomena

Hate crime is more prevalent in societies were prejudice is accepted as a social norm. Labelling incidences as criminal tends to mask trends of extreme actions and often leads to a failure to recognise patterns and groupings amongst victims and perpetrators.

As shown in the cases explored above, the addressing of threats against refugees and migrants continues to be problematic, in states such as Namibia, Kenya and South Africa. As Onoma showed, anti-refugee sentiments were often sustained by the attitude of the authorities and national security forces. Sexual violence in countries such as Somalia, Chad and Kenya was insufficiently addressed by local authorities as well, despite increasing pressure from international NGOs, such as Amnesty International.

Wide-spread societal hostility to the LGBT community continues to remain a problem, and is considered to be worsening, according to the International Lesbian Gay Bisexual Trans and Intersex Association. This social stigmatization is even the case in countries with a more supportive legal framework for LGBT rights, such as South Africa. Attacks there are exacerbated by continuing perceptions of same-sex sexual activities as ‘un-African’, as found by a 2008 survey. According to Human Rights Watch, attitudes towards the gay community in South Africa have actually hardened in the past twenty years.

In Zimbabwe and Namibia, demonization of LGBT community is kindled on the highest level, with Zimbabwean President Mugabe claiming in 2011 that its members are worse than pigs and dogs. In other states, absence of state response leads to a climate of impunity. Victims of attacks were often not taken seriously, or faced abuse from security personnel when filing a report. In Uganda, for instance, members of the LGBT community were taunted by police officers, without repercussions by the authorities. Police abuse occurred in Cameroon, and South Africa as well.

White farmers have complained that the South African government is not viewing the attacks as the hate crimes they perceive them to be, and therefore fails to give them priority. In Zimbabwe, criticism is uttered that killings of farmers are connected to the politicized land redistribution programme, disincentivising application of rule of law in these attacks.

D: “Best Practices”

Although less so in sub-Saharan Africa, in North Africa and the Middle East a number of grassroots initiatives are visible to facilitate the overall integration of refugees in society. Initiatives such as I

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70 International Lesbian Gay Bisexual Trans and Intersex Association State-sponsored Homophobia p.34
73 Amnesty International Africa: Making Love a Crime p.33.
76 Amnesty International Africa: Making Love a Crime p.27
77 Conway-Smith, ‘South African farmers fearing for their lives’.
Am Not A Tourist in Lebanon to aid the Syrian refugee community\textsuperscript{79}, the Sina Network in Egypt\textsuperscript{80}, etc. mobilize the local population to aid refugees, increasing awareness in the process.

Moreover, international agencies are struggling to aid displaced communities, due to institutional gaps. In the overhaul of the humanitarian system from 2005 onwards, efforts are made to fill these gaps.\textsuperscript{81}

There is a need to restructure the current methods of policing hate crime across the continent, in order to implement structures that make it possible to identify the element of group prejudice as a motivating factor in a criminal incident, and also to take into account the perception of the victim with regard to factors that might have played a role – for example for reasons of nationality, ethnicity, sexuality etc.

There is also a need to recognise the reasons for low levels of reporting of the hate crime aspect to many unlawful killings, given the associated fears of reprisals against those who report incidents or that it would not be taken seriously by the police or other state institutions. This is particularly an issue where the victims form a minority group where the state is part of a dominant majority. One option that has been implemented in some European nations is the provision for ‘third party reporting’, whereby special circumstances for incidents linked to hate motives can be reported by someone not directly connected to the victim or the incident. Furthermore, it is necessary for states to assess which policing structures are inclusive and representative of minority groups. In South Africa, Community Policing Forums have been set up for this purpose, but in some cases it has been the local CPFs themselves that have had some involvement in incidents of hate crime. Key to new policing structures is to build relationships that can serve as early warnings of trends of prejudice that could lead to waves of hate crime incidents.

Similar reassessment needs to take place in the judicial sphere, in order to review the ways in which suggested hate crimes are investigated and prosecuted. The long backlogs of cases in many African states can be particularly traumatic for the families and communities of the victim in a hate crime incident. Large numbers of cases that are brought to court are dropped as a result of the length of the process. In South Africa, the National Prosecuting Authority prioritises certain cases in particular categories that include gender-based violence, and child abuse. This could be extended to include racially or sexuality motivated crime, which are particularly prevalent in South Africa. Prioritising the prosecution of these cases can serve as a deterrent that can prevent the further escalation of a wave of hate crime incidents and minimise the opportunities for intimidation of witnesses and members of the family and community of the victim. Laws should be enacted that specifically address hate crime.

Incidentes of hate crime should be publicly condemned by state authorities as soon as possible after they occur. Parliamentary or inter-agency bodies should investigate cases of hate crime in order to monitor and react to patterns of hate crime incidents when they occur. If antidiscrimination bodies exist, they should be strengthened. Furthermore, governments should engage community and civil society groups in order to strengthen state-community relationships to encourage reporting, and to reduce fear and assist victims and their communities.

\textsuperscript{79} Jane Nix, ‘Do Something for Syria: Grassroots efforts help refugees survive brutal winter’ CNN (6 February 2014) [http://edition.cnn.com/2014/02/06/world/iyw-do-something-for-syria/].
\textsuperscript{80} Hazel Haddon, ‘Egypt’s refugees find new challenges, some hope in Syria crisis’ Ahram Online (20 June 2013) [http://english.ahram.org.eg/NewsContent/1/64/74490/Egypt/Politics/-Egypts-refugees-find-new-challenges,-some-hope-in-.aspx].
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Mass Actor Killings

Vigilantism

Extrajudicial killings perpetrated by vigilantes occur throughout Africa.¹ Vigilantism in this sense encompasses more than ad hoc mob justice that swiftly targets known perpetrators of a specific crime; it also includes acts or threats from citizens that violate the established sociopolitical order in hopes of defending that order from destabilization.² The nearly ubiquitous incidences of vigilante killings reflect the reality that African states, in the minds of many of their citizens, do not possess the “monopoly on the legitimate use of physical force”—a conception of the state first theorized by Max Weber. Consequently, in many African states, questions concerning who should determine legal principles, define morality, and formulate justice mechanisms have led to violent conflict.³ The rash of vigilantism has drawn attention to the incompatibility between the objectives of vigilantes and the demonstrated products of their violence. Simply put, though many vigilantes genuinely seek to restore or uphold a higher social order of peace and morality, what they wish to achieve in principle is severely undermined by their killings.⁴ Their messages become diluted by their violence, regardless of their efforts to differentiate their killings as necessary and justified. As a result, vigilante killings often devolve into an endless spiral of violent reprisals.

A: Geographical Distribution

South Africa

South Africa reportedly has the highest incidence rate of unlawful killings as a result of vigilantism or mob justice on the continent. Reporting of vigilante-style killings has escalated in recent years, and is accounted for in media and academic reports by the high crime rate and inefficient police and criminal justice systems which have fostered, through ‘crimes of omission,’ a situation where vigilante groups are the only option for a population enduring extreme poverty and inequality. Vigilantism is described as the counterpart to the rise in private security provision, and as a ‘necessary evil’ that is widespread across urban and rural areas in South Africa. It is a local method of social control outside of, but arguably sustained by, the state, and is most apparent in township areas.

Though official incidence rates do not exist, and the recording of cases of vigilante killings is incomplete, vigilante killings are frequent across the country. Targeted individuals are usually those perceived to be involved with socially harmful criminal activity, typically gangsterism and the drugs trade. In other cases, suspicion of witchcraft linked to child abuse or murder has been reported as the motive for the unlawful killing as a result of a ‘kangaroo court’ judgment or as a result of mob justice. In some cases, non-nationals are targeted in attacks that combine vigilantism

¹ The principal researcher on this section was Sean McCormick.
⁴ Ibid., p.5.
with xenophobic motivations. Incidences are highest in the areas with high rates of criminal activity, unemployment and low socioeconomic conditions.

In August 2012, the Western Cape Provincial government set up an inquiry into vigilante killings. The Cape Town township of Khayelitsha, approximately thirty kilometers from the center of the city, has experienced high levels of unlawful killings of this category. The area is ‘policed’ by a number of rival gangs and attacks are characterized by ‘necklacing’. Exact figures are difficult to ascertain, given the lack of official processes to record and define vigilante activity. However, it has been reported that the numbers in this region amounted to more than 20 in a year-long period in 2011-12. A key example of the ‘alternative policing groups/gangs’ that are behind many of the incidences of mob justice killings is instrumental in this region: People Against Gangsterism and Drugs (PAGAD).

Another township district that has experienced frequent incidences of killings as a result of vigilantism is Khutsong. One such reported case from November 2013 involved the killing of five individuals on one night by an armed mob of approximately 400 men. An elderly man suspected of being a witch doctor was burned alive in his home before the mob moved on to target two members of the notorious ‘Casanova Gang’ who were killed in a similar fashion. Two more men were stoned to death, allegedly for being members of gangster groups.

Kenya

Vigilante-style killings in Kenya have been compared to those in South Africa in both media reports and academic literature, particularly in township settings where the state capacity to provide adequate policing and criminal justice systems is limited. In 2013, Kenya was ranked the fourth most corrupt state in the world in the Corruption Perceptions Index. The 2012 U.S. State Department Human Rights Report noted that “mob violence and vigilante action were common and resulted in numerous deaths.”

The Kibera area of Nairobi is a hotspot for vigilante violence that regularly leads to unlawful killings. The district (Kenya’s largest slum) is “policed” by a number of rival gangs. Violence in the district peaked during the 2008 post-elections violence that enveloped the country, but incidences of vigilante killings persist. As in the South African examples, vigilante killings in Kibera often target those suspected of criminal activity of varying degrees of severity as a result of the failures of policing structures to provide a reliable justice system or protection of residents.

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6 ‘Burnt Alive by vigilante mob’ Times Live (5 February 2012) [http://www.timeslive.co.za/local/2012/02/05/burnt-alive-by-vigilante-mob].
9 ‘Kenya ranked the fourth most corrupt nation in the world’ Kenyan Daily Post (9 July 2013) [http://www.kenyan-post.com/2013/07/kenya-ranked-as-4th-most-corrupt-nation.html].
Another region that has frequent incidences of vigilante killings is the Kisii District in Nyanza Province. Here there is commonly a link between the victims of vigilante attacks and accusations of witchcraft. The region is home to one of the most prominent vigilante groups on the continent: Sungu Sungu. The group emerged in the late 1990s as a result of a lack of police protection against cattle theft. Their activities have since widened to encompass a wide range of vigilante action against a wide range of criminal activity in the region. They have been consistently linked to high numbers of killings in Kisii under the guise of community policing in lieu of official state structures.

Kenya also provides an example of the extent to which rival vigilante groups can exercise violence over the same community and how a situation of insecurity can then lead to a form of gang warfare. The interactions of some of these gangs with local political elites as well as more conventional organized criminal groups create a complex web of violence. As was observed above with respect to election-related violence, these interactions can take on additional significance in the context of a post-election crisis.

Egypt

During former President Mohamed Morsi’s tenure, incidences of Islamist vigilantism increased in response to the increasing ineffectiveness of the police force that had been weakened following the ousting of Hosni Mubarek. As a reflection of the dire times leading up to Morsi’s eventual overthrow, Egypt’s Islamist-dominated parliament considered adopting two radical bills that would have semi-formalised the prevalence of mob justice. First, was a draft law, proposed by al-Gamaa al-Islamiyya, which would legalize the formation of vigilante police units, or “popular committees,” that could apprehend suspected criminals. Second was legislation, proposed by the Salafi Nour Party, that would permit the application of haraba punishments — an extension of Sharia law that sanctions corporal punishment and public executions. Even without the legislative approval they sought, the popular committees began using lethal force against suspects without any deference to due process, especially in the Sinai Peninsula. As of May 8, 2013, there had been 17 reported vigilante executions since the 2011 uprising. Many witnesses to the killings, however, noted that not all of the executions were direct haraba punishments espoused by Shari’i law, as the motive behind many of the executions was pure revenge and not religiously inspired.

15 IRB - Immigration and Refugee Board of Canada, Kenya: The Sungu Sungu group, including activities and areas of operation; actions taken by authorities against the group; state protection available to victims (2010-2013) (18 November 2013) [http://www.ecoi.net/local_link/264512/378259_en.html].
17 For an academic study of the complex relations between different vigilante groups, as well as between individual groups as political or criminal actors, see David M. Anderson ‘Vigilantes, Violence and the Politics of Public Order in Kenya’ African Affairs 101 (2002) pp.531-55.
Madagascar

Though comprehensive crime statistics for Madagascar are non-existent, media reports and preliminary surveys suggest that the use of firearms in violent crime is increasing. This trend has led to the formation of neighborhood watch groups, or andrimasom-pokonolona, though their prevalence and predilection for extrajudicial violence are unknown.\(^{21}\) On October 4, 2013, a high-profile case of vigilante justice occurred when two European tourists and a Madagascan national were killed amid allegations that they murdered a local boy in order to harvest his organs. Madagascan security forces claimed that the three suspects had been tortured until they admitted to their guilt and were then lynched and burned on Ambatoloaka Beach by a vigilante mob.\(^{22}\) The boy’s disfigured body was found on the beach the next day by a neighborhood leader on the island of Nosy Be.\(^{23}\)

Nigeria

Many accused of kidnapping, armed robbery, and even assorted minor crimes like pick-pocketing have become victims of extrajudicial killings, especially lynchings, carried out by vigilante groups in Nigeria. These instances of mob justice are noted for their swiftness and have proliferated in response to growing cries in society for immediate restitution for both violent crimes and ordinary crimes against helpless, law-abiding citizens.\(^{24}\) Vigilante justice in Nigeria has filled the vacuum left by weak courts and ineffective law enforcement, and responded to the structural violence inflicted on many citizens.\(^{25}\) Many vigilante groups have emerged as self-proclaimed “neighborhood watch” entities that operate to complement the work of local police officers from whom they generally earn support even though they commit extrajudicial killings.\(^{26}\) Perhaps the most well-known example of such a group is the Bakassi Boys. The youth group operated in the Igbo area of Nigeria, but also dispensed its form of justice in other neighboring areas at the behest of local communities. The Nigerian military has even encouraged the formation of vigilante groups to combat Boko Haram, a militant group fighting for the creation of an Islamist state in Nigeria that has waged an insurgency against the Nigerian government since 2009.\(^{27}\) It is uncertain whether the entrance of vigilante mobs into the conflict has escalated Boko Haram’s violence.

Perhaps the most notorious recent case of Nigerian vigilantism is the so-called “Aluu Four Killings” that occurred on October 5, 2012. When four students at the University of Port Harcourt went to a nearby village in southern Nigeria to collect a debt from a local man, he raised an alarm, claiming that the students were robbing him. A mob soon gathered and proceeded to tie tires to the students’ necks and immolate them. Though most Nigerian vigilante killings fail to earn much publicity, the Aluu Four Killings struck a nerve with the country because the incident was filmed

\(^{25}\) Ibid.
and uploaded to YouTube. Nigerian social media soon overflowed with outrage and debate regarding the ethics of vigilante justice.

**Tunisia**

Following the creation of its transition government in October 2011, Tunisia has witnessed a growing divide between its secularist liberals and conservative Salafi Islamists. Though Tunisia enjoyed a relatively strong secularist tradition under former President Ben Ali, Salafis have grown in influence since the revolution, as those who were imprisoned or underground during the former regime’s tenure—including Abu Ayadh, the founder of Ansar al-Sharia in Tunisia—were released as part of a countrywide amnesty movement. Salfi jihadists, who demand a purely Islamic state and have perpetrated attacks against cultural activities that they consider “un-Islamic,” have been implicated in the assassinations of two notable opposition movement and anti-Islamist politicians—Chokri Belaid and Mohamed Brahmi—since the transition government came to power.

Since its independence, the state has traditionally put forth one of the most progressive legal systems in the Arab world toward women’s rights. But following the uprising, Tunisian society, through violent activism and harassment, has imposed increasing restrictions on women and how they present and conduct themselves in public. A product of this movement has been an uptick in Salafi vigilantism targeted at women who do not adhere faithfully to religious doctrine. Immediately after the revolution, Salafis set brothels aflame and at times assaulted prostitutes. They have also launched violent attacks against artists, whose work, they contend, contravenes Islamic moral standards, and against citizens that have been publically intoxicated. Though statistics approximating the number of Salafi vigilantism-related deaths are unavailable, the Salafi security patrols that occupy many cities represent a dangerous and illegal encroachment on the state security apparatus, which gravely concerns many moderate civilians and the transition government.

**Uganda**

The Ugandan Police Force statistics show that in 2010 at least 438 people were killed in acts of mob justice, accounting for 25% of all homicides taking place in the country that year. Alerted by this statistic, the police committed to improving their intelligence and investigation capacity, and to conduct community sensitization.

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28 Cole, “Perplexed...Perplexed”.
30 Daveed Gartenstein-Ross 'Springtime for Salafists' Foreign Policy (26 March 2013) [http://www.foreignpolicy.com/articles/2013/03/26/springtime_for_salafists].
31 Whewell, ‘Justice Kiosk’.
32 Monia Ghanmi ‘Salafis Take Tunisia into Their Own Hands with Violent God Patrols’ Albawaba (21 February 2013) [http://www.albawaba.com/editorchoice/salafi-tunisia--472216].
B: Perpetrators & Victims

African vigilante groups are structured and organized in a variety of ways, which makes it difficult to offer catchall recommendations on how best to limit their operation. Vigilante groups have fused themselves with both traditional and modern institutions, including secret societies, community-oriented agencies of policing, the military, traditional assemblies and courts, private security companies, non-governmental organizations, sports associations, and hunters associations. Their forms of legitimation also vary, as some resort to religious ideology, while others anchor themselves in ethnicity, tradition, or other communal identifiers.

C: Structural Factors & Social Norms/Phenomena

The main driving factors for African vigilantism include citizens’ perceived need to fill the vacuum left by an ineffective state police force and their frustration with criminals running amok with impunity. Weak states have often prioritized regime stability and narrowly-defined elite interests over public safety considerations, and the conduct of the state police has reflected this hierarchy of interests. In many instances, the state police are not only under-resourced and inefficient, but also complicit in crimes taking place. In pursuing their own regime’s interests, many African police forces have committed extrajudicial killings, arbitrarily arrested and abused detainees, and acted in concert with criminal organizations. Moreover, the state police are often effectively absent from rural villages and townships. Another contributing factor to citizens’ embracement of vigilantism is that alternative security arrangements predate the independent African state and colonialism and were never entirely eradicated by the political transformation of the continent. Even if the state police were effective, severe punishment for ‘crimes’ such as witchcraft, adultery, teenage pregnancy, and disrespect to elders would still likely be subject to communal justice systems in some areas.

D: “Best Practice”

In order to curtail the prevalence of vigilantism, African states must first and foremost improve the functioning of the criminal justice system as a whole, improving conviction rates and enacting laws that are tough on offenders. Better publicizing the convictions of violent criminals, prosecuting vigilantes, and establishing community crime prevention partnerships will also reduce the appeal of, and justification for, vigilantism.

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34 Kirsch, Domesticating Vigilantism in Africa p. 4.
36 Ibid., p.166.
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Social/Ethnic Cleansing

This section will examine two forms of intercommunal mass violence: social and ethnic cleansing. The process of social cleansing can be defined as the conscious removal from areas or communities of groups that have been defined as ‘undesirable elements’. Social cleansing is not widespread on the African continent, as it is in many Latin American countries, and where it does exist there have not been any reported killings. Ethnic cleansing, though related, can be given a broader definition of the removal of groups from society on the grounds of race, ethnicity or nationality. Deaths frequently occur as a result of ethnic cleansing, either through the direct elimination of members of the victim group, or as a result of forced migration.

There is clearly an overlap with forms of discriminatory hate crime that have been discussed above. The individual act of killing may be motivated in a very similar fashion, but the context of widespread violence makes the problem of intercommunal violence (particularly ethnicity-or religiously-motivated violence) a separate and very difficult one.

In 2004, partly in response to failure with respect to Rwanda, the UN created the position of a Special Adviser on the Prevention of Genocide. This Office clearly has a mandate to address situations of intercommunal violence which might possibly deteriorate into genocide. The Special Adviser was tasked with “Collecting existing information, in particular from within the United Nations system, on massive and serious violations of human rights and international humanitarian law of ethnic and racial origin that, if not prevented or halted, might lead to genocide”

A: Geographical Distribution

Sudan

Large-scale incidences of ethnic cleansing have usually been state or government sponsored in some part, and have been politically-driven if also motivated by prejudice based on ethnicity. The on-going conflict in Darfur has resulted in huge numbers of unlawful killings, many by officially non-state armed groups and others who are sponsored or informally supported by the state or government. The magnitude of the levels of unlawful killings as a result must therefore be considered as part of those as a result of excessive use of force by state actors, or armed conflict.

South Sudan

Ethnicity-based violence tore apart the newly formed state of South Sudan in the final weeks of 2013 and into 2014. This was an example of a situation (as discussed in the section on political killings) where political and ethnic violence overlapped.

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1 The principal researcher on this section was Lou Cantwell.
2 Letter from the Secretary General to the President of the Security Council (12 July 2004) [S/2004/567]
Hundreds of people were killed in Bentiu, the capital of the oil-rich Unity State in April. The UN Mission strongly condemned the killing of more than 200 Nuer in attacks on a hospital, a mosque and a church. The Mission also decried the use of hate speech over the radio that were proclaiming that certain ethnic groups should not stay in Bentiu and even calling on men from one community to commit vengeful sexual violence against women from another community.\(^4\)

In a separate incident, also in April, armed civilians killed around fifty civilians sheltering in a UN base in Bor in Jonglei State.\(^5\)

**Central African Republic**

In early 2014 loosely-organised “anti-balaka” militias and fighters have conducted what various international actors have described as ethnic cleansing targeting Muslim communities in the western part of Central African Republic. Entire communities have been forced to flee.

This came in the context of earlier ethnic violence in the country in 2013, when after the seizing of power in March by the largely-Muslim Séléka coalition, the country spiralled into intercommunal violence. This violence was in large part targeted at the Christian community. A recent Amnesty International report noted that the Séléka “killed thousands of Christian civilians, and looted and burned thousands of Christian homes. The lawless and abusive nature of their rule gave rise to unprecedented sectarian violence and hatred, with many Christians attributing responsibility for the Séléka’s abuses to the country’s Muslim minority as a whole. Their fear, anger, and desire for revenge spurred the development of the predominantly Christian anti-balaka.”\(^6\) By the end of January 2014, Human Rights Watch researcher Peter Bouckaert estimated that the death toll was in the tens of thousands.\(^7\)

In March the UN announced the establishment of an inquiry into the possibility that genocide was taking place in the Central African Republic.\(^8\) Subsequently other agencies have expressed alarm over the deliberate targeting of refugees trying to leave the country.\(^9\)

**Libya**

Similarly, reports of racially-motivated targeted killings of black Africans by armed rebel groups in Libya have been described as ethnic cleansing.\(^10\) However, these killings have to be considered as part a result of armed conflict.


\(^5\) ‘Deadly attack on UN base in South Sudan’ *Deutsche Welle* (18 April 2014) [http://www.dw.de/deadly-attack-on-un-base-in-south-sudan/a-17576795].


Kenya

Some commentators have referred to the violence that started in Kisumu in 2008 as a process of ethnic cleansing in which a Kikuyu minority of approximately twenty thousand was driven out of the Luo capital Kisumu. Many people died as a result of the violence which was undoubtedly motivated by ethnicity, but should also be seen as politically driven and within the context of Kenya’s disputed elections and therefore be considered as a result of political and/or elections-related violence.

South Africa

The incidence of social cleansing that has received most media coverage in recent years was associated with the FIFA World Cup held in South Africa in 2010. There were many reports of districts in Johannesburg, Cape Town and Durban being cleared of homeless people and street vendors as the authorities prepared for the influx of the world’s media during the tournament. No killings were reported as associated to this policy however.

B: Perpetrators and Victims

Victims of social cleansing programmes are likely to be marginalised groups who are discriminated against on the basis of socioeconomic conditions, and those of ethnic cleansing as a result of prejudice based on religion, race or ethnicity. Perpetrators are often facilitated in their actions by their position within majority groups and in many cases through indirect or tacit support from the state authorities or government of the state.

The lack of response from state actors where there have been processes of ethnic cleansing leading to unlawful killings has been a major contributing factor where non-state actors have been involved.

C: Structural Factors and Social Norms/Phenomena

Ethnic cleansing is often part of the wider context of armed conflict. Ethnicity can also overshadow other or more pertinent causes of the conflict, such as politically-driven violence or class conflict. Ethnic cleansing involves the attempt to remove a particular group from society or to create ethnic homogeneity.

Bernard Acho Muna, appointed to head the UN inquiry into the Central African Republic (and formerly deputy chief prosecutor of the International Criminal Court for Rwanda) has cited the prevalence of “hate propaganda” currently circulating the country as a chief cause for concern. “Genocide starts always with propaganda, convincing the population that this group of people are

evil, they are bad, they should be eliminated... One thing I can tell you from my Rwandan experience, is that...hate propaganda...is usually a very bad sign.”

Where states do not enjoy a clear monopoly of violence, where there has been a proliferation of light weapons, it can be easier for violence to escalate. However the horrifying simplicity of some of the killings weakens the claim for an overly structural approach.

Intercommunal violence is sometimes too fatalistically discounted as “tribal”. The structural causes of intercommunal violence and instability can be found in the lawlessness and vigilantism that result from the lack of confidence in the state’s capacity to protect its people and deal with perpetrators, in addition to peoples’ military capability and “the lowering of thresholds for resorting to violence.” In some cases communities perceive violence “as the only reliable means to guarantee their safety, secure livelihoods, obtain redress/revenge for past wrongs and crimes, and address marginalization”.

**D: “Best Practice”**

Where large-scale violence is already ongoing, disarmament campaigns need to be linked to an all-encompassing framework that integrates security, governance, and political interventions. They must work to avoid the perception of being government strategies to punish and control ethnic groups. Processes must guarantee civilian safety, and be located within broader processes that address the key drivers of conflict.

The underlying causes of such violence can and should be addressed long before the “threshold for resorting to violence” is actually crossed. It is almost impossible to recommend general methods for achieving this outcome, but inclusive political processes which draw upon local civil society engagements are most likely succeed.

As was discussed above with respect to discriminatory hate crime, it is vital that the state acts proactively to combat advocacy of discrimination against particular social or ethnic groups, and that it hold accountable all those (including government or security officials) who incite violence.

International actors, guided by doctrines such as Responsibility to Protect and working alongside mechanisms such as the UN’s Special Adviser on the Prevention of Genocide, should maintain close observation of situations that display “risk factors” for social or ethnic cleansing and be ready to offer assistance the state in question in undertaking preventative programmes. They should also support efforts at increasing the rule of law and building intercommunal dialogue.

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Land Disputes

Land reform, once considered a peripheral concern on a land-rich continent with generally scattered populations, has emerged as a central issue across Africa. Domestic stressors such as population growth, environmental degradation, and sputtering economies have led many Africans to depend on small-scale subsistence farming and livestock raising, which in turn has made land a less accessible and, correspondingly, more valuable commodity. This does not suggest, however, that all violent land-related conflicts are escalations of competition for more desirable and economically productive plots of land. Stable landholdings have also become practically and symbolically important for those with other occupations. Under uncertain conditions, including warfare, epidemics, political crises, and volatile world markets, the acquisition and control of land provides security for many citizens. Given the increasing importance of land, it is unsurprising that many violent conflicts—even those reported as products of fundamentally ethnic divisions—often arise from land disputes or have questions of land ownership and rights emerge as integral, unresolved issues that fuel the enmity.

A: Geographical Distribution

Cote d’Ivoire

The 2010-11 post-election crisis displaced hundreds of citizens in western Cote d’Ivoire, where some of the worst atrocities of the period were committed by both former President Laurent Gbagbo loyalists and those aligned with opposition leader Alassane Ouattara, the purported victor in the 2010 elections. Guere ethnic group members, predominantly native to western Cote d’Ivoire and supporters of Gbagbo, fled their villages as pro-Ouattara forces advanced toward the capital of Abidjan in advance of the April 11, 2011, capture and arrest of Gbagbo, who has since been extradited to the International Criminal Court. Post-conflict justice has been decidedly one-sided, as the new government has not properly investigated crimes against Gueres committed by the Republican Forces of Cote d’Ivoire (FRCI) and the Dozos—a state-sponsored militia of hunters from the north. In addition to massacring hundreds of Gueres in Duekoue leading up to Gbago’s capture, Dozos and elements of the FRCI attacked the Nhibili refugee camp on July 20, 2012. The Nhibili camp, which housed approximately 2,500 internally displaced persons who had fled the post-election violence, was nearly razed to the ground, and Amnesty International estimates that at least 14 Gueres were summarily killed during the attack. No member of the pro-Ouattara forces has faced criminal charges in relation to the 2010-11 crisis.

1 The principal researcher on this section was Sean McCormick.
While facing such security risks, the Gueres that have sought to return to their homes in western Cote d’Ivoire have found that Ouattara loyalists of ethnic groups not native to the region have seized their lands either through illegal sales or simple hostile occupation. The dispossession of their land has rendered many Gueres destitute, as they can no longer grow food or cash crops, and driven as many as 58,000 Ivorian refugees to remain in Liberia.\(^5\) Human Rights Watch has drawn links between illegal land seizures associated with the crisis and several cross-border attacks from Liberia. During two attacks in March 2013, groups from Liberia killed at least nine civilians that had been associated with selling land illegally in western Cote d’Ivoire.\(^6\) Inundated with land disputes and lacking adequate funding, village and administrative authorities in the region are ill-equipped to investigate the hundreds of claims. Further fueling the dissent, Cote d’Ivoire has not set out to fix many village boundary and individual property lines permanently.

Kenya

Land disputes in Kenya date back to the colonial era when British settlers displaced indigenous peoples from the fertile highlands and subsequently resettled them elsewhere or neglected them altogether. At independence, these land issues went largely unaddressed, as the new political elites ignored many of the historical injustices and did not redistribute the land fairly. Since the beginning of multiparty politics in 1992, campaigning politicians have exploited land-related disputes in the Rift Valley and in the Coast Province. Much of the contestation stems from the fact that only 20 percent of Kenyan land is suitable for agriculture, with the rest of the state’s land falling in arid and semi-arid climates.\(^7\) Much of the arable land, including part of the Rift Valley, falls under a property regime in which the state serves as an effective ‘landlord’ to peasant producers, directly allocating land rights in settlement schemes.\(^8\) Politicians hoping to curry electoral favor have since repeatedly used land rights as a patronage resource, manipulating state power to transfer property rights from opponents to supporters.

Demands for the protection of property rights and for restitution become inflamed during Kenyan election cycles due to perceived political uncertainty. During the 1992 elections, violence occurred in areas, such as the Rift Valley, where the state served as the direct guarantor and distributor of land ownership rights, while there was no similar systematic pattern of violence in rural parts of Kenya that were not subject to this land regime.\(^9\) Much of the violence occurred in response to government-sponsored settlement schemes and land-buying companies. The clashes reported during the 1992 and 1997 elections paled in comparison to those that took place in the aftermath of the 2007 election. In analyzing the 2007-8 post-election violence, the disputed electoral results served as the spark that ignited the already-existent powder keg of ethnic grievances over land allocation.

After serving as the locus of much violence in 1992 and 1997, the Rift Valley once again served as a shatterbelt of violence following the 2007 election. The Rift Valley is populated by several distinct ethnic groups—a majority of whom identify as either Kalenjin, who claim historical rights to the land, or Kikuyu, who were favored in the initial land resettlement program orchestrated by Jomo Kenyatta. The Rift Valley also possesses the largest share of national votes and parliamentary

\(^5\) Ibid.
\(^7\) ‘Briefing: Land Reform Key to Kenya’s Future’ IRIN News (5 March 2013) [http://www.irinnews.org/report/97599/briefing-land-reform-key-to-kenya-s-future].
\(^8\) Catherine Boone, ‘Politically Allocated Land Rights and the Geography of Electoral Violence: The Case of Kenya in the 1990s’ Comparative Political Studies 44:10 (October 2011) p.1312.
\(^9\) Ibid. p.1313.
Mali

Traditional rules governing cooperation between farmers and herders in Mali are becoming increasingly obsolete amid new environmental pressures that have led to violent competition for land and water. In light of population growth, soil degradation, drought cycles, and the development of mass-scale agriculture, the amount of land used for agricultural cultivation has expanded at the expense of reducing the land available for grazing animals. As the World Bank observes, “Vulnerability to commodity price fluctuations and to the consequences of climate change, combined with a population growth rate among the highest in the world, have fueled food insecurity, poverty and instability.” Malian farmers and herders historically enjoyed a mutually beneficial relationship in which they exchanged manure, crops, milk, and other goods in addition to sharing natural resources. However, farmers now fear that overgrazing will compromise the productivity of their fields, while herders find frustration in the limited pasture available to them and in farmers’ concerted efforts to block their access to water sources. Undoubtedly, these problems have become exacerbated by the state’s political turmoil.

Two notable conflicts between farmers and herders have occurred amid this backdrop. In the village of Karbaye in the Niger River Delta, a dispute between a farmer village and a herder village over the use of a local pond for household water consumption escalated into violent conflict that ended in three deaths and 15 injuries in February 2011 — one of many farmer-herder conflicts to occur in the region. Droughts and insufficient rainfall limit irrigation potential in the Niger River Delta, thus causing water shortages in an area populated by competing fishermen, subsistence farmers, and pastoralists. The second noteworthy farmer-herder conflict occurred on May 25, 2012, when Dogon farmers in Sari, Mali, clashed with nomadic Fulani herders from Burkina Faso along the two states’ borders, leaving 25 dead. The violence originated from a contestation over an agreement between Mali and Burkina Faso that allowed Burkina herders to bring their livestock across the border into Mali to seek available pastured land as part of a long-established practice known as transhumance. Transhumance, which occurs between Mali, Burkina Faso, and Niger, as

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11 Ibid. p.340.
14 Focus on Land in Africa ‘Farmer-Herder Conflicts in Mali’ (February 2011) [http://www.focusonland.com/landpressures-driving-farmerherder-conflicts-in-mali/].
15 Jones-Casey & Knox, ‘Mali’ p.3.
herders and farmers from all three states flow freely across the borders, has fueled much of the conflict in the region.

Zambia

In June 2013, Zambian National Service (ZNS) officers shot and killed two of approximately 300 protestors in Kampala who refused to move off of land that has belonged to the military wing for years. Kampala residents had been illegally settling on ZNS airport farms since 2010 until the problem had been seemingly resolved a few months earlier when the government relinquished a portion of its land to help resettle the disgruntled community. Upon announcing commissions of inquiry into the shooting incident, Home Affairs Minister Edgar Lungu defended the actions of the officers, “The government had facilitated for the allocation of 50 hectares of land from the ZNS in liaison with the Chongwe district council to resettle the Kampasa community that had illegally encroached on the ZNS airport farm. Instead the squatters demanded for more land.”

Despite the formal investigation, opposition leaders of the Movement for Multi-Party Democracy (MMD) identify a worrisome trend of excessive Zambian Defense Force violence, particularly in the wake of an event a week prior in which a police officer shot and seriously wounded a soccer fan that was in a rowdy crowd jostling for tickets to a match in Ndola. The killings in Kampala also highlight a trend of lawlessness and desperation with respect to land acquisition and ownership in Zambia. Zambian landowners have been beset by land grabbers masquerading as Patriotic Front (PF) cadre officials as they appropriate legally-owned land. These incidents have exacerbated political tensions between the MMD and the ruling PF.

Zimbabwe

In an attempt to distribute land more equitably between the white minority and the historically disenfranchised black majority, Zimbabwe commenced land reform in 1979 with its signing of the Lancaster House Agreement with Britain. The agreement contained the so-called “willing buyer, willing seller” clause, which enabled the government to buy excess land to redistribute to the landless. The agreement failed to actualize its intended impact, however, because the government, even with substantial aid from Britain, did not have the means to compensate the predominantly white landowners fairly and many of those landowners staunchly refused to sell their land. As a result, two more unsuccessful phases of land reform ensued during the 1990s. The 1992 Land Acquisition Act called for the removal of full market price restrictions and limited the size of farms. When most of the land acquired during phase one proved to be of poor quality and the land ownership balance failed to change notably, President Robert Mugabe, leader of the Zimbabwe African Union–Patriotic Front (ZANU-PF) party, sought to amend the constitution in advance of the 2000 parliamentary elections to ease the restrictions placed on the government’s ability to appropriate land. Once thwarted by the opposition party in his attempt to amend the

19 Steven Mvula ‘Kampasa Killings inquiries’ Lusaka Voice [26 June 2013] [http://lusakavoicenews.com/2013/06/22/lungu-sets-shooting-inquiry/].
20 Government Has No Intentions of Relocating Residents of Kampasa’ Lusaka Times [22 June 2013] [http://www.lusakatimes.com/2013/06/22/government-has-no-intentions-of-relocating-residents-of-kampasa-lungu/].
constitution in a referendum, Mugabe openly encouraged landless blacks to occupy white-owned farms.\textsuperscript{21}

With only two years before the next presidential election, Mugabe felt increasing pressure from the Movement for Democratic Change (MDC) opposition party as the economy continued to falter. As a result, he initiated the “fast track” land resettlement program in which veterans of Zimbabwe’s liberation war formed the nucleus of militia groups whose stated aim was to confiscate land from wealthy white commercial farmers and redistribute it to impoverished, landless black Zimbabweans.\textsuperscript{22} The program soon devolved into a violent campaign that led to the murder and rape of white farmers and MDC opponents among other atrocities. Though a precise accounting of the number of land grab-related killings is absent from reports, a retrospective by \textit{SW Radio Africa} mentions eight murder victims.\textsuperscript{23} Generally lacking farming expertise and sufficient capital, those who wrested control of the land from the farmers — primarily ZANU-PF affiliates — helped contribute to Zimbabwe’s economic productivity decreasing to half of what it had been in 1980.\textsuperscript{24} The legacy of the fast track land resettlement program remains mixed, however, because tens of thousands of black Zimbabweans gained farm plots under the reform, and they have produced yields that have been better than many analysts forecasted, though not equal to that of the white farmers who previously worked their land.\textsuperscript{25}

\section*{B: Perpetrators & Victims}

The conventional view holds that land and natural resource disputes arise as a direct consequence of the central state’s inability to extend its influence into rural areas and rural property relations. This dynamic is most often reflected in the disputes between farmers and herders that surface almost ubiquitously across the continent. Though farmers and herders have traditionally entered into tacit, customary arrangements that allow them to share lands and cultivate trade relationships, many of the new environmental stressors addressed have undermined these traditional understandings and partnerships. Social negotiations and ambiguous land claims passed down over generations fail to account for new environmental developments.\textsuperscript{26} Consequently, contentions that certain groups have reneged upon conventional land-sharing arrangements have escalated at times into cross-border violent conflict between farming and herding communities, where the concerned states proved unable or unwilling to arbitrate the land disputes definitively.

African land dispute violence does not always occur outside the purview of formal politics that radiate from the central state. Many violent land conflicts are patterned off of state institutions and originate as a direct consequence of statebuilding, not merely as an attempt to capitalize on a power vacuum in areas where the central state does not extend much influence. “Some of the most extensive episodes of violent conflict over property rights have happened in the commercial

\begin{thebibliography}{99}
\bibitem{schleicher} Annie Schleicher ‘Zimbabwe’s Land Program’ \textit{Online NewsHour (PBS)} (14 April 2004) [http://www.pbs.org/newshour/bb/africa/land/gp_zimbabwe.html].
\bibitem{bell} Alex Bell ‘Land-Grab Murders “Swept under the Carpet”’ \textit{SW Radio Africa} (2 April 2013) [http://www.swradioafrica.com/2013/04/02/land-grab-murders-swept-under-the-carpet].
\bibitem{smith} David Smith ‘Robert Mugabe’s Land Reform Comes under Fresh Scrutiny’ \textit{Guardian} (10 May 2013) [http://www.theguardian.com/world/2013/may/10/robert-mugabe-land-reform].
\bibitem{peters} Pauline Peters ‘Inequality and Social Conflict over Land in Africa’ \textit{Journal of Agrarian Change} 4:3 (July 2004) p.305.
\end{thebibliography}
farming areas of state likes Cote d’Ivoire, Kenya, and Zimbabwe, which all have long histories of deep state involvement in the ordering and reordering of rural property relations. 27 Central governments’ ethnic, religious, and economic discrimination and forced removals of the poor from productive lands have laid the foundation for violent land conflicts that revolve around questions of land use and ownership and, fundamentally, who stands to benefit from what the land can produce. Many of these land-related tensions exist under the surface for long periods of time until they are exhumed by larger political events.

C: Structural Factors & Social Norms/Phenomena

The negotiable and adaptive systems of customary landholding that surfaced in many rural areas following decolonization have often proven too malleable and open to cooptation and coercion by local elites and the central government. Disputes have emerged from the fact that many of these “customs” were colonial inventions, and thus not reflective of the historic state of affairs. Following several failed attempts at neoliberal economic reforms and the privatization of landholdings, a new paradigm emerged in the early 1990s, which privileged “pluralism and the imperative of African national, regional and local governments, tribal groups, villages, communities, and civil society organizations negotiating their own solutions to securing access to land.” 28 However, this new vision failed to account for the heavy social inequality that typified many of these customary landholding systems and the several groups foreign to these territories that encroached upon these lands for their own survival and economic benefit. In many of these instances, the groups that came to dominate these areas used violent means and exclusionary practices to solidify their control. Consequently, reformists’ assumption that “socially ingrained” ideals of customary landholding would better facilitate equitable land use has not come to fruition.

D: “Best Practice”

Much of the land-related violence stems from fundamental failures of the central government. In lacking institutional mechanisms to adjudicate land disputes fairly or in not prioritizing a more comprehensive effort to delineate village and private property boundary lines, many rural citizens lack a practical, non-violent recourse to settle disputes. Supplying this need would go a long way to combatting land-based violence.

Moreover, many states’ demonstrated inability to provide for their rural citizens’ basic security—not to mention their forceful attempts to dispossess some citizens of their lands—encourages the politically disaffected to resort to self-help mechanisms of violence. Many campaigning politicians have manipulated deep-rooted land tensions for political gain, in effect becoming violence entrepreneurs. Measures promoting greater rule of law, and mechanisms to hold accountable those who resort to violence in pursuit of personal or political gains is central to reducing the incidence of these killings.

**Bibliography & Further Reading**

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- Boone, Catherine ‘Land Regimes and the Structure of Politics: Patterns of Land-Related Conflict’ *Africa* 83:1 (January 2013)
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Organised Actor Killings

Private Security Companies

The non-state actors whose actions most closely resemble those of the state with respect to the use of force, and hence possibly the unlawful use of force, are companies that are designed to mimic the state-like violence: private security companies.¹ In November 2013 the UN Working Group on the use of mercenaries emphasised the need to develop binding international instruments concerning the use and activities of private military and security companies.²

A: Geographical Distribution

The use of private security companies can occur in two different contexts—which will be examined separately—armed conflict and peacetime.

I. Private Security Companies in Armed Conflict

The post-Cold War processes of demobilization, disarmament, and reintegration detracted from the resources of African soldiers and ultimately, the security of African states.³ It is in this context that the private security industry – comprised of private security and military companies – proliferated throughout the continent. African leaders have sought to employ private security actors, as an entity to preserve one’s power. This may reflect a state’s inherent weakness, or at least, an insecurity of the political elite as to the regime’s longevity. Private security actors have also been deployed to function as a public good – to provide security and stability to a country’s inhabitants that the state would otherwise be incapable of providing (high-skilled human capital, technology, machinery, etc.).

The nexus between the private security industry and unlawful killings is predicated on the turbulence in the Middle East and specifically, the unjustified killing of 17 Iraqi civilians in 2007 by the American security firm, Blackwater (later renamed Academi).⁴ However, such connections between private security actors and unlawful killings have, at least thus far, failed to manifest in the African context. Rather, private security contractors have been cited as an exemplary mechanism by which Africa’s conflicts may be resolved.

Doug Brooks, a researcher at the South African Institute of International Affairs, argues that the hiring of private security companies could resolve Africa’s conflicts more quickly, more efficiently, and less expensively than any other option.⁵ Such claims are grounded in historical precedence.

¹ The principal researcher on this section was Justin Selner.
⁵ Peter Fabricius, ‘Private Security Firms Can End Africa’s Wars Cheaply’ Saturday Star (Johannesburg) (23 September 2000) [http://www.sandline.com/hotlinks/article4.html].
Consider the forced removal of the Revolutionary United Front rebels from Sierra Leone in 1995. The Sierra Leone government had contracted the private security firm, Executive Outcomes (EO). At a cost of $36 million and the use of approximately 150-300 troops, EO removed the RUF from both Freetown and the contested diamond mining areas in only three days.\(^6\) The country stabilized and the RUF retreated to Liberia.

In contrast, the United Nations peacekeeping mission in Sierra Leone was comprised of 8,000 troops and cost nearly $100 million per month to operate. Moreover, rather than dissolving conflicts and securitizing the country, Brooks argues that the peacekeeping troops exacerbated the conflict in Sierra Leone, and created greater instability. Internal conflicts between the peacekeeping mission’s national contingents, and the capturing of peacekeeping troops by the RUF are evoked as justification.\(^7\)

Such examples are problematic given the tacit suggestion that the (temporary) expulsion of the RUF from Sierra Leone is synonymous with the evisceration of continental-conflict – that private security contractors have the capacity to securitize all of Africa. The retreat of the RUF to Liberia reflects a shifting power dynamic of national (in)security. Sierra Leone benefited, at the expense of Liberia’s security – it was a zero-sum transfer. Such an approach to national or regional conflict may also be characterized as superficial. The EO did not kill the RUF *en masse*, nor was the underlying stimuli of the fighting resolved. The inefficacy of this approach is highlighted by the resumption of conflict and the RUF’s reentry into Sierra Leone throughout the decade. Furthermore, the security of an otherwise vulnerable state becomes linked to the perpetual employment of private forces. If the contract of the security firm expires, the state may be equally, if not more incapable, of securing its regions than before the private forces were deployed.

Where the employment of the private security industry may have long-term benefits – namely, in bolstering a state’s capacity to secure the territory confined within its borders – is in the hiring of such contractors to train national forces. Rather than fighting or disarming insurgency groups, rebels, etc., private military companies may be used to empower national forces with the capacity to secure their country. DynCorp, an American private security company, has been employed to train the African Union (AU) forces, as well as Ethiopian forces, to address the instability in Somalia.\(^8\) Another American firm, KBR Inc., has been contracted to provide service to bases in Djibouti, Kenya, and Ethiopia, while Blackwater has been contracted to train the Sudan People’s Liberation Army (SPLA) of South Sudan.\(^9\)

### II. Private Security Companies Outside of Armed Conflict

This section attempts to hone the analysis of private security contractors, examining their role *outside* armed conflict. Throughout the African continent, such instances are largely confined to the context of multi-national mining/extractive operations. While this section will specifically engage with such examples, further instances of unlawful killings committed by private security contractors, in an environment beyond armed conflict, will also be considered. Finally, where applicable, the role of organized, armed militia groups (as opposed to vigilantism, mob violence, etc., and those discussed above) will also garner attention.

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\(^{6}\) Ibid.

\(^{7}\) Ibid.


\(^{9}\) Ibid.
Angola

Throughout the jungles in northeast Angola, peasant miners search for diamonds with shovels and sieves. However, lacking a government permit, such ‘miners’ and their families are often abused, and even killed, by police and private security guards.10 Peasants bribe private security guards to allow them to sift gravel and search for diamonds. However, instances have been reported in which, when peasants are unable to pay the bribe, the contractors have killed the respective individuals with a machete.11 Other reports confirm that, even by virtue of searching for diamonds, irrespective of bribery, peasants are subject to cruel punishment from private security contractors. In Cuango, the main site of alluvial mining in the Lendas (the diamond-rich provinces in the northeastern parts of the country), human rights abuses have been documented, including flogging, humiliation, torture, sexual abuse, and assassinations.12

Such abuse also stems from issues of property disputes. The land on which local peasants have lived and worked as small-scale miners has been redefined and/or reclassified as “reserved” – now owned by multi-national corporations. As a result, acts unrelated to mining – farming, fishing, bathing, etc. – are being punished by PSCs, under the guise of “protecting the areas.”13

Central African Republic

The Union of Democratic Forces for Unity (UFDR), a former rebel/armed militia group, is defined as “providing security,” particularly in the northeastern, diamond-rich parts of the country. A portion of the UFDR split-off, and formed their own militia – the Convention of Patriots for Justice and Peace (CPJP) – pushing other ethnic tribes out of diamond mining areas.14 In 2009, a clash erupted between the armed militias of the Gula (comprised as the CPJP) and Kara ethnicities, resulting in the deaths of 27 individuals.15

Democratic Republic of the Congo

The documentations of unlawful killings, perpetrated by private security contractors within the extractive sector, are few or nonexistent. The majority of the literature concentrates on the civil war, and the action of government and rebel forces.

Nevertheless, the literature provides a useful insight as to the underlying stimulus of such conflicts, which may be transported into other national and/or regional contexts. The (Congolese) war, it is argued, is “little more than a private racket with the minerals themselves providing the

11 Ibid.
13 Ibid.
motive for carrying on fighting.” The incentive of private gain appears to trump concerns of human security and societal welfare.

**Libya**

Armed militias throughout Libya are responsible for having killed several civilians. During peaceful protests in November 2013, Militias from Misrata fired assault rifles, machine guns, and heavy weapons at the demonstrators. Following the ensuing clash, 43 individuals were killed and nearly 500 were wounded. In October 2011, the bodies of 65 civilians were found in the Mahari Hotel in Sirte – evidence is suggestive that former opposition fighters and armed militias perpetrated the killings.

While falling short of killing, armed militias have also detained, beaten, and tortured thousands of individuals at detention centers in Tripoli. Since the National Transitional Council (NTC) took control in late August 2011, it is estimated that 2,500 people have been subject to abuse and human rights violations. The aid agency, Medecins Sans Frontiere, even chose to stop its work in the Tripoli-based detention centers. The organization’s staff was being asked to treat individuals that were mid-way through a torture session, as to ensure such individuals could endure further abuse. Other individuals, detained without reason, were coerced and intimidated into falsely confessing to killing NTC fighters.

In the majority of the above outlined cases, no actions and/or investigations were undertaken by either state security or national forces.

**Mozambique**

The Renamo militia have unlawfully killed civilians, and injured several others. Most recently, in December 2013, 10 civilians were killed, and a further 26 were injured, in an attack by the former rebel movement. Such attacks from the armed group, however, tend to be politicized – targeting government officials, departments, etc.

**Nigeria**

Between 2009 and 2010, security personnel guarding Shell’s facilities in Ogoniland were allegedly responsible for extra-judicial killings and instances of torture. Moreover, government forces hired

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21 Amnesty International *Detention Abuses Staining the New Libya* p.17.
by Shell have conducted unlawful killings and systematic torture. Similarly, armed militias, potentially feuding for private contract rights, have exacerbated local violence and destroyed towns, resulting in multiple deaths.

South Africa

Private security workers at a Forbes and Manhattan Coal Corporation mine in South Africa, shot and killed workers on strike. The workers were supposedly staging a strike for higher wages, and other demands regarding the country’s various extractive industries – platinum, gold, chrome, etc.

Tanzania

Private security guards, in tandem with federal police, both employed by the Barrick Gold Corporation, allegedly shoot and kill individuals that scavenge the gold-laced rocks at the company’s North Mara mine. There is no attempt to arrest the individuals, nor efforts to assuage such activities through use of the judiciary. Moreover, between 2008 and 2010, private security contractors at the North Mara mine have killed at least 7 people. While contested by Barrick Gold, a report released by the Legal and Human Rights Centre in Tanzania found that 19 villagers were killed by the duo of police and private security guards, between January 2009 and June 2010.

Investigations have been conducted at the North Mara mine, but no one has been prosecuted. Highly problematic and indeed, a potential conflict of interest, arguments cite that the people who conduct the killings are the same individuals that conduct the investigations.

Zimbabwe

Police and private security guards, working for companies involved in the Marange diamond fields, have been found to beat and shoot unlicensed miners. While not documented as having killed individuals, attack dogs have also been unleashed on such miners. Private security guards working for Mbada Mining, a South African and Zimbabwean owned joint-venture, have allegedly released attack dogs on individuals that were already caught and handcuffed.

The Mbada Mining’s use of attack dogs, as suggested by the aforementioned example, has not been to restrain the miners. Many of the treated wounds are not for mere teeth punctures, but rather, torn flesh. Between 2006 and 2008, similar abuses, including killings, were documented

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24 Ibid.
28 Ibid.
30 Ibid.
by Human Rights Watch in the Harare and Mutare districts, in addition to the Marange district in eastern Zimbabwe.\textsuperscript{31}

Such violence, however, has failed to instigate compensatory measures and repercussions. The government, as well as Mathieu Yamba – Chairman of the Kimberly Process – made the decision to continue the exportation of diamonds extracted from the Marange fields.\textsuperscript{32} A year later, by the summer of 2012, no steps had been taken to address such outstanding human rights concerns.\textsuperscript{33}

**B: Perpetrators & Victims**

Instances of unlawful killing, perpetrated by private security actors, are largely non-existent. This is not a guarantee that private contractors are not committing unjustified killings. However, a broad overview of the academic literature, as well as documents and reports from the United Nations and international humanitarian organizations, reveals no specific occurrences.

A particular challenge in gathering data within this subject directly relates to the privatization of actions. If a private security firm is contracted to execute a specific mission, their actions may be under less scrutiny than if such a mission was conducted by national forces. Similarly, in regards to issues of accountability, monitoring, and oversight, the (potentially unlawful) actions of private security forces may be easier to hide – particularly if such actions are covert and conducted without national oversight or coverage from exogenous actors (media, civil society organizations, the state, etc.).

One issue that may be worthy of further exploration is the emerging norm in which private security actors train national armed forces. Consider a hypothetical scenario in which a state’s national forces, after being trained by a private military company, engages in unlawful actions such as genocide, ethnic cleansing, or mass killings. While the state may be identified as the perpetrator (or commissioner) of such actions, the role of private security companies as a potentially destabilizing, violence-promoting actor should not be disregarded.

As a private entity, the raison d’etre of such firms is economic gain – the establishment of peace and security is detached from their agenda.\textsuperscript{34} Therefore, a private security company’s participation in war (or even, the perpetration of unlawful killings) is void of political or moral motivations. Rather, such companies may bargain with belligerent entities, or commit crimes (and killings) that aggravate conflict and prolong the need for their employment.\textsuperscript{35}

The incentive-driven involvement of private security companies serves to explain their concentrated employment in African states that are well endowed with natural resources. While not an exhaustive list, private security companies pervade countries such as Angola, Mozambique, and Sierra Leone.\textsuperscript{36} Often, conflicts erupt regarding the exploitation, distribution, and development of such resources, with the subsequent consequence that civilians may become displaced, subjected to human rights abuses, or even killed. Even if the PSC is not directly killing

\begin{itemize}
\item \textsuperscript{31} ‘Army abuses Zimbabweans to control diamond fields’ *Reuters* (26 June 2009) [http://www.reuters.com/article/2009/06/26/zimbabwe-crisis-diamonds-idUSLQ67185420090626].
\item \textsuperscript{33} Human Rights Watch ‘Zimbabwe: Diamond Abuses Show Need for Reforms’ (4 June 2012) [http://www.hrw.org/news/2012/06/04/zimbabwe-diamond-abuses-show-need-reforms].
\item \textsuperscript{34} Gumede, ‘To embrace or not to embrace’ p.5.
\item \textsuperscript{35} Mpako H. Foaleng, ‘Private Military and Security Companies and the Nexus Between Natural Resources and Civil Wars in Africa’ in Gumede (ed.) *Private Security in Africa* p.44.
\item \textsuperscript{36} Gumede, ‘To embrace or not to embrace’ p.5.
\end{itemize}
innocent civilians, it may be argued that, by seeking to perpetuate conflict (or at least, by willing to support factions that wish to employ violence to secure resource), they are increasing the incidence of civilian deaths. Within this construct, the victims of such conflict may be both the oppositional factions to the PSCs, as well as the civilians who are indirectly compromised by such clashes.

Non-state actors such as corporations may also employ private security contractors. Again, such employment is often in regards to securing a corporation’s access to natural resources. Shell, for instance, spent nearly $200 million on private security firms during 2007, just to secure its operations in Nigeria. Seymour notes that, “despite the amount of money spent [by Shell], high levels of criminality continue.”

However, recognizing the aforementioned amoral, profit-driven motive of private security companies, the continuance of criminality is less striking than otherwise reasoned by Seymour. During civil war in Liberia under the Charles Taylor regime, timber companies also employed PSCs. Such forces, however, ultimately became militia groups. Their responsibilities transitioned from (passively) protecting the timber companies’ resources, to actively engaging in the conflict. The companies intimidated local individuals and violated human rights. Again, while direct instances of unlawful killings have been difficult to prove, the extension of the conflict’s impact – particularly in regards to the displacement of individuals – reveals an increased likelihood for civilian deaths.

The shifting role of the PSCs in Liberia – from “protectors” to combatants – raises an issue regarding the definition of a security company’s roles. Specifically, is the killing of opposition forces unlawful if such forces are unaware that the security company is a formal combatant involved in the conflict? Conversely, if a PSC is defined as a militia group, are the killings of counter-forces justified? How is this shift in title indicated to the concerned parties?

The perpetrators of the unlawful killings include the guards from the private security companies, the privately employed members of the police force, and the members of the armed militias. It may be helpful, however, for this category to be further disaggregated based on the authorization of such killings – who provides the direction for such actions and to whom should responsibility be allocated? This is problematized on the basis that it is typically multi-national corporations that have employed private security firms. If an individual is killed, it is not clear as to who bears legal responsibility – the corporation, or the security firm? The guards are often not assimilated into the company, yet still execute the company’s mandate and wishes. Therefore, while the corporation may receive negative publicity, legal reprimand may be difficult.

This challenge is paralleled in regards to the armed militia examples in Nigeria – particularly, those that have been supported by Shell. If civilians are killed, the armed militias assume fault, with the ties to Shell being even more difficult to prove. Indeed, in the case of Shell and armed militias, the unlawful killing of citizens may have been a product of inter-communal and/or inter-gang violence, as a result of the increased funds (distributed by Shell) throughout the region. However, under such circumstances, the links to the multi-national corporation are even more questionable, if at all.

38 Ibid.
40 Ibid.
41 Smith, ‘Shell accused of fuelling violence in Nigeria by paying rival militant groups’.
Finally, a corporation’s coupling of police forces, together with private security companies, has created a “conflict-of-interest,” in which prosecution and/or preventative action against unlawful killings is compromised. In cases where the killing of civilians has occurred by the duo of hired police forces and private security guards, it is often the same police officers, or at least individuals with close ties, that evaluate the scene. The judgments and subsequent reprimands, if any, are not impartial and skewed away from the elevation of human security and welfare.

The victims of such killings may be classified into two groups: The first regards peasants and low-income individuals, who venture onto a corporation’s land to mine for gold, diamonds, etc. However, peasants who have been fishing, or even bathing within the corporation’s territorial jurisdiction, have also been subject to beatings and torture. Often, such land had been communal, associated with tribal links, or at the very least, unoccupied prior to the corporation’s acquisition of said land – the peasants’ property infringement is unintentional. The second group of victims is those that have died from armed militias. Such individuals may have been caught in the crossfire between feuding groups, or have been wrongfully detained and used to forward the militia’s agenda – through the use of torture, bribery, etc.

C: Structural Factors & Social Norms/Phenomena

Private security companies tend to concentrate in resource-rich environments, and/or in states where the leadership feels threatened. Similarly, private security companies may also abound in areas where infrastructure or resources need protection – a corporation’s physical infrastructure, a state’s scarce resources, etc. Conversely, private security may be less abundant in stable political regimes, and where the state has the available capital to finance the provision of national and local security forces. Such situational contexts are bound by a commonality of high-profit, long-term employment. Recall the inherent “private” nature of private security companies, and the fundamental responsibility of accruing profits.

The guiding ideology/social norm that dictates the behavior of private security firms, is the attainment of greater profits. For instance, private security companies may negotiate with competing belligerent groups, deploying their resources to the highest bidder. Encompassed in this approach is the rejection of political motivations. Private security companies take on the ideology/goals of their employer. Moral and ethical codes are absent.

Finally, it may be argued that private security companies strive for a norm of perpetual conflict, as it is such insecurity that ensures their continued employment. This may be accomplished by servicing both sides of a particular conflict, or by empowering other actors (such as the state) with the capacity to pursue additional conflicts that would necessitate further cooperation.

The killings perpetrated by private security contractors appear to stem from an (over) protection of resources. Low-income individuals that trespass onto a corporation’s jurisdiction – sometimes unknowingly – may be beaten, tortured, or even killed. Such individuals are impoverished, and lacking basic necessities. Such high-risk behavior is motivated by economic insecurity. Indeed, as the price of gold and diamonds increase, the instances of conflict and confrontations increase.\(^{42}\)

\(^{42}\) York, ‘Barrick’s Tanzanian project tests ethical mining policies’.
In other cases, weak institutional forces exacerbate the situational context of such killings. Guards and police, in the absence of receiving a 'sufficient' bribe, may torture and/or kill individuals that they had previously left untouched. Similarly, regarding issues of prosecution, the police forces charged with investigating such abuses may have partaken in their execution.

Similarly, governments may be hesitant to rein in such actions or allocate fault to multi-national corporations. Fears of capital flight and investment outflows, as well as economic stagnation and social unrest are possible factors. However, the complicity of government and judicial actions may also be a product of corruption and self-interest. For instance, the former commander-general of Angola’s National Police is now a majority owner of K&P Mineira – a security firm employed throughout the Lunda.43 In other instances, such as in Libya, the failure to address such actions may be a product of inadequate or transitioning institutions, such as the courts.

D: “Best Practice”

The discussion in this section is predicated on the recognition that, in the majority of instances, private security companies have enhanced a state’s stability, and have even reduced the amount of killing. Nevertheless, the use of private security forces may also be problematic – highlighted by the cases in which conflict and insecurity have persisted, and civilians have been (indirectly) killed. This section will seek to distinguish between such dichotomous results, and distill certain practices and/or regulations that appear to be more conducive to the beneficial and humane deployment of PSCs.

The best practices of private security companies are linked to examples in which the terms of their employment were tied to the completion of a specific, finite objective. Recall the case of EO in Sierra Leone, employed to combat rebel RUF forces. Rather than being hired to provide “protection,” or to enhance “security” on an ongoing basis, they were given narrowly defined objectives – to which their imbursement was tied. This de-incentivizes the proclivity of PSCs to act in such a way that may extend conflict and insecurity (as well as their employment). Rather, depending on the terms of employment, companies may be incited to act in ways that promote human rights and diffuse conflicts in a timely manner.

In cases where PSCs have been hired to provide “protection” on a long-term basis, their successful implementation (defined by the absence of unlawful killings, human rights abuses, protracted violent conflicts, etc.) was in an environment void of natural resources – and thus, the incentive to deviate from their stipulated requirements, or to coalesce with oppositional factions to acquire spoils from such resources, was nonexistent. In 2008, for instance, Blackwater was employed, with great success, to provide protection from pirates off the coast of Somalia.44 Similarly, in 2009, another PSC successfully protected the Maersk Alabama ship from a pirate attack off the Somali coast.45

Conversely, compare this to the fighting and carnage that occurred in Nigeria, when Shell hired private security companies to “protect” its resources. Human rights were abused, conflict flourished, and the private security company became a militia group. However, such threats are not to function as a deterrent to the use of PSCs in a resource-rich environment. Recognition of

43 Marques, ‘A New Diamond War’.
their profit-motive is paramount to the successful reform of their activities. The terms of employment (provided by either the state or non-state actors), must be sufficient to allay the PSC’s incentive to defect – in the context of abundant natural resources, such terms must be greater. As a supplement, international law must strive to regulate the actions of private security companies. The option of supporting belligerent groups, exacerbating civil strife, and exploiting resources for private gain should not be a viable option. Such actions must be criminalized, and monitored for enforcement. The incentive to partake in deplorable activities must be removed.

The hiring of PSCs by non-state actors – namely, corporations – may be constrained at a further level. Governments, when negotiating the terms of investment with foreign firms, ought to stipulate criteria as to the corporation’s capacity to deploy private security actors. Such terms should be structured to promote human rights and to deter the possibility of further conflicts to erupt.

Furthermore, the use of modern arms and warfare-enhancing technology, particularly when used by PSCs, must have strict regulations and be closely monitored. Private security companies that posses such modern warfare technologies have the capacity to drastically influence the events within a particular microcosm. For instance, between 1992 and 1994, during Angola’s civil war, more than 500,000 individuals died. According to UN figures, more Angolans died during these two years than in the previous sixteen years of conflict – such an increase in the amount of deaths is attributed to the importation of sophisticated weaponry and planning techniques from the private military forces that structured the Forças Armadas Angolanas’s counterattack against UNITA.46

Finally, in moving forward, the Swiss Initiative - an inter-governmental dialogue fostered by Switzerland and the International Committee of the Red Cross (ICRC) – strives to promote international humanitarian law and human rights, by states and security companies.47 The initiative seeks to outline the challenges posed by PSCs, to re-affirm and clarify the existing obligations of states and non-state actors under international law, and to exchange regulatory options (in regards to private security companies) to ensure greater security and stability throughout the continent.48

The results of the Swiss Initiative, particularly concerning regulatory options, may be summarized as follows:

Private security contractors ought to educate all employees to ensure that they are sufficiently versed in laws applicable to security services, human rights law, and international humanitarian law. Training as to the responsible use of weapons and technology is also of significant importance. The establishment of appropriate channels through which complaints may be filed and addressed should also garner priority. Finally, PSCs ought to adopt standardized rules of engagement and operating procedures that comply both with national and international law, as well as the contract of their employment.49

Host states ought to establish, codify, and regulate specific activities that PSCs may conduct within the state’s territory; require the obtainment of an operating license for companies that wish to

47 Gumedze, “To embrace or not to embrace,” p.11.
49 Ibid. p.174f.
provide military and/or security services within the state’s territory; establish systems of monitoring, which promote transparency between the security company and the host state; and establish mechanisms under which dissenting actors and perpetrators of crimes (inclusive of unlawful killings, and otherwise) may be held accountable under law.\textsuperscript{50}

With respect to the unlawful killings within extractive industries, private security contractors must be bound by stricter guidelines. The arbitrary and unprovoked use of force, torture, and berating activity is unacceptable, and ought to be subject to legal punishment. The multi-national corporations that employ such security companies ought not shy away from the enforcement of human rights – this ought to be expressly stated in one’s terms of employment. Indeed, this may be an entry point to stop unlawful killings within this context. When hired, security companies ought to be contractually bound to adhere to certain standards of conduct, and especially those that relate to human rights abuses and unlawful killings.

The international community may also take efforts that would serve to de-incentivize such conduct. The Kimberley Process (KP) – an attempt to stem the flow and marketing of conflict diamonds – may serve as a quasi-example. That is, a certification/monitoring process, aimed at extractive industries whereby such unlawful killings occur(ed), may incentivize an approach to security and company actions that are more attuned to human rights. However, in realizing the shortfalls of the Kimberley Process, a “best practice/recommendation” may seek to imbue the implementation agency with greater powers of oversight and control. In regards to the sale of conflict diamonds, the KP is crippled by loopholes/definitions that allow the sale of diamonds by governments that committed abuses to obtain them.\textsuperscript{51}

On the other end of the spectrum, individuals should strive to become informed consumers. If a good has, or may have come from a company, region, or process in which unlawful killings have occurred, one should restrain from its purchase. In doing so, individuals may reorient market demand and corporate behavior towards enhanced human rights protection.

In regards to the abuses and killings perpetrated by armed militias, there is a greater need for sound institutions and structures of governance. In countries where armed militias have invoked substantial harm, public service institutions – law enforcement, courts, etc. – are particularly weak, or nonexistent. As highlighted in the transition of Libya, the judiciary, along with other government organs, was not functioning at the necessary capacity. As a result, human rights abuses and unlawful killings are more difficult to prosecute and prevent. Effort must be taken to reinstitute a robust institutional system, with the capacity to address such pressing problems. The international community ought to be willing to provide assistance if requested, as the cessation of such challenges, and the concurrent promotion of human rights, is in the interests of everyone.

\textbf{Bibliography & Further Reading}


\textsuperscript{50} Ibid. p.175.
\textsuperscript{51} Human Rights Watch ‘Zimbabwe: Kimberley Process on the Brink’.
Organised Crime

This section will consider threats to the right to life posed by organized crime. It will examine two general forms of organized crime: piracy and human trafficking. Piracy may be understood to encompass two offences: One, robbery and/or hijacking of a vessel and its cargo; and two, kidnapping of a vessel and its crew for ransom. Trafficking can be defined as the recruitment, transportation, or transfer of persons, by means of the threat or use of force or other forms of coercion for the purpose of exploitation.

A: Geographical Distribution

In the case of both piracy and trafficking, the fact that the character of the crimes defy national boundaries makes them more difficult to geographically place and more difficult for individual states to address.

I. Piracy

With regards to the African continent, piracy is concentrated in two areas: Off the West African coast, in the Gulf of Guinea, and off the coast of Somalia, in the Gulf of Aden. However, the occurrence of piracy is far more concentrated in the Gulf of Aden, than in the Gulf of Guinea. In 2009, Somali pirates committed over half of the global piracy attacks. The International Maritime Bureau (IMB) adds that piracy also occurs off the coasts of Nigeria (Lagos), Benin (Cotonou), Togo (Lome), and Côte d’Ivoire (Abidjan).

In such areas, the IMB notes no instances of killings – all cases of piracy have revolved around the robbing and hijacking of vessels, with particular attention given to the seizure of gas oil. However, the killing of individuals, despite being uncommon, has occurred. The United Nations Office on Drugs and Crime reports that, in the first half of 2009, four individuals (of a total 485 that were victims of piracy throughout the year) were killed. More recently, Somali pirates killed four Americans, as they sailed across the Indian Ocean.

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1 The principal researcher on this section was Justin Selner.
4 Ibid.
Given that piracy attacks nearly exclusively occur on the high seas, it may be problematic to link such attacks as being correlated with a particular state. For instance, piracy attacks off the coast of Lagos are not inherently perpetrated by Nigerians. Pirates are mobile on the high seas and will attack ships in high-traffic areas, or in transit areas where vessels are expected to contain valuable cargo – such attacks are not nationally-bound, nor inherently perpetrated by nationals of the closest state.

For such reasons, it may be best to conceive of such instances of piracy attacks in terms of regional, geographic occurrences – such as in the Gulf of Aden – as opposed to a specific nation state – such as Somalia.

II. Trafficking

Central African Republic

The Lord’s Resistance Army (LRA), a Ugandan rebel group, has abducted and trafficked children for the purpose of enslavement and military servitude. Children have been forced to loot and burn villages, and kill the residents, as well as abduct and/or kill other children.7

Democratic Republic of the Congo

Men, women, and children are abducted or forcibly recruited by indigenous and foreign-armed groups (the FDLR, the Popular Front for Justice in Congo, the National Army for the Liberation of Uganda, the Coalition of Patriots in the Congolese Resistance, etc.) to work as bodyguards, sex slaves, laborers, etc. Children, in particular, have been forced by their captors to loot, and in one case, to kill other children.8

Egypt

Egyptian border patrols have been documented shooting and killing victims of trafficking (in addition to migrants, asylum seekers, and refugees) in the Sinai, as they attempt to cross the Israeli border. The victims that are not killed are typically detained in Egyptian prisons.9 Human Rights Watch details that since 2007, Egyptian border patrols have killed a minimum of 85 people that were trying to cross into Israel.10

Eritrea

The government of Eritrea strictly controls the movement of people in and out of its borders. The issuance of passports and exit visas are rare, and thus, individuals that wish to leave are often forced to do so discreetly/illegally – this approach increases one’s vulnerability to trafficking. Eritreans that flee national service, or that have become victims of forced labor, domestic

8 Ibid. p.135.
9 Ibid. p.157.
servitude, or sex trafficking, are often shot and killed by Eritrean, Egyptian, or Libyan authorities. Those that survive are repatriated to Eritrea and detained without charge by the government.  

South Sudan

Girls in Eastern Equatoria state have been forced into marriages, as compensation for inter-clan killings. Following such marriages, the girl may be subjected to sexual slavery and/or domestic servitude.

Nigeria

In January 2014 an undercover reporter for the *Premium Times* published an article about a very dangerous assignment, allowing herself to be trafficked so as to expose a mafia-style trafficking syndicate operating out of Nigeria. Her article exposed not only the international interconnectivity of the trade in sex-workers, but also the complicity of senior officials in Nigeria that shelter the organisers from the authorities. She also wrote of her experience of the links between this trade and the trade in body-parts and ritual killings which were discussed above in the section on Conditioned Homicide.

B: Perpetrators & Victims

In the case of piracy attacks, the perpetrators are the “pirates” – the individuals that use violence, threats, and coercion to rob, hijack, and/or kidnap members and/or cargo of a foreign vessel. No reports have indicated that women conduct such attacks. Rather, photographic evidence (acknowledging the weakness of this approach), coupled with the profiles of previously caught pirates, indicates that the perpetrators are exclusively male.

The victims, on the other hand, are typically the crew aboard commercial shipping vessels, or ships that contain goods/cargo that is deemed to be of value to pirates – gas oil, etc. However, the previously discussed piracy attack regarding the four Americans suggests that the categorization of “victims” ought to be broadened. That is, in defining “victims” (and subsequently, formulating methods of prevention), it may be beneficial to use socioeconomic descriptors. For instance, victims of piracy tend to be individuals aboard a vessel that exudes a degree of affluence, or at least, the possibility of containing valuable cargo. Piracy, at the most basic level, is driven by economics. The perpetrators of piracy attacks are doing so for the acquisition of wealth. This is evidenced in the positive correlation between the occurrence and rate of piracy attacks, with the amount of ransom provided to spare the captured hostages. Thus, at the very least, it may be useful to add a socio-economic dimension when describing the victims of piracy.

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12 Ibid. p.336.
The perpetrators of the unlawful killings associated with trafficking, may take three broad categories: The first group is that of the traffickers. This is largely comprised of organized criminal networks, gangs, and/or rebel militias (such as the Lord’s Resistance Army or the Popular Front for Justice in Congo). The second group is that of government officials. Recall that Egyptian guard patrols shoot and kill victims of trafficking in the Sinai as they attempt to cross the border into Israel. The Eritrean government partakes in similar practices, previously detailed.

The final group of individuals that perpetrates unlawful killings is the trafficked victims. Specifically, these are often children who have been trafficked for the purpose of servitude, to become a child soldier, or to loot and terrorize villages. This is indicated in the national contexts of the Central African Republic and the Democratic Republic of the Congo.

The victims of unlawful killings associated with trafficking may be categorized into two groups: The first group is those who have been trafficked. These individuals may be abused, beaten, raped, etc., which may often extend to death. Furthermore, trafficked victims that attempt to escape from their captors are also killed (Egypt, Eritrea). The second group is those who are killed by trafficked individuals. This includes innocent civilians, whose villages have been burned and looted by trafficked child soldiers. In further cases, this may involve a trafficked child killing another child who refuses to act in accordance with the trafficker’s demands.\textsuperscript{15}

\textbf{C: Structural Factors & Social Norms/Phenomena}

A prominent structural factor that incentivizes piracy attacks is the receipt of wealth. The overwhelming concentration of piracy attacks off the Somali coast also suggests a situational context, in which pirates are more inclined to operate out of environments with a weak state apparatus, weak governance, and weak enforcement of the rule of law. This may lend to the establishment of a social norm in which, due to the absence of a robust formal economy (particularly in Somalia), one may justify the pursuit of “informal” and/or “unlawful” practices to compensate.

However, in regards to the perpetration of unlawful killings, the critical question is if an additional structural factor/social norm/phenomena separates non-lethal piracy attacks, from those where innocent civilians are killed. One argument may suggest that, the holding of individuals for ransom, and the failure to meet the pirates’ demands, may result in the killing of the captive individuals. In this context, it is the unwillingness or inability to fulfill the pirates demands that provokes unlawful killing. A more cynical analysis may suggest that piracy attacks may periodically need to result in unlawful killings, as a way to maintain a threatening visage and to concretize (to the world at large) the importance of satisfying their ransom demands.

With respect to trafficking, one major situational context, in which the unlawful killings occur, is when trafficked victims attempt to escape from their traffickers. Further killings are most often committed when villages are attacked, burned, terrorized, and/or looted by militias, rebel groups, and child soldiers.

A broader interpretation ought to acknowledge the social, economic, and political environment in which trafficking is perpetuated. Specifically, the governance/political structures, as well as the

\textsuperscript{15} Ibid. p.135.
rule of law, are weak, and there are limited (if any) public authorities to defend against traffickers. Trafficking occurs in areas with devastating socioeconomic conditions – poverty, hunger, malnutrition, lack of adequate housing, un- or under-employment, etc. Therefore, as with the allure of piracy, traffickers are able to target greater amounts of individuals under the pretense of a more prosperous life (particularly in regards to individuals that have been tricked into domestic servitude, enslavement, and/or the sex trade). This may also entice families to sell their children, for the receipt of minimal funds.

D: “Best Practice”

At their core, piracy attacks are the product of insufficient development, poverty, hunger, lack of formal employment, poor wages, etc. To eliminate piracy attacks, such stimuli must be removed. This opinion is embodied in the comment of Somali Prime Minister Omar Abdirashid Ali Sharmarke: “You cannot tackle piracy from the sea no matter how many naval ships you put into the waters...the best way to actually fight the piracy is to tackle these things from the land.”

The Prime Minister’s statement also lends to a more literal interpretation—that removing the pirates’ onshore systems of support may prevent piracy attacks. Pirates may be at sea for months on end, particularly when involved in kidnappings and ransom negotiations. During this time, the pirates require logistical support, as well as material supplies. Moreover, if the ransom negotiations are successful (the pirates receive substantial funds), the pirates must return to shore to offload the newly acquired money. The safety of this passage is predicated on the protection offered by local potentates—government leaders, militias, elders, etc. The World Bank found that, up to 86 percent of ransoms are distributed to such “enablers”—the tacit and direct support from various actors that make ransom negotiations possible. The perpetrators of piracy attacks retain only a small portion of the spoils. The study concludes that policies, which target pirate crewmembers, may fail to impact/address the main stakeholders of piracy. Therefore, if such systems of support could be removed, the piracy structure may be undermined and thus, the occurrence of piracy attacks may subside.

Recognizing that development in Somalia and throughout the African continent will require time and substantial resources (among other factors), certain practices may be employed to deter piracy attacks during the interim. One approach is the hiring of private security companies to defend cargo ships as they traverse the high-incident shipping passages. The MV Maersk Alabama, which had previously been the victim of a pirate attack in 2008, successfully fended off an attack in November 2009 with the support of a PSC.

Finally, naval battleships stationed throughout the Gulf of Aden have also yielded positive results: After being commissioned to patrol such areas, attempted hijackings in the Gulf increased—however, the rate of success decreased. The increased attempts should not give cause for concern. Rather, such heightened frequency of piracy attacks may highlight the efficacy of

16 Quoted in Ibid. p.196.
20 Ibid. p.119.
22 Ibid. p.200.
international efforts. As the spoils of piracy decline, the pirates are required to perpetrate further attacks to satisfy their needs.

The international community, in collaboration with non-governmental organizations, ought to train law enforcement officials and public authorities to use anti-trafficking provisions within the penal code to prosecute (and hopefully deter) such offenses. Moreover, efforts must be taken to educate the public and government authorities to identify and report trafficking victims. For instance, in recognizing trafficking victims, government authorities – namely, patrols and guards – ought not to be able to justify the “innocent” killing of escaped trafficking victims. Those that do deviate ought to be prosecuted to the fullest extent under the law. Additionally, specific efforts to educate the public ought to target vulnerable populations and poor socioeconomic areas, where instances of trafficking may be concentrated.

In cases where national armed forces have unlawfully recruited child soldiers (such as the Forces Armées de la République Démocratique du Congo (FARDC) in the Congo), effort must be made to end such practices and to demobilize existing children within the ranks. Military groups that are incorporated into national armed forces must be vetted for the unlawful recruitment and use of child soldiers. National forces, while respecting their jurisdiction, may also assist such efforts by allowing unobstructed and continual access for UN observers, anti-trafficking agencies, and child protection officers, to military installations. Finally, such forces ought to consider the development and implementation (aided, if required, by international parties) of a comprehensive legislative proposal that addresses all forms of human trafficking, as well as the associated unlawful killings.

Bibliography & Further Reading


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23 Ibid. p.125
24 Ibid. p.136.
Targeted Killing of Vulnerable Groups

Journalists

This section of the report focuses on the unlawful killings of journalists, a particularly vulnerable group in Africa. While violence against journalists in Africa predominantly involves acts of intimidation and assault, imprisonment and prolonged detention, and harassment, killings of reporters remain an issue of concern across the continent. As the indices and criteria used by press freedom NGOs like Freedom House, the Committee to Protect Journalists, and Reporters without Borders vary, statistical discrepancies exist regarding the killings of journalists in Africa. That being said, these groups tend to agree on the most dangerous countries on the continent for journalists, including Egypt, Somalia, and Mali.

According to the Committee to Protect Journalists, six journalists were killed in 2013 in Egypt (only Syria and Iraq were ranked above), four journalists in Somalia (though Reporters Without Borders recorded 7 journalist deaths in Somalia in 2013), two in Mali, and one in Libya. One journalist was killed in Kenya, Nigeria, and Tanzania, though CPJ has been unable to confirm the motives of these killings.

Hopes were high at the prospects of increased press freedom in the aftermath of the Arab Spring uprisings in North Africa, and while there has been a certain opening of the public sphere in Libya and Tunisia, Egypt experienced a significant backslide in recent years, both during Morsi’s assumption of power and the coup that ousted him in July 2013. More worryingly, these increased media restrictions have found support in foundational documents (like Egypt’s new constitution), judicial rulings, and governmental legislation, furthering a general clampdown on press freedom and giving authorities more leeway to intimidate and kill journalists. Somalia, meanwhile, represents a country with some of the most egregious killings of journalists occurring with impunity, with the very task forces assigned to investigate the crimes often the ones responsible for perpetration. This very clearly hampers the prosecution process and allows these crimes to continue without judicial intervention.

Moderate gains and improvements in media freedom in parts of West Africa – particularly Côte d’Ivoire and Senegal – and sub-Saharan Africa have led to declines in killings of journalists in these regions of Africa. According to Reporters Without Borders, in Sub-Saharan Africa, for example, the number of journalists fell from 21 in 2012 to 10 in 2013.

The perpetrators of killings against journalists range from state authorities to local militias to supporters of ousted rulers, but the presence of impunity regarding these crimes remains a common obstacle to prosecution and reduction of these crimes. In some cases, fear of reprisal attacks has led to self-censorship, a troubling trend that fundamentally threatens the purpose of journalism in a democracy: to inform citizens, to ensure accountability, and to allow for vigorous and free public discourse. In those countries in which press freedom is less valued as a central democratic tenet, there exists a greater incidence of crimes against journalists.

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1 The principal researcher on this section was Meenakshi Krishnan.
A: Geographical Distribution

The geographic distribution of the killing of journalists is visually represented for different timespans on (global) maps by the Committee to Protect Journalists.²

Egypt

Despite the promise of the Arab Spring, the democratic transition in Egypt has instead led to a clampdown on journalists, contributing to a larger trend of increased killings of reporters within the country in the wake of the ousting of Hosni Mubarak and the later overthrowing of Mohammed Morsi. Since 1992, the Committee to Protect Journalists has recorded 10 deaths of journalists in Egypt, nine of which have occurred since the anti-government protests began in earnest in 2011.³

A significant contributor to the rise in killings of journalists has been the growing codification of government-sponsored violence against dissenters. Though Morsi banned the pre-trial detention of journalists, the new constitution approved in late 2012 contained restrictive press provisions, including the creation of a new government press regulator and other state bodies with the power to shut media outlets.⁴ According to an October 2012 study by the Arabic Network for Human Rights Information, nearly 70 articles restrict freedom of the press, with particular prohibitions against “blasphemy; anti-state propaganda; insults to public officials and states; incitement to disobedience in the army; disruption of national peace; and publication of material inimical to public taste.”⁵ Criminal prosecution of journalists, a constant presence during the Hosni Mubarak government, continued through Morsi’s presidency. Despite optimism regarding increased press freedom under the Morsi government, a CPJ report documented “dozens of outright anti-press assaults, the large majority committed by Muslim Brotherhood members and supporters, virtually all of which went unpunished.”⁶

In December 2012, Al-Hosseiny Abou Deif, a reporter for El-Fagr was shot in the head while reporting on clashes between anti-government protesters and Muslim Brotherhood supporters. The culprit was believed to be a Muslim Brotherhood supporter, as onlookers on the scene witnessed a laser penlight being focused on Abou Deif’s head shortly before he was shot, a tactic known to be used by Muslim Brotherhood supporters and police to mark individuals for harassment and attack. The investigation of Abou Deif’s killing was indicative of the government’s weak response to press violence. In January 2013, Yasser Ali, a spokesman for former President Morsi, denied any connection between the killing and the Muslim Brotherhood. Yet, the forensics report issued a month after Abou Deif’s death did not include any investigative report from the police (which would have included witness testimony and other salient details necessary for prosecution). The public prosecutor’s office reopened the case in May 2013 but closed the case shortly after, saying that it “could not identify the original killer.” After Morsi was ousted in July

² Committee to Protect Journalists [http://www.cpj.org/killed/].
³ Committee to Protect Journalists ‘Syria, Iraq, Egypt most deadly nations for journalists’ (2013) [http://www.cpj.org/reports/2013/12/syria-iraq-egypt-most-deadly-nations-for-journalists.php].
⁵ Ibid.
2013, the prosecutor’s office has asked a Cairo judge to examine the case independently, but no significant progress on the case has been made.\(^7\)

2013 saw the deaths of six journalists: Tamer Abdel Raouf, Mosaab al-Shami, Ahmed Abdel Gawad, Mick Deane, Ahmed Assem el-Senousy, and Salah al-Din Hassan.

Tamer Abdel Raouf was killed on August 19, 2013, in Damanhur, when Egyptian soldiers opened fire on his vehicle that was approaching a checkpoint near curfew. An army spokesman claimed that the car “raised suspicion by driving at high speed during curfew hours near a military checkpoint without reacting to calls or to warning gunshots in the air,” but Hamid al-Barbary, another journalist who was traveling with Raouf, stated that “there were no warning gunshots or even any calls for us to stop.” After the military opened an investigation into the incident, the army accused Raouf of opening fire on the checkpoint; al-Barbary was later arrested, though subsequently released.\(^8\)

Mosaab al-Shami was killed by a sniper on August 14, 2013, in Cairo, while trying to escape security forces during a sit-in demonstration. Al-Shami’s network, Rassad News, had been an outspoken critic of Morsi.\(^9\) Ahmed Abdel Gawad and Mick Deane were also shot during the events of August 14, both killed by security forces that had stormed a sit-in demonstration. The protesters were supporters of the ousted Morsi and the Muslim Brotherhood.\(^10\)

Ahmed Assem El-Senousy was shot by a sniper on July 8, 2013, in Cairo, after he was seen photographing security forces opening fire on protesters (who were Morsi supporters).\(^11\)

Salah al-Din Hassan was killed on June 29, 2013, in Port Said, by a bomb thrown by an unidentified individual while he was reporting on a demonstration against Morsi; this was one of many bombs lobbed at protesters on June 29.\(^12\)

Libya

According to the Committee to Protect Journalists, five journalists were killed in Libya in 2011, none in 2012, and one in 2013. Saleh Ayyad Hafyana, a photographer for the independent Fassato News Agency, was killed in Tripoli in November 2013, when militia opened fire on protesters who were opposed to the presence of militias in the capital.\(^13\) Though there have been several reported acts of intimidation and violence toward journalists in Libya, killings of journalists seem to be on the decline, largely attributed to a noted improvement in the country’s freedom since the ousting of Qaddafi in 2011. The expansion of the private media sector has been particularly noteworthy, and in a landmark decision in May 2012, the Supreme Court declared unconstitutional a law that would have criminalized glorification to Qaddafi, in a surprising nod to the new government’s dedication to free speech. However, journalists have continued to face attacks from local militias and other armed groups.

\(^7\) Committee to Protect Journalists ‘Al-Hosseiny Abou Deif’ (2013) [http://cpj.org/killed/2012/al-hosseiny-abou-deif.php].

\(^8\) Committee to Protect Journalists ‘Tamer Abdel Raouf’ (2013) [http://www.cpj.org/killed/2013/tamer-abdel-raouf.php].

\(^9\) Committee to Protect Journalists ‘Mosaab al-Shami’ (2013) [http://www.cpj.org/killed/2013/mosaab-al-shami.php].


\(^12\) Committee to Protect Journalists ‘Salah al-Din Hassan’ (2013) [http://www.cpj.org/killed/2013/salah-al-din-hassan.php].

\(^13\) Committee to Protect Journalists ‘Saleh Ayyad Hafyana’ (2013) [http://www.cpj.org/killed/2013/saleh-ayyad-hafyana.php].
Tunisia

Two years after the ousting of Zine el-Abidine Ben Ali, press freedom has somewhat receded in Tunisia. Though this has led to a surge of violence against journalists, many of the incidents perpetuated by the police, only one journalist has been killed in Tunisia since 1992.

Somalia

In 2013, four journalists were killed in Somalia, an improvement over 2012, in which a record 12 journalists were killed, the highest figure ever accounted for by the Committee to Protect Journalists in the country’s history. This brings the total number of journalists killed in the country since 1992 to 51. Of the 16 journalists killed in 2012 and 2013, the bulk were assigned to political beats (58%), with the second and third largest groups covering culture (25%) and human rights (25%). Of a near majority of the cases (47%), a political motivation was suspected, particularly given the removal of Al-Shabaab insurgents from Mogadishu in 2011, which has led to remnants of the insurgents engaging in continued violent conflict over political control, often targeting journalists in the process.

Of the four journalists killed in 2013, the gunmen were not identified in any of the cases, though Al-Shabaab involvement in each was strongly suspected, both by CPJ’s reports and local journalists who were colleagues of those killed.

Mohamed Mohamud, who had frequently covered social and security issues in the Somalian capital, was killed by unidentified gunmen in October 2013 in Mogadishu. Mohamud had received threatening messages in the past from individuals suspected to be Al-Shabaab militia.

Liban Farah was killed by two unidentified gunmen in Puntland in July 2013. Farah’s colleagues stated that he had been targeted for “his reporting on the council elections” which had been originally scheduled for July 2013 but later delayed due to security concerns.

Mohamed Ibrahim Raage was shot by two unidentified gunmen in Mogadishu in April 2013. It is suspected that Raage was shot by Al-Shabaab militia due to his affiliation with government media.

Abdihared Osman Aden was shot by unidentified gunmen in January 2013 in Mogadishu. Again, Al-Shabaab militants were suspected.

Another of the most recent deadly killings occurred in September 2012 in a Mogadishu café called ‘The Village,’ a spot often frequented by members of the press. “If anyone wanted to kill journalists en masse, that was the place and the time,” said one journalist. In addition to this attack in the capital, gunmen killed two journalists in Galkayo, while three radio stations were ordered to close in 2012, two on the orders of Al-Shabaab and one by Puntland officials.

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15 Committee to Protect Journalists ‘Mohamed Mohamud’ (2013).
16 Committee to Protect Journalists ‘Liban Farah’ (2013).
17 Committee to Protect Journalists ‘Mohamed Ibrahim Raage’ (2013).
18 Committee to Protect Journalists ‘Three Somali journalists killed in suicide bomb attack’ (2012).
The increased risk for journalists in Somalia has led to dozens fleeing into exile during the last five years, while impunity for murders against journalists remains a serious impediment to combating press violence, with 97% of all cases going unsolved and unprosecuted. Though the Somalian president Hasan Shaykh Mahmud has announced the creation of an investigatory task force focused on violence against journalists, the new government itself has been implicated in several press freedom violations.

Chad

Independent journalists and bloggers in Chad are particularly vulnerable to death threats by government officials. The legal justification for these acts can be found in the August 2010 passage of a “new law that introduces prison sentences and a ban on publication for inciting racial, ethnic or religious hatred and condoning violence.”

Eritrea

Media repression in Eritrea is rampant, though typically restricted to extensive government detention (only two journalist killings have been recorded since 1992). Around 30 journalists are currently detained, subject to various forms of torture, including beatings, solitary confinement, deprivation of food, and lack of medical treatment. Seven of the journalists in government detention have died since 2001 as a result of these conditions. Meanwhile, international media and civil society organizations are prohibited from entering the country, making the goal of acquiring concrete statistics on violence against journalists a considerable challenge.

Tanzania

One journalist, Issa Ngumba, was killed in 2013 in Tanzania. Ngumba was found dead in Kajuhuleta Forest, with gunshot wounds in his left arm. Local journalists suspect that Ngumba “may have been targeted for a November 2012 story concerning a gruesome murder by a local cattle owner.” Though the Tanzanian Editor’s Forum launched an investigation into the case, they were unable to determine the precise motive of the killing.

Mali

Though West Africa as a whole experienced an increase in media freedom, the case of Mali is worth highlighting for its drastic surge in repression of and attacks against journalists as a result of the 2012 military coup. Two journalists were killed in Mali in 2013, the first recorded killings in the country since 1992. French journalists Ghislane Dupont and Claude Verlon were killed in November 2013 by gunmen after they conducted an interview with Ambery Ag Rissa, a leader of

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the National Movement for the Liberation of Azawad (MLNA). The French Foreign Minister accused Al-Qaeda linked terrorists of the crime, while Malian authorities are conducting an investigation. This is the first recorded case of killing of journalists in Mali since 1992.\(^{25}\)

With a rise in political instability, the country’s longstanding record of stable media freedom has been threatened. Tuareg separatists, in particular jihadi militants, have been responsible for the spike in attacks on journalists, imposing “draconian censorship measures and brutal intimidation tactics.” One journalist commented “‘They don’t like to see photos of child soldiers among them or anything portraying their fighters in a bad light.”\(^{26}\)

**Nigeria**

In 2012, Nigeria made CPJ’s list of “the worst nations in the world for deadly, unpunished violence against the press,” the first time it has appeared on the list since 2008. A leading Nigerian journalist, Dapo Olorunyomi, cited “Islamist terrorists in the North and national insurgents in the South; thieving politicians; a swelling climate of intolerance; criminal gangs sustained through official corruption, oil theft, and kidnappings; ethno-national mobs; and politically-financed terror squads” as motivation, while impunity has penetrated the arena of press violence. The five murders of journalists that occurred between 2003 and 2012 are still unsolved, while government and security forces were responsible for 79% of the documented attacks on the press.\(^{27}\) Meanwhile, 70% of the victims’ beats focused on politics, with the other 30% centered on human rights. The perpetrators of these crimes ranged from unidentified gunmen, to Muslim youths to Boko Haram, a militant Islamic group that “seeks the imposition of Shariah law in the predominantly Muslim states of northern Nigeria.”\(^{28}\)

**Gambia**

Two journalists, Baboucarr Ceesay and Abubacarr Saidykhan, were arbitrarily arrested in September 2013 by police after applying for a permit to protest peacefully against the executions of nine death row inmates. After detention, the charges were dropped in October, but after release, the “received death threats, which the police said they would investigate, but no progress had been made by the end of the year.”\(^{29}\)

**B: Perpetrators & Victims**

Though generalizations are difficult to make regarding press violence across the African continent, most journalists typically targeted are those covering domestic politics, particularly those criticizing local or state authorities or reporting on sensitive issues that threaten the status of

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\(^{25}\) Committee to Protect Journalists ‘Two RFI journalists abducted, killed in Mali’ (4 November 2013) [http://cpj.org/2013/11/two-rfi-journalists-abducted-killed-in-mali.php].


\(^{27}\) Committee to Protect Journalists ‘Nigeria’s impunity ranking: The facts don’t lie’ (3 May 2013) [http://cpj.org/blog/2013/05/nigerias-impunity-ranking-the-facts-dont-lie.php].


ruling governments. In Ethiopia, journalists covering sensitive topics like anti-government protests and the forced eviction of farmers were subject to violence. In Nigeria, the Goodluck Jonathan administration clamped down on journalists covering any topics deemed critical of the government, including high-level public corruption, the war against Boko Haram insurgents, and the political activities of the Jonathan administration. Egypt’s journalists face violence anytime they even vaguely engage in criticism of the government; in addition, they are subject to confrontations with both anti- and pro- Muslim Brotherhood advocates. Broadly speaking, journalists in Africa are pressured to present positive news coverage of governments, while politicians are strongly incentivized to suppress reporting that casts them in a negative light.

Perpetrators range from state security forces (Nigeria) to local militias loosely connected to the government (Somalia) to supporters of ousted rulers (Egypt) to militant separatists (Mali), with high variation across countries.

C: Structural Factors & Social Norms/Phenomena

Violence against journalists in Africa is uniquely shaped by countries’ conceptual approaches to the freedom of the press. In countries where a liberalized press environment has taken root and is starting or continuing to develop (e.g. Libya, Tunisia, South Africa), there is a marked decline or absence in violence against journalists. In South Africa, which has one of the lowest rates of journalist killings (and none in recent years), press freedom is enshrined in the constitution, protected by the courts, and encouraged by a strong civil society. Constitutional safeguards of press freedom, backed by executive and judicial support, thus seem to be directly correlated with lower rates of violence against journalists.

In countries wracked by political turmoil, where journalists are seen not as valued members of civil society responsible for maintaining accountability but rather oppositional forces, equally dangerous as armed enemies, violence against journalists sees a proportionate increase. In the case of Egypt’s 2012 Constitution, for example, freedom of expression lacks constitutional protection; rather, the constitution contains restrictive press provisions that “legitimize” violence against journalists and has led to a drastic increase in killings that appear governmentally sanctioned.

The debate about the role of journalism in developing and consolidating African states is a crucial one: as long as governments view journalists as readymade propagandists rather than valued critics within the public arena, it is likely that press violence will continue. For example, in May 2013, newly elected Kenyan President Uhuru Kenyatta stated: “Africa is rising and we must communicate this to our people and the world. We rely on you, the media, to correct these [negative] images and propagate the new positive developments in our continent.” In Nigeria, the minister of foreign affairs affirmed that the Nigerian press should stop “embarrassing” the nation: “I am not asking for cover-ups, but publications that impact negatively or ridicule our country and its citizenry should not be made.” In Nigeria, this view of the journalists’ role shapes

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33 Ibid.
their harsh crackdown on those journalists that are, for example, reporting on the terrorist group Boko Haram, an issue of particular political sensitivity within the country, one that has the potential to reflect negatively upon the government. A similar trend occurs in Ethiopia as well, where journalists who critique the ruling party and its limited access to opportunities face increased violence and intimidation from state forces.

Impunity when it comes to press violence continues to be a serious stumbling block to resolving the issue. In the Committee to Protect Journalists’ 2013 Impunity Index, which calculates unsolved journalist murders as a percentage of each country’s population, among the countries ranked highest were Somalia and Nigeria. Ayode Longe, a senior officer with a press freedom group in Nigeria, stated: “Investigations into these killings are usually carried out with sloppiness, and no real culprits are caught. That has emboldened others to assault journalists, believing nothing would be done to them.”

Impunity will persist, however, as long as the government implicitly or explicitly condones the majority of attacks against journalists, which will continue as long as the aforementioned debate, regarding the value of a vigorous press culture, endures. Impunity within press violence is not simply an infrastructural issue within the African continent; it is an issue inextricably linked with distinct conceptions of press freedom.

D: “Best Practice”

For the countries most affected by press violence – Egypt, Somalia, Mali, and Nigeria – the immediate future for journalists looks troublesome, without firm governmental support of prosecution, clampdowns on impunity, and preventive steps to not only bolster press culture but also protect journalists. Last year, hopes were raised in Somalia when Prime Minister Abdi Farah Shirdon, after meeting with the journalist union and government officials, announced a $50,000 reward for information leading to the conviction of a journalist killer. Further, in February 2013, the Somalian government announced the formation of an Independent Taskforce on Human Rights, whose mandate includes journalist killings. Somalian journalists, however, expressed concern that there was no media representation on the group. The record of the Taskforce over the past year has not been impressive, with Somali authorities sending “contradictory law enforcement messages,” simultaneously offering rewards for journalist killers while failing to prosecute a single one.

As mentioned before, the single best practice for tackling press violence is grappling with entrenched notions of press culture: the correlation between constitutional protection, governmental support of freedom of expression, and lower levels of press violence is noteworthy. Where journalists are seen as enemy forces within armed struggles or governmental opposition, they face proportionately higher rates of violence. Constitutional safeguards, followed by governmental backing and enforcement, prove valuable in decreasing press violence. This best practice should be accompanied with journalist involvement in the process; otherwise, as in the case of Somalia, this can lead to distrust and suspicion of the process, particularly in those countries where state forces are responsible for the bulk of attacks on the press.

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35 Ibid.
As for international plans, the 2nd UN Inter-Agency Meeting on the Safety of Journalists and the Issue of Impunity took place at the United Nations office in Vienna in November 2012. The UN Plan of Action on the Safety of Journalists and the Issue of Impunity aims to create “a free and safe environment for journalists and media workers, both in conflict and non-conflict situations,” with measures including “the establishment of a coordinated inter-agency mechanism to handle issues related to the safety of journalists as well as assisting countries to develop legislation and mechanisms favorable to freedom of expression and information, and supporting their efforts to implement existing international rules and principles.”

The UN General Assembly, in a landmark resolution, adopted the Resolution on Safety of Journalists and the Issue of Impunity in December 2013, the first time it has ever adopted a resolution on the matter. The countries in which the UN Plan of Action was designed to be operationalized in 2013-14 included South Sudan, Iraq, Pakistan, and Nepal. South Sudan is the only African country represented in this pilot round. The particular plan to be implemented in South Sudan will be developed by UNMISS, UNESCO and the Office of the UN High Commissioner for Human Rights in conjunction with other UN agencies. As endorsed by the UN Chief Executives Board in April 2012, the new action plan’s global overview outlines a series of activities to be put into practice including: “helping governments develop laws on safeguarding journalists; raising awareness so that citizens understand the damage done when a journalist’s rights to freedom of expression is curtailed; providing training courses for journalists in safety; establishing real-time emergency response mechanisms and strengthening the safety of journalists in conflict zones, among others. It also calls for enhancing protection for women journalists in response to the increasing incidence of sexual harassment and rape, decriminalizing defamation offences and encouraging adequate remuneration for full-time and freelance employees.”

As the first report on developments in South Sudan are set for mid-2014, it is too soon to assess the impact of this program.

A notable achievement, apart from the operationalization of the plan in South Sudan, is the partnership begun in January 2013 between UNESCO and the Tunisian ministry of the interior to promote safety of journalists. The program includes training for members of the state security forces and journalists, “helping to create a space for dialogue between these two groups so that everyone better understands the situation and the role and needs of the other in a democracy.” The program has also led to the development of a code of conduct for members of its security forces to improve media relations and journalist safety. The dialogue initiated between security forces and journalists is a critical one and contributes to the development of a healthy press culture as well as relationships between former opponents.

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Human Rights Defenders

This section of the report focuses on human rights defenders, another vulnerable group on the African continent. Though there are fewer statistical measures regarding crimes against human rights defenders than regarding those against journalists (partly because they appear to be less pervasive), human rights defenders still face continued threats across Africa, particularly those that express blatant opposition to the governments. Perpetrators range from state authorities to local militias to police forces, and human rights defenders face arbitrary detention, beatings, torture, and in some cases, death.

A: Geographical Distribution

The Observatory for the Protection of Human Rights Defenders (a project run by the World Organisation Against Torture) publishes annual reports on violations against human rights defenders, but there is not a contemporary database analogous to that highlighting the right to life of journalists. This is partly a reflection of the less public nature of the work.

Egypt

Human rights defenders faced renewed scrutiny under Morsi’s government, combating suspicions that they are “somehow foreign agents working against national security.” In December 2011, security forces acting under military orders shut down the offices of 10 NGOs, including Freedom House, the National Democratic Institute, and the International Republican Institute, seizing documents, computers, and cell phones. In March 2012, state authorities filed criminal charges against 43 individuals under claims that they were “unlawfully operating internationally financed programs.” The authorities had used a Mubarak-era law to advance their case, and in June 2013, a Cairo Criminal Court judge convicted the NGO workers, doling out prison sentences of one to five years on charges of “illegally operating in Egypt and receiving foreign funding without authorization” as well as to “undermine Egypt’s national security and lay out a sectarian, political map that serves U.S. and Israeli interests.”

Zimbabwe

Human rights defenders face heavy restrictions in Zimbabwe and are subject to arbitrary prosecutions and death threats from police forces, particularly in urban areas, while local ZANU-PF activists often restrict human rights defenders access to rural areas. On November 5, 2012, Harare police entered the offices of the Counselling Services Unit, a medical clinic that provided services forZIP

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1 The principal researcher on this section was Meenakshi Krishnan.
3 Ibid.
to victims of organized violence and torture, after which they forced entry and arrested five workers, illegally detaining them for four days.  

Cameroon

Human rights defenders in Cameroon report frequent death threats from government agents and supporters. In January 2012, human rights defender Maximilienne Ngo Be was threatened with rape by men claiming to be security forces, while her niece was abducted and raped by men who told her she was targeted due to Ngo Be’s “activities against the government.” On March 27, 2013, government officials detained LGBT activist Stéphane Koche, the organizer of a workshop on the rights of sexual minorities, and held him for several hours. Lawyers Michel Togue and Alice Nkom were threatened with violence after representing people accused of engaging in homosexuality, while state authorities “failed to condemn the threats or to offer any protection.”

Democratic Republic of the Congo

The security of human rights defenders in the DRC is quite dire, particularly in the eastern part of the country. Defenders report frequent intimidation, arbitrary arrests, and death threats by state security forces, the M23, and armed unidentified men. In July 2012, after the M23 occupied Rutshuru town in North Kivu, human rights defenders were forced to close their offices and flee the region, after receiving frequent and escalating death threats through “text messages, anonymous phone calls, and visits at night by armed men.” A similar situation occurred in November 2012 after the M23 took control of the town of Goma. On December 6, 2012, the DRC National Assembly established the National Commission on Human Rights, which if properly implemented, “would seek to help authorities meet their human rights obligations.” It is too soon, however, to assess the impact of this Commission.

Kenya

Police assaults of human rights defenders are frequent, while impunity surrounding these crimes continues to be an issue of concern. In October 2012, police fired rubber bullets into a crowd of demonstrators outside a police station in Nairobi. Seven activists, including an Amnesty International staff member and two volunteers, were detained and held overnight, sustaining severe police beatings.

South Africa

Assault on human rights defenders in South Africa remains an issue. In January 2012, Ayanda Kota, chairman of the Unemployed People’s Movement, was assaulted by police and unlawfully detained. In July 2012, Kevin Kunene, an environmental rights activist was shot after he had filed a complaint of corruption with the Public Protector against the KwaMbonambi Tribal Authority; so far, no suspects have been tried. In October 2012, Angy Peter and Isaac Mbadu, members of the

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5 Ibid. p.53.
6 Ibid. p.80.
7 Ibid.
Social Justice Coalition who had filed a complaint against a police officer for corruption, were arrested on a murder charge.\(^8\)

**B: Perpetrators & Victims**

The perpetrators of violations against human rights defenders are often state actors. They are often victims of excessive use of force by police, security forces and government supporters. In Algeria, security forces often restricted the activities of the Algerian League for the Defence of Human Rights, the National Committee to Defend the Rights of the Unemployed and the National Coordination for Democracy and Change (CNDC), the last being a coalition of human rights groups, unions and opposition parties. Protests were also violently repressed by pro-government youths. In Senegal, human rights activists were beaten by youth of President Wade’s *Parti Démocratique Sénégalais* (PDS). In Mauritania, authorities arrested members of the anti-slavery organisation *IRA Mauritanie* and human rights movement *Touche Pas à Ma Nationalité* for participating in unauthorised gatherings, while in Zimbabwe, police used repressive legislation (such as the Public Order and Security Act) to target human rights activists, especially those connected to Women and Men of Zimbabwe Arise (WOZA and MOZA) and Women’s Coalition of Zimbabwe (WcoZ). Rights activists were also harassed in Cameroon, Swaziland and elsewhere.

A draft resolution in front of the UN General Assembly highlighted the particular vulnerability of women human rights defenders, to killings as well as gender-based violence, at the hands of state and non-state actors.\(^9\)

**C: Structural Factors & Social Norms/Phenomena**

The political space in which to advocate for one’s own or other people’s rights is both a normative and structural feature of a modern state. In many political systems in Africa this space is restricted. The section of this study examining excessive use of force in the context of mass demonstrations above has drawn attention to the limitations on political dissent and their ramifications for the right to life.

In more than one country, the work of human rights defenders is extremely circumscribed by laws identifying any “political work” that receives (financial) support from international organization as equivalent with the work of a “foreign agent”, or defamatory allegations of human rights defenders as “unpatriotic”, “traitors” or “spies”.\(^10\)

The recent criminalization of homosexuality in several African countries (particularly when linked with the allegation that homosexuality is something to which one can be “converted” or propagandized) has led to a great deal of concern about threats to human rights defenders working in support of LGBT rights.\(^11\) This was the subject of several contributions from civil society.

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\(^8\) Ibid. p.242.


\(^11\) Ibid.
during the 55th session of the ACHPR in April/May 2014.\textsuperscript{12} It was in the context of these interventions that the ACHPR passed its resolution on the protection of persons on the basis of real or imputed sexual orientation.\textsuperscript{13}

D: “Best Practice”

Like journalists, human rights defenders play a vital role in the everyday protection of rights across the continent. It is vital that their own rights, especially the right to life, are protected: governments should make all efforts to combat a climate of impunity which might take hold with respect to violence against human rights defenders.

The ACHPR has a special mechanism dedicated to the rights of human rights defenders. At its 55th Ordinary Session in Luanda, Angola, the Commission resolved that this mechanism should have the capacity to track, record and report to the Commission on all instances of violence against human rights defenders.\textsuperscript{14}

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\textsuperscript{12} See for example ‘Intervention of the Observatory for the Protection of Human Rights Defenders’ (May 2014) [http://www.omct.org/files/2014/05/22679/55_achpr_written_intervention_eng_final.pdf].
\textsuperscript{13} ACHPR Res.275 (LV) ‘Resolution on Protection against Violence and other Human Rights Violations against Persons on the basis of their real or imputed Sexual Orientation or Gender Identity’ (May 2014) [http://www.achpr.org/sessions/55th/resolutions/275/].
\textsuperscript{14} ACHPR Resolution 273 (LV) ‘Resolution on extending the scope of the mandate of the Special Rapporteur on Human Rights Defenders in Africa’ (May 2014) [http://www.achpr.org/sessions/55th/resolutions/273/].
Humanitarian Aid Workers

This section will focus on the killing of humanitarian aid workers, both foreign and domestic staff. Violence in this category afflicts people who are working in very difficult circumstances, in contexts where governance, if not the peace, has already broken down. Aid workers are therefore an especially vulnerable group.

A: Geographical Distribution

Worldwide, the number of attacks on aid workers shows a general increase, according to the UN Office for the Coordination of Humanitarian Affairs and the Aid Worker Security Database, with 167 violent incidents in 2012, claiming a number of 274 victims, including 67 deadline victims. Especially the use of kidnappings, generally ending in a negotiated release, has gained prominence as a tactic. In Africa, killings of humanitarian workers were mostly limited to a small number of states, in specific Somalia, Sudan and South Sudan, with the DRC and Chad counting among the ten highest incident settings in the period 2006-2010 worldwide as well. Mass casualty attacks such as the 2011 attack on the UN House in Abuja, Nigeria, remain isolated incidents, with most attacks claiming only a small number of victims. In 2013, at least 4 aid workers died in Kenya, 15 in Somalia, 14 in South Sudan, 7 in Sudan, 9 in Nigeria, 2 in the DRC, 3 in the CAR, 1 in Ethiopia, 1 in Mali and 1 in Uganda according to the Aid Worker Security Database.

Somalia

In Somalia, targeting of humanitarian workers took place as well, particularly by al-Shabaab. Since 2007, 106 aid workers were killed, 53 injured and 57 kidnapped. Based on the deterioration of security, Doctors Without Borders decided to leave Somalia for the first time in 22 years of operation, stating that the risk to its staff had reached an unparalleled level. It pointed at the atmosphere of impunity, as visible in the early release of the murderer of two staff members who

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1 The principal researcher on this section was Sophie Roborgh.
4 Humanitarian Outcomes Aid Worker Security Report 2013 p.3
5 Humanitarian Outcomes Aid Worker Security Report 2012 p.4
6 Humanitarian Outcomes Aid Worker Security Report 2013 p.2
7 Humanitarian Outcomes Aid Worker Security Database [https://aidworkersecurity.org/incidents]
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were killed in December 2011.\(^\text{10}\) AWSD rates for 2012 showed that Somalia counts the highest attack rate on aid workers in relative numbers in the world.\(^\text{11}\)

South Sudan

Since 2005 at least 44 national staff and 9 international aid workers have been killed in South Sudan.\(^\text{12}\)

Central African Republic

In the Central African Republic, two aid workers from the Agency for Technical Cooperation and Development (ACTED) were recently killed, resulting in international condemnation and a protest march by humanitarian workers in the capital Bangui.\(^\text{13}\)

Cote d’Ivoire

In Cote d’Ivoire, armed rebels attacked FRCI and UN troops in June 2012 in an ambush, killing 7 UN peacekeepers.\(^\text{14}\)

Nigeria

In February 2013 eight polio vaccinators working on a UN agency-sponsored immunization campaign were shot and killed when gunmen stormed two clinics.\(^\text{15}\) In August 2011 a car bomb was used to attack the UN headquarters in Abuja, killing at least 18 people. Boko Haram claimed responsibility for the attack.\(^\text{16}\)

B: Perpetrators & Victims

As with journalists, while it tends to be international aid workers whose deaths attract the headlines, by far the majority of the victims of are in fact national staff. Also as with journalists, the motivation of some attacks is unclear. In some cases perpetrators may not be deliberately targeting aid workers because of their mission. As with all the vulnerable groups discussed in this section, their victimisation is partly a reflection of the instability of the situations in which they work.

\(^\text{10}\) MSF ‘MSF Forced to Close All Medical Programs in Somalia’ (14 August 2013) [http://www.doctorswithoutborders.org/article/msf-forced-close-all-medical-programs-somalia].
\(^\text{11}\) Humanitarian Outcomes Aid Worker Security Report 2013 p.3.
\(^\text{12}\) Humanitarian Outcomes Aid Worker Security Database [https://aidworkersecurity.org/incidents]
\(^\text{13}\) ACTED ‘Mobilisation against violence to humanitarian workers in the CAR’ (12 September 2013) [http://www.acted.org/en/mobilisation-against-violence-humanitarian-workers-car].
\(^\text{15}\) Humanitarian Outcomes Aid Worker Security Database [https://aidworkersecurity.org/incidents]
C: Structural Factors & Social Norms/Phenomena

Due to the concentrated nature of attacks in a few states and committed by a small number of actors, one cannot really speak of broadly held social norms conducive to violence against humanitarian aid workers.

Various general factors apply however. The blurring of role division between military and humanitarian organizations, in combination with the occurrence of alignments of humanitarian actors with military actors and occasionally the manipulation of humanitarian actors by authorities or armed forces can lead to a breakdown of trust.

A perceived lack of independence or neutrality of humanitarian actors from host governments or donors, or a suspicion that they may be trying to promote a particular religious, cultural or social agenda can alienate aid workers. Sometimes connected to this is the notion that some humanitarian actors may lack cultural sensitivity.

The general breakdown in security and rule of law that characterizes many of the contexts in which humanitarian aid workers operate can result in an increase in criminality. Conversely there can be general opposition from authorities to the empowerment of local communities as a result of humanitarian assistance. Moreover a culture of impunity can arise due to lack of prosecution of non-state attackers on humanitarian actors.17

D: “Best Practice”

As visible in the work of the UNHCR “Background Document: Preserving Humanitarian Space, Protection and Security”, much thought on how to protect humanitarian actors is focused on improving and streamlining legal frameworks, improving security, provide more clarity on the connection of humanitarian actors with host governments and armed forces as a part of a strengthened information and mass dialogue campaign, as well as preventing any behaviour on the part of humanitarian actors that may cause offense through improved codes of conduct.18

There is also a need to improve inter-agency coordination on the part of aid agencies.19

This approach however, is very much focused on what humanitarian actors can do to increase their security. Much less attention is paid to the combating of the causes of a breakdown of security of humanitarian staff. With a quadrupling of kidnappings, there is an urgent need for aid agencies to rethink the threats facing aid workers, including in Africa. As AWSD rightfully assesses, the focus of aid agency on the ransom debate fails to address the broader issues concerning attacks on aid workers.20

Lower level authorities may often be among the first actors that can influence the security situation of humanitarian workers. AWSD considers that central governments in for instance South

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18 UNHCR (Inter-Agency Standing Committee) ‘Background Document’.
20 Ibid. p.1.
Sudan and Kenya lack both the capacity (state failure) and in the case of the latter also the political will to protect aid agencies. Aid agencies have sometimes better contacts with local authorities than with central government. In states such as Mali and Somalia, where central government lacks control over large parts of the country, agencies often had to rely on negotiated access and private security arrangements.

Bibliography & Further Reading

- Humanitarian Outcomes Aid Worker Security Database [https://aidworkersecurity.org/incidents].

21 Ibid. p.7-8.
Unlawful Killings in Armed Conflict and Ungoverned Spaces

Armed conflict remains a pervasive threat to life around the world, but in this section of the Study the particular problem of unlawful killings during armed conflict (or in other context where governance has broken down) will be examined. Because of the character of this context it can be difficult to distinguish between lawful and unlawful killings in armed conflict.

A: Geographical Distribution

This survey will address some of the most serious and most recent situations of armed conflict on the African continent, and some of the unlawful killings which are known to have taken place in those contexts.

Central African Republic

In December 2013 the UN reported that systematic house searches and killings were taking place in different neighbourhoods of Bangui and elsewhere. There were reports of widespread human rights violations, including summary executions, extrajudicial killings, sexual violence, looting, arbitrary arrests, and torture. Muslims were targeting Christians and Christians targeting Muslims as the country “descended into chaos.”

On 9 December, the French Government deployed 1,600 troops in support of the Mission for the Consolidation of Peace in the Central African Republic (MICOPAX), the subregional peacekeeping force led by the Economic Community of Central African States (ECCAS). Together, these peacekeepers began to disarm some armed groups, mostly ex-Séléka, in Bangui. This was followed by a wave of attacks by the Christian majority against the Muslim minority, with both communities reportedly committing revenge killings. The national gendarmerie have been unable to maintain public safety and law and order.

Moreover, suspected attacks by the Lord’s Resistance Army (LRA) continued to be reported in the remote border areas of the Central African Republic and the DRC, “where State and security institutions are weak or non-existent.” While the LRA continues to threaten the local population in the south-eastern region of the country, by late 2013 it had shifted its activities onto the north-eastern region as a result of the prevailing security vacuum and in order to avoid the operations of the African Union Regional Task Force in the south-east. LRA activity decreased in the Haut Mbomou prefecture, where the Regional Task Force is authorized to operate, and increased in the mine-rich Haut-Kotto prefecture, where the majority of attacks took place. From May to October.

1 The principal researcher on this section was Alexia Solomou.
3 Ibid. ¶4
2013, 7 LRA attacks, leading to 17 deaths and 79 abductions, were reported in the Central African Republic.5

In mid-2013 OHCHR was working to produce a broader report on the LRA between 1987 and 2012, which ultimately could not be completed. However a summary was presented by the Secretary-General to the Security Council, noting that “the LRA systematically violated international human rights and humanitarian law by subjecting civilians to summary executions, attacks, torture, cruel, inhuman and degrading treatment, abductions, forced conscriptions, sexual violence, slavery, displacement, widespread pillaging, poor living standards, lack of access to health care, education and work, as well as the outright denial of the freedom of conscience, thought and religion.” It was estimated that the LRA had been responsible for more than 100,000 deaths, that between 60,000 and 100,000 children had been abducted by the group and that 2.5 million civilians had been displaced.6

In September 2013, the official report of the OHCHR fact-finding mission covering the period between December 2012 and July 2013 concluded that during the conflict, both parties had engaged in summary executions and extrajudicial killings, enforced disappearances, torture and looting of private and public property. The Séléka also engaged in sexual violence and grave violations against children. Those acts constitute gross human rights violations and may amount to war crimes. After 24 March, gross violations of international human rights law, such as summary executions, sexual violence, recruitment of children and looting of property, including hospitals, schools and churches, committed by the Séléka continued. In particular, several witnesses accused the Séléka of committing summary executions and extrajudicial killings; some targeted soldiers from the FACA and the Presidential Guard, while others were committed in retaliation against perceived resistance from civilians.7

On 13 April 2013, in Bangui, a Séléka vehicle struck and injured three individuals during a funeral procession, prompting residents to stage a protest. Soldiers surrounded the area and shot at protesters, killing two. On 15 April, the Séléka shot and killed two motorcycle taxi drivers who had refused to surrender their vehicles. Some killings were committed without motive, such as the killing, in April 2013, in Ngouma (80 km from Mbaïki) of a pygmy father and his two young sons, and of three other pygmies in Ndongo and Mangongi regions.8

On 6 February 2014, Human Rights Watch reported the public lynching of a man suspected of being a Seleka fighter, by uniformed army officers. The lynching occurred a few minutes after a ceremony on 5 February, where the new President, Catherine Samba-Panza, had promised the restoration of security and reinstating of the armed forces. Reuters reported that a group of about 20 uniformed soldiers accused a member of the crowd of having been a Seleka fighter.9 The soldiers reportedly “slashed the man with machetes, crushed his head with large stones, and cut off one foot and his other leg. They then put the body in the middle of the street, piled tires on it and set it alight.” Human Rights Watch reports that a large crowd including children, watched and filmed the incident on their phones for over half an hour before French peacekeepers arrived and told them to disperse. Brutal lynchings like this one became a regular occurrence in Bangui: researchers witnessed two other mob lynchings, and 3 other attempts (prevented by

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8 Ibid. ¶52.
9 'Soldiers lynch man at army ceremony in Central African Republic' Reuters (5 February 2014) [http://www.reuters.com/article/2014/02/05/us-centralafrican-killings-idUSBREA141V920140205?IRPC=932].
peacekeepers) in the space of 2 weeks. In one case, the Human Rights Watch team prevented it themselves by placing their car between the mob and its intended victim.\(^{10}\)

**Democratic Republic of the Congo**

On 13 and 14 October 2013, at least seven civilians were reportedly killed during clashes between Raia Mutomboki and Nyatura, 60km south-west of Goma. On 19 October, 13 civilians, including two women and five boys from the Hunde community, were reportedly killed by Nyatura elements in the Nyamaboko locality. In Walikale, the Alliance des patriots pour un Congo libre et souverain (APCLS) and the Nduma défense du Congo (NDC), also known as Mayi-Mayi Cheka, continued to clash on a number of occasions, displacing up to 3,000 civilians throughout October. In the Grand Nord, ADF, FDLR and local Mayi-Mayi groups continued to attack villages and abduct, rape and kill civilians.\(^{11}\)

Further, ‘On 3 and 4 October, the Congolese armed forces clashed with FNL in Nagero and Rwenana villages in Uvira, killing five FNL fighters. Mayi-Mayi Yakutumba activities temporarily decreased after the group’s former Deputy Commander, Abwe Mapigano, reportedly formed his own group, the Union contre la balkanisation du Congo-Tujenge Kwetu, with an estimated strength of 200 fighters.’\(^{12}\)

The security situation in Ituri remained volatile. After months of fighting with the Forces de résistance patriotiques en Ituri (FRPI), the Congolese armed forces, with logistical support from MONUSCO, took control of certain FRPI strongholds, but FRPI elements continued to launch sporadic counter-attacks. Between August and December 2013 fighting has led to the displacement of approximately 180,000 civilians, as well as the alleged killing of 83 civilians.\(^{13}\)

MONUSCO has also documented human rights violations in the context of the renewed fighting between the Congolese armed forces and the M23 in North Kivu at the end of October 2013. At least 15 civilians, including six children, were killed and at least 37 others were wounded in early November as a result of mortar fire launched from M23 positions in Tshanzu into populated villages of Rutshuru territory.\(^{14}\)

For MONUSCO, the situation in northern Katanga remained of serious concern. Following a series of investigation missions undertaken throughout 2013 it confirmed the killing of at least 59 civilians, the rape of at least 40 women and five girls, the arbitrary detention and/or abduction of at least 255 civilians, and the mistreatment of over 200 civilians by Mayi-Mayi Kata Katanga.\(^{15}\)

**Côte d’Ivoire**

Long considered a model of development and stability on the African continent, Côte d’Ivoire has since the turn of the millennium suffered two civil wars that have left lasting marks on its population’s individual and collective consciences. In 2011 a presidential election, which had been

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\(^{10}\) Human Rights Watch ‘Justice Needed for Lynching’ (6 February 2014) [www.hrw.org/news/2014/02/05/central-african-republic-justice-needed-lynching]


\(^{12}\) Ibid. ¶24.

\(^{13}\) Ibid. ¶28.

\(^{14}\) Ibid. ¶50.

\(^{15}\) Ibid. ¶51
expected to close the door on 10 years of conflict, instead led to a crisis resulting in more than 3,000 deaths, thousands of refugees and internally displaced people, and destruction of property.\(^{16}\)

In December 2011 a young man named Fofana Adama was arrested by a Force Republicaine (FRCI) patrol and later died in hospital as a result of mistreatment. In response the population organized a protest in front of FRCI headquarters, which very quickly became violent. FRCI members opened fire, killing five people. The population then ransacked all the houses belonging to FRCI. UN peacekeepers and Government authorities intervened to re-establish order in the town. A similar incident was reported the same day near Abidjan, where a conflict between the FRCI and local inhabitants left at least one person wounded by gunfire.\(^{17}\)

In March 2011, the new government of President Alassane Ouattara established the FRCI, with the aim of creating a unified army composed of the New Forces and the national army, which supported Gbagbo. The new Forces commanders operated a warlord economy in the north of the country, established their own personalised militias and exercised near complete economic and judicial control in their respective zones. Amnesty International reported that ‘human rights violations, including summary execution, and torture including rape, were frequent in these areas.’\(^{18}\)

Libya

Forces loyal to Col. Gaddafi allegedly committed serious violations of IHL, including war crimes in efforts to retake cities and towns held by the opposition during 2011. They perpetrated indiscriminate attacks and targeted civilians in areas that included Misratah, Ajdabiya, and al-Zawiya. This included firing artillery, mortars and rockets at residential areas. They also used inherently indiscriminate weapons (such as anti-personnel mines and cluster bombs), at times in residential areas. These unlawful attacks killed and injured hundreds of civilians who were not involved in the fighting. These forces also fired live ammunition and heavy weapons, including tank shells and rocket-propelled grenades, at residents who were fleeing areas of fighting in Misratah, Ajdabiya, al-Zawiya and elsewhere.\(^{19}\)

However, the violations were not only perpetrated by regime forces. In October 2011, Human Rights Watch reported the apparent mass-execution of 53 Gaddafi supporters at a hotel in Sirte. The area was under the control of anti-Gaddafi fighters at the time of the killings, but the new National Transitional Council denied any involvement in the killings.\(^{20}\)

Mali

On 13 and 14 February 2013, four former junta leaders were arrested and charged, some with murder and abduction and others with complicity to murder and abduction, in relation to the

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\(^{17}\) Ibid. ¶52.


\(^{19}\) Amnesty International Annual Report 2012 p.218.

disappearance and summary execution of 25 soldiers following the counter-coup d’état of April 2012. On 24 February, five bodies dressed in military attire were found in a grave in the vicinity of the Kati military camp (20km from Bamako). Another body was later found in a well near the camp.\footnote{Report of the Secretary-General on the situation in Mali (28 March 2014) [S/2014/229] ¶36. Amnesty International ‘Mali must urgently identify bodies found in mass grave’ (4 December 2013) [http://amnesty.org/en/news/mali-must-urgently-identify-bodies-found-mass-grave-2013-12-04].}

By mid-2013, the extremist armed groups had been weakened by the Malian, AFISMA and French operations and their ability to launch large-scale operations had been reduced. They had lost the tactical advantage and much of the safe haven to which they had access for years in northern Mali. These groups were, however, resorting to asymmetric tactics, including suicide bombings. Extremist groups including the Mouvement unicité et jihad en Afrique de l’Ouest had carried out a number of suicide attacks throughout the north.\footnote{Report of the Secretary General on the situation in Mali (10 June 2013) [S/2013/338] ¶24.}

In 2012 the human rights situation in Mali, especially in the north, had continued to deteriorate since January. Extremist Islamist groups have reportedly committed gross human rights abuses, including summary and extrajudicial executions, sexual and gender-based violence, recruitment and use of child soldiers, torture and looting of hospitals. At the outset, when MNLA was in control of parts of the territory, there were reports of sporadic human rights abuses. Since the extremist Islamist groups have taken control, other types of abuses are being witnessed, mostly relating to the implementation of an extremely strict interpretation of Shari’a law. Executions, floggings and stonings, among other cruel and inhuman punishments, have been reported. As a UN report at the time noted, “while the figures are not high, they are of concern inasmuch as they might be indicative of an evolving pattern.”\footnote{Report of the Secretary-General on the situation in Mali (28 November 2012) [S/2012/894] ¶21.}

Human Rights Watch reported numerous abuses, including summary executions by Malian soldiers during the campaign of 2013 to retake control of the north from Islamist armed groups. In its annual \textit{World Report} Human Rights Watch recorded at least 26 extrajudicial executions as part of the abuses which targeted suspected Islamist rebels and alleged collaborators. This was despite the fact that the presence of gendarmes, French soldiers, and West African troops reportedly served as a deterrent to the most serious abuses.\footnote{Human Rights Watch \textit{World Report 2014} (New York: Human Rights Watch, 2014) p.144.}

\section*{Somalia}

In January 2014, six shells fired from positions north of the Mogadishu International Airport landed inside various sites of the AMISOM protected area causing only minimal damage. On 10 February, a car bomb targeted a meeting at the Oriental Hotel, killing two and injuring five. On 13 February, a United Nations convoy was attacked by a suicide car bomber while approaching the Mogadishu International Airport. Al-Shabaab claimed responsibility for the attack.\footnote{Report of the Secretary-General on Somalia (3 March 2014) [S/2014/140] ¶12.}

Meanwhile, in Shabelle Hoose, Al-Shabaab launched almost daily attacks against AMISOM and Somali military targets. On 15 January, Al-Shabaab launched an ultimately unsuccessful attack on positions of the Somali National Army in Burane and Mahadday Weym. On 26 January, an unmanned drone hit an Al-Shabaab convoy in the Baraaawe district, reportedly killing a senior commander. The situation deteriorated with renewed inter-clan rivalries. A clash between the Biyo Mal and Habargidir clan militias on 16 November triggered a series of retaliatory incidents resulting in over 20 fatalities. There were also sporadic clashes between the Abgal and Shidle
Communities in late November. However, a ceasefire mediated by local clan elders and the Federal Government of Somalia with local representatives ended the hostilities in early December.26

Another incident occurred on 5 December 2013 in Puntland when ‘an Al-Shabaab suicide car bomber hit a convoy of the Puntland security forces in central Boosaaso, killing three police officers and four civilians. In early January 2014, Al-Shabaab carried out four raids against police checkpoints outside Boosaaso. On 21 January, two roadside explosions in Gaalkacyo killed three civilians and injured 13 others. However, the elections in Puntland were held without major security incidents. In Sool, clashes were reported on 28 November between armed men from the Dhulbahante clan and Puntland forces which reportedly resulted in the killing of 12 people, including 11 civilians, and injury to several others. On 26 January, the Puntland Government announced that it had recovered ammunition, explosive devices and other equipment from Al-Shabaab hideouts following an assault on the group’s base in Galgala near the Golis Mountain range.’27

A string of coordinated explosions occurred in all districts of Mogadishu and, on 7 September 2013, a suicide bombing attack against a popular restaurant near Villa Somalia killed 15 people and injured more than 20 others. Small-scale attacks and targeted assassinations also continued. On 8 November, two bombs exploded at the Maka Al Mukaramma Hotel in Mogadishu, killing at least four people and wounding more than a dozen, including a member of parliament.28

On 12 September 2013, Ahmed Madobe, the president of the southern Jubaland region, survived an assassination attempt from an explosive-laden vehicle that hit his convoy, causing more than 30 casualties, including 20 civilians, mostly as a result of the ensuing gunfire by his security guards. Early in October, clashes were reported in Kismaayo between supporters of Mr. Madobe and supporters of Barre Hirale, a local rival from another sub-clan.29

On 19 June, Al-Shabaab attacked the UN common compound. One international staff member of the UNDP, three international UN contractors, four Somali guards and at least six Somali bystanders were killed.30 This followed, in May and June, handgrenade attacks in Mogadishu doubling compared to the start of the year. There were three times as many bombings in June as in January. Targeted killings occurred almost daily. There were at least four mortar attacks, including two against Villa Somalia on 20 May and 17 June. On 12 July, an improvised explosive device attack against an AMISOM convoy on the airport road in Mogadishu resulted in more than 17 civilian casualties.31 In a letter to the Security Council the UN Secretary-General wrote that “In addition to causing the death of many innocent civilians, including women and children, the deterioration in the security situation threatens to undermine the fragile Somali political process, especially by preventing the Federal Government from undertaking essential tasks of outreach and State-building.”32

In August 2012 al-Shabaab killed a UN employee on in Marka and issued threats against and harassed other aid workers in southern Somalia. Continued abuses by undisciplined elements of the Government forces in Shabelle Hoose were reported.33 As a report to the UN Security Council noted, “the negative impact of the armed conflict on civilians, as well as the targeting of

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26 Ibid. ¶15.
27 Ibid. ¶17.
29 Ibid. ¶16.
31 Ibid. ¶14.
32 Letter from the Secretary-General addressed to the President of the Security Council (14 October 2013) [S/2013/606].
journalists, remained of particular concern.” In July 2012, one journalist and two human rights defenders working with local human rights organizations were killed in Gaalkacyo. Civilian casualties and extrajudicial killings were frequently reported in conflict areas, with civilians being caught in the crossfire. It was estimated that in the latter part of 2012, 157 civilian casualties were caused by improvised explosive devices.

**South Sudan**

On 15 December 2013 violence flared up in South Sudan, with the fighting quickly spread to the general headquarters of the Sudan People’s Liberation Army (SPLA) and other military installations. By 16 December, it had spilled out of the barracks into the residential areas of the capital, pitting supporters of each side against one another and resulting in large-scale killings and human rights abuses, while thousands of fleeing civilians and deserting members of the national security forces sought refuge in UNMISS bases.

The UN Secretary-General’s report to the Security Council in March 2014 cited estimates that thousands of people have been killed during the hostilities, and alleged that “both parties to the conflict have been responsible for ethnically targeted attacks on civilians and have failed to comply with international humanitarian and human rights law.” Particularly, in Juba, SPLA soldiers were reported to have engaged in numerous targeted killings of civilians of Nuer origin following house-to-house searches. A mass killing was also reportedly perpetrated by security elements at Gudele police station in Juba. In Malakal, Dinka civilians were allegedly targeted and killed by Nuer armed youths, as well as by deserters from SPLA and the South Sudan national police service. In a number of cases, SPLA soldiers of Dinka origin in Malakal were reportedly shot after being forcefully disarmed at military barracks.

After gaining control of Bentiu on 10 January, combined pro-government SPLA/SSLA forces, allegedly joined by elements of the Justice and Equality Movement, reportedly engaged in looting and the burning of property of Nuer civilians in Rubkona and Bentiu. Those forces also allegedly engaged in the extrajudicial killing of Nuers as anti-government forces fled south.

Before this intercommunal violence had continued in Jonglei State, particularly in the northern counties. During the first week of July 2013, Lou Nuer and Dinka youths mobilized and moved into Pibor County to attack Murle youth, as well as the David Yau Yau armed group, and raid cattle. Fighting took place in several locations. Several hundred were wounded on the Lou Nuer and Dinka side, while the number killed was not known. UNMISS has not been able to verify the casualty figures on the Murle side, but the Pibor County Commissioner provided a list of at least 328 allegedly killed. On 20 October, an armed attack in Twic East County by a group of men wearing unidentified green uniforms reportedly led to at least 56 people being killed and at least 49 seriously wounded, in addition to 20 children abducted.

This followed a number of other incidents in from late-2012 to mid-2013 in Jonglei State. For example, on 4 December 2012 in the village of Lotho, security forces allegedly killed between 13

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34 Ibid. ¶39
35 Ibid. ¶39
36 Ibid. ¶37
37 Report of the Secretary-General on South Sudan (6 March 2014) [S/2014/158] ¶5.
38 Ibid. ¶28.
39 Ibid. ¶29.
40 Ibid. ¶30.
41 Report of the Secretary-General on South Sudan (8 November 2013) [S/2013/651] ¶22.
42 Ibid. ¶22.
and 27 civilians. On 27 January 2013 security forces were reported to have shot indiscriminately and destroyed property at Pibor, resulting in the deaths of three civilians and the wounding of one. On 1 April SPLA soldiers allegedly ambushed 19 civilians walking from Gumuruk to Pibor. At least nine separate incidents involving the looting and destruction of civilian property in Pibor town were reported from 5 May to 5 June.\(^43\)

In mid-2013, Human Rights Watch alleged that the armed forces of South Sudan had committed serious violations against civilians during its counter-insurgency campaign in Jonglei. The army and the government blamed a lack of command and control and the actions of rogue soldiers for the abuses and claimed that civilians were killed in crossfire between rebels and the army. The total number of casualties was unknown, but on 15 July South Sudan’s army, the SPLA, and the UN Mission in South Sudan (UNMISS) airlifted nearly 200 injured Lou Nuer men to Bor, the state capital. Injured Murle, presumed to be in the hundreds, have yet to be located. By failing to stop armed Lou Nuer youth from moving into ethnic Murle areas, combined with abuses by soldiers in the area, Human Rights Watch claimed, the perception was reaffirmed that the government was taking sides.\(^44\)

**Sudan**

Amnesty International reported that during the first three months of 2013, Border Guards, who are under the authority of the Sudanese Military Intelligence, have been involved in attacks that have reportedly killed more than 500 people.\(^45\) Claiming that the continued presence of government forces and militias in the area cause insecurity, Amnesty alleged that in February hundreds of gunmen attacked the town of El Siref, where 60,000 IDPs had sought refuge. It was reported that 53 people were killed and 66 injured, mostly civilians. Villagers fought back, killing 17 of the attackers, most of whom carried government-issued identity documents, identifying them as members of the Border Guards.\(^46\)

Amnesty has also reported on alleged war crimes in Blue Nile state, where fighting broke out in 2011, but where scores of civilians have been killed and injured during indiscriminate aerial bombing attacks.\(^47\) A 2013 report documented several fatal bombing attacks that had occurred that year, in several cases where young children were among the victims.

Moreover, in December 2011, Sudanese government forces allegedly attacked the village of Jegu and deliberately burned it down. This was accompanied by indiscriminate aerial bombardment and shelling, which killed two people and injured three. An attack was also launched in Khor Jihad during the dry season of 2011-2012 and an estimated 8 civilians were killed.\(^48\)

Another Amnesty report drew attention to the suffering civilian population of South Kordofan, who continued to be victim to indiscriminate ground and aerial attacks by the armed forces. The report documented injuries and deaths due to bombs dropped by Antonov aircraft and ground attacks using long-range rockets, which took place in late 2012. Amnesty International visited the

\(^43\) Ibid. ¶47.
\(^46\) Ibid.
\(^47\) Ibid.
locations where air strikes or ground attacks had taken place and reported that no military objectives were visible near any of these locations. Civilians interviewed by Amnesty International delegates further stated that there were no armed SPLA-N members or military weaponry, vehicles or installations in the vicinity at the time of attack."\(^{49}\)

As the Darfur conflict marked its 10\(^{th}\) anniversary in 2013, the human rights situation in the region remains dire. Civilians continue to face attacks by government forces, pro-government militias, and armed opposition groups. In the first three months of 2013 alone, 500 people were reportedly killed and roughly 100,000 displaced in attacks against civilians by members of government forces.\(^{50}\)

**B: Perpetrators & Victims**

The all-encompassing nature of armed conflict makes it difficult, and somewhat reductive, to characterise too narrowly the perpetrators and victims of abuses. One could generalise enough to say that most perpetrators are men and often young men. It is important to highlight that not all perpetrators of unlawful killings are soldiers.

With respect to victims, there are few groups of civilian populations who remain untouched by the horrors of armed conflict, but it is worth addressing a particular vulnerable group, not often considered within the context of unlawful killings.

**Particular Victims: Child Soldiers**

Despite the 1999 African Charter on the Rights and Welfare of the Child, which remains the world’s only regional treaty outlawing child involvement in conflict, Africa continues to contain the highest number of child soldiers.\(^{51}\) Child soldiers continue to participate in conflicts in states such as Eritrea, the Central African Republic, Chad, the DRC, Somalia, Sudan and South Sudan, Mali, Nigeria, Côte d’Ivoire, Uganda and Rwanda.\(^{52}\) Child soldiers are part of the fighting force, but often take up other positions as well, supporting combat activities. A large number of child soldiers, in specific girls, work as sex slaves for the troops as well.

In general, governments and militias allied to governments are engaged in concerted efforts to outlaw the recruitment of child soldiers. However, non-state forces, among which religious extremist groups in specific, continue to forcibly recruit child soldiers. Examples of these were the


use of child soldiers in Kenya and Somalia by al-Shabaab, by MUJAO and AQIM in Mali, and by Boko Haram in Nigeria, where they served as soldiers, but also had to provide sexual services.⁵³

Both within the international community and among African governments the use of child soldiers is increasingly less acceptable. However, the use of child soldiers continues to be tied to strategic considerations that may override moral considerations and objections. Moreover, in societies where child abuse continues to be normatively acceptable and children often take on economic and caretaker roles at a young age, children may remain vulnerable to recruitment by conflict parties.

It appears that in general, inroads are made to combat the use of child soldiers in Africa. Many governments and armed groups participate in programs that are often run in concordance with the international community, to prevent the use of child soldiers in conflicts. In June 2013, the UN set the goal to end the deployment of child soldiers by 2016. It has signed agreements with a number of governments, among which South Sudan, Myanmar, DRC, Afghanistan, Chad, and Somalia.⁵⁴ However, governments and armed groups continue to draw on child soldiers when they see a strategic need for it, as was visible in the Central African Republic. Here, the use of child soldiers has more than doubled recently in response to the renewal of violence after the ousting of the President by rebels in March 2013.⁵⁵ Also in the DRC a relapse is visible in the use of child soldiers, with the re-recruitment of former and new child soldiers.⁵⁶

Much research focuses on the aspect of (child) soldier recruitment. Much less is known about how children and young men can be prevented from being drafted in rebel groups. In Mozambique and Sierra Leone there are examples that seem to suggest communities and families can impact and reduce the involvement in conflict. By combating underlying factors that are associated with violence, such as conflict and violence within a family context, an underdeveloped capacity to give the guidance and social support and control needed, and socialization into manhood with violent undertones, can influence participation.⁵⁷

In some states attempts are made to reintegrate former child soldiers in society, for instance in Guinea and in South-Sudan.⁵⁸ Ironically, as was shown in South Sudan, these programs adopted to help the reintegration of child soldiers in society may sometimes serve as a false incentive for destitute families to send their children to RMGs so they become eligible for recruitment by the SPLA or receive a place in the funded reintegration program.⁵⁹ Girls continue to be largely

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excluded from demobilization programmes, as visible in Liberia and in the DRC. This neglects the fact that many girls serve as child soldiers as well. Worldwide, 40% of child soldiers are girls, according to War Child.

Sometimes, despite the existence of a clear legal framework, enforcement lacks credibility. In Eritrea, there are laws that prohibit the use of children under 18 in the armed forces, but suspicions exist they may be recruited. In Sudan, the deployment of child soldiers is officially prohibited as well. Still it appears to be a recurring practice among armed groups as SAF and the Public Defense Forces, in specific in Darfur.

In other states, governments officially adopt demobilization programmes, but fail to effectively implement them, or are even partially complicit in continuing recruitment of children in armed forces. Examples of this are visible Chad, where the government has been working on implementing the 2011 action programme as agreed with the UN, but where both government and rebel forces employed child soldiers. In the DRC, the government is attempting to implement programmes to curb the use of child soldiers as well. Nevertheless, child soldiers were used by security forces and RMGs, notably by the M23 armed group, and the Mai Mai Bakata-Katanga group in the province of Katanga. In Somalia, TGF signed an agreement with the UN to increase the protection of children in the conflict, and to end their killing. Despite this positive developments, reports about their use by security forced and militias allied to the national government persisted, and the country is estimated the count the largest number of child soldiers.

A special case is Rwanda, where according to human rights groups, such as HRW and UNGOE, several ex-child combatants are forcibly redeployed to join M23 in neighboring DRC. Next to former child combatants, Congolese refugee children in Rwandan refugee camps were recruited as well.

C: Structural Factors & Social Norms/Phenomena

It has been suggested that in “new wars”, fought often for the sake of identity politics (rather than geo-strategic interests or ideology), population displacement and other violence against civilian populations is employed as a means of controlling territory rather than engaging against enemy

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61 War Child Child Soldiers [http://www.warchild.org.uk/issues/child-soldiers]. The UN estimate is lower: 10-30%.
64 Ibid. p.17.
forces.\textsuperscript{71} It has also been pointed out that the participants of armed conflict have changed from two opposing armed forces of different states. Likewise the mechanism of funding wars has changed in many cases: armed groups now find resources themselves through predatory private financing, including looting, “taxation” of humanitarian aid, kidnapping or smuggling.

One worrying implication of many of these changes is that it is harder to see how either side can “win” in any conventional sense. However, from the perspective of unlawful killings (rather than a general peace agenda) the most problematic dimension is the shift in mechanism of warfare. Through this highly identity-based lens, the “conventional” distinction between combatant and civilians begins to break down, with grave consequences for the right to life.

\textbf{D: “Best Practice”}

The overall reduction of armed conflict and violence and the suring up of rights protection within currently lawless and ungoverned spaces on the African continent is a continuing and slightly separate agenda.

In the meantime it is important that the international community remain committed to the idea that the international human rights system (of which the mandate of the Special Rapporteur is a part) continues to have relevance in situations of armed conflict; that International Human Rights Law and International Humanitarian Law apply in a complementary fashion.

Violations during armed conflict are also a prime example of the preventative function of accountability. A culture of almost complete impunity which exists during time of war is a significant enabling factor. With increasing means of monitoring conflict zones, both by governmental and inter-governmental authorities, the acquisition of evidence of violations should be easier, and prosecutions more likely. The UN Operational Satellite Applications Programme submitted a pioneering example of this to the International Commission of Inquiry on Libya.\textsuperscript{72} The Satellite Sentinel Project (organized by the Harvard Humanitarian Initiative) has also run a pilot project on the implications of advanced technology as a facilitating tool of accountability.\textsuperscript{73}

\textbf{Bibliography & Further Reading}


\textsuperscript{72} UNITAR/UNOSAT ‘Satellite Imagery and the Libyan Conflict’ (February 2012) [A/HRC/19/68 Annex IV].
• UNITAR/UNOSAT ‘Satellite Imagery and the Libyan Conflict’ (February 2012) [A/HRC/19/68 Annex IV].
• War Child Child Soldiers [http://www.warchild.org.uk/issues/child-soldiers].
Unlawful Killings in Africa: The Need for Further Work

Monitoring the Right to Life

This study was undertaken with a view to examining the causes and constraints of unlawful killing on the African continent. In this respect it was attempting to establish a framework within which violations of the right to life could be analysed (and recorded) in a more holistic fashion. Simultaneously the objective was to discover more about those working in this field on the continent, a search for potential partners and entry-points.

Unlawful Killings in Africa has established a two-part framework for analysing possible violations of the right to life. The first of these is based upon a nexus between state control and scale of incidence. It has been demonstrated that the state’s responsibilities with respect to the right to life are engaged both in situations where there is a manifest pattern of a type of killing over which the state may exercise some manner of meaningful control.

The second part of the framework is to examine the act of unlawful killings of various type through the lens to two dualities: victims/perpetrators (the “who?”) and normative/structural factors (the “why?”). As will be discussed below, these dualities have in some cases indicated some ways in which the study might be improved so as better to categorise unlawful killings.

Each section of this study has reported in detail on the incidence of a particular type of violation or a violation within a particular context or against a particular victim-group. This division of the field of study, as explained in the introduction, was designed to analyse the symptoms and structural causes of each type of killing in greater detail. However this should not obscure the fact that the right to life entails a responsibility to respect and to ensure freedom of all types of arbitrary killing, and that therefore while such division is empirically useful, it remains important to maintain a perspective of the problem of unlawful killing in totality.

The Importance of Accountability

The character of a violation of the right to life (with the exception of death threats) is unfortunately such that accountability takes on a greater preventative role than is the case with some other human rights violations.

Accountability in the context of unlawful killings as categorised here can be divided into two types (which are not mutually exclusive): Administrative/Bureaucratic and Investigative/Criminal. In cases of violations by state actors—such as excessive use of force during a public demonstration—it is likely that both would be required. In the case of killings by non-state actors the emphasis drifts toward the latter (though certain political, promotional reforms might be appropriate). Particularly it is important to highlight the investigative component of successful accountability. Merely have very heavy sentencing for those convicted of a particular crime (such as witch-killing, for example) is a straightforward way to appear to be “doing something” to ensure the right to life. However if not underpinned by a comprehensive process of investigation, then it will not necessarily deter violations, and only mean that the small proportion who are convicted are (maybe arbitrarily) excessively punished.
It is worth re-emphasising this point in the context of ongoing debates across the continent about the role of the International Criminal Court in the prosecution of individuals for grave human rights violations. While not entering into the various debates about the selectivity of coverage or slowness of proceedings it should be highlighted that even if the ICC operated perfectly it would still not be a replacement for a fully functioning domestic (and maybe sub-regional) system of accountability.

In this respect accountability might be viewed as a “pyramid”, where the ICC and other international oversight mechanisms represent the apex, dealing with a tiny number of the highest (most serious) cases, with the supporting foundations of the broader and deeper layers of accountability (both criminal and bureaucratic or political) below it.

**The Importance of Information**

It has become clear that unlawful killings take place across Africa, but there are clearly limitations with respect to what can be observed from outside. Like other observers (most noticeably the UNODC), this study has been limited by the lack of reliable official statistics for the loss of life in all but a few African states.

There are examples of good practice across the continent, sometimes conducted by state offices and sometimes by non-governmental organisations. The Independent Police Investigative Directorate (IPID) in South Africa produces good statistical evidence with respect to deaths caused by the police. In Tanzania, the Legal and Human Rights Centre has developed a robust reporting procedure both for killings by state actors and for non-state violations (for example, their figures on killings because of suspicion of witchcraft have been relied upon above.

From a normative point of view it seems obvious that keeping track of life (both birth and death) is a vital precondition for the state fulfilling its responsibility to protect and ensure the right to life. It is encouraging that (partly so as to facilitate a whole gamut of social and economic rights) this is becoming more widely acknowledged as a priority.¹

**The Work Continued: An Unlawful Killings Database**

While representing the conclusion of a CGHR Research Team this report, and the process of creating it has consciously been a first draft of a methodology of study which it is hoped will continue in support of the mandate of the Special Rapporteur and other mechanisms working to protect the right to life on the African continent.

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Table 4: The proposed “fields” of a database of unlawful killings (Unlawful Killings Unit)
At the Centre for Human Rights in Pretoria a new Unlawful Killings Unit has been established. Its work will have three core elements: firstly to collate information and reporting from international governmental, non-governmental and media sources about such events, acting as a kind of clearing house for information on violations of the right to life; secondly to investigate the causes and constraints of the incidence of unlawful killing and to conduct research into mechanisms for better practice; and thirdly to engage other actors in the field, including the UN, the AU and other international human rights and governance organisations. The first of these core elements—the collation of information and reporting—is clearly a continuation of the work which has been undertaken by the CGHR Research Team and will be modelled on the same framework. The objective will be to create and maintain a database of unlawful killings occurring across the continent, to provide information that can be used by other stakeholders. However, this prompts a number of clarifications to the framework to try to avoid the overlaps which have not been a grave issue in this study’s working method.

The most obvious of these concerns duplication with respect to the idea of vulnerable groups is very useful in analytical work of this type as well as in advocacy. The Special Rapporteur has previously reported on the particular threats to the right to life of journalists and both the UN and regional human rights bodies have special mechanisms on the rights of Human Rights Defenders. This study has underlined the significance of approaching all types of unlawful killing from the perspective of the duality between victim and perpetrator. However, an emphasis on this duality, if structured into the wider information collated in the database, will render a separate type of killing, “targeting of vulnerable groups”, duplicative.

The question has to be asked whether the character of killing involved in a “custodial death” is different from the excessive use of force or extrajudicial execution by law enforcement personnel leading to the death of any other person; whether a prisoner should instead be considered some kind of vulnerable group. On balance the considerations highlighted by Philip Alston (quoted in the introduction) about the particular nexus of state control and state responsibility with respect to those in its custody means that this ought to be maintained as a separate category, but should be more accurately sub-categorised.

Finally, various sections of this report have included references to situations of intercommunal violence: mass actor cleansings, non-state armed groups, situations of armed conflict and ungoverned spaces. While intercommunal violence can fit into any of these categories, there is something particular about it and the necessary state or international response which makes it helpful to separate violence of this character into a different category.

Based upon the initial model of the Research Team’s research framework, the results of which have been presented in this study, and upon these considerations, Table 4 shows the proposed categorisation of the database which will be established and maintained by the Unlawful Killings Unit in Pretoria. It is hoped that this collation procedure, and the database it will create, will be the enduring legacy of the research methodology developed by this study.

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2 Unlawful Killings Unit (Centre for Human Rights, University of Pretoria) [www.unlawfulkillings.org].
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