

14th OCTOBER, 2008

MINISTER FOR NATIONAL SECURITY
AND PROVINCIAL ADMINISTRATION,
HARAMBEE HOUSE,
NAIROBI.

CHAIRMAN,
PARLIAMENTARY COMMITTEE ON SECURITY,
PARLIAMENT BUILDINGS.
NAIROBI.

COMMISSIONER OF POLICE,
VIGILANCE HOUSE,
NAIROBI.

Dear Sir,

**RE: REPORT DUBBED “A VEIL OF IMPUNITY: EXECUTIONS &
DISAPPEARANCES!!! WHO IS GUILTY?”**

The above captioned refers.

The Oscar Foundation has investigated and made interrogation into circumstances leading to the killings and mysterious disappearances of men and women between July 2002 and September 2008. During these periods over 8,000 of enforced disappearance, arbitrary arrest, extra-judicial execution cases were documented. Between January 2008 and September 2008 this year, Oscar Foundation has documented 384 cases of enforced disappearance or execution perpetrated by law enforcement agencies in Kenya.

The executions were systematic and widespread and target a certain population for extermination. It is worth noting that the enforced disappearances occurred after the police initiated an execution squad code named **KWEKWE** (a Swahili word meaning weed) therefore, from the inception the squad was systematically commissioned to weed out their target with both impunity and tribal bias with all intent to exterminating them from the face of the earth.

Recognizing that under principles of international law, it is upon governments to investigate when patterns of disappearances are committed by law enforcement agents, the pattern of “systematic and widespread” abductions that continue to occur amount to crimes against humanity under both domestic and international laws. The failure of the government to investigate and prosecute the perpetrators regardless of their status and standing in society and government constitute a culture of state institutionalized impunity.

Further, under international law neither a Head of State, Prime Minister nor responsible government officials enjoy immunity from criminal prosecution for crimes against humanity. The declaration on enforced disappearance reaffirms this principle known as universal jurisdiction. Providing that all states should take any lawful and appropriate action available to bring to justice persons presumed responsible for acts of enforced disappearance who are found to be in their jurisdiction or under their control

It is upon this premise that the Oscar Foundation commenced investigation where of several theories emerged on the ground that calls for further investigation. These include;

1. THEORY ONE

The merger of National Development Party and KANU to New KANU in 2001 formed the first scheme to exterminate young people from Central Kenya. The then Minister for State in charge of Internal Security, Julius Sunkuli in 2002 outlawed all vigilante groups therefore triggering a genesis of execution by law enforcement agents.

2. THEORY TWO

The Police Theory: The Police Force maintains that there are two factions within the Mungiki and that they are at war against rival factions. The Mungiki adherents are killing rival members in cold blood so asserts the Police.

3. THEORY THREE

The Kikuyu Elite. It is widely believed that the Kikuyu elite comprising of rich, prominent figures from Central Kenya want to maintain the status quo and are perceived to have launched war against the youths in Central Kenya who are agitating for land reforms and political clout. The fact that the killings intensified in the period preceding the 2007 elections, clearly demonstrates that the it was well orchestrated by the powerful and mighty from the same community knowing that the President, the Ministers in charge of Internal Security, Defence, Justice and Constitutional Affairs, and the Leader of Official Opposition were all from the Kikuyu ethnic community. How could

they not intervene to save their kinsfolk from execution? What did they know regarding the said execution and enforced disappearance?

This scenario begs to illustrate that the rural home of the then Minister for State in charge of Internal Security, John Michuki, was attacked by gunmen and an Assistant Chief killed during the attack prompting a crackdown of youths leading to planned executions and enforced disappearances of persons mostly from the Kikuyu ethnic background.

4. THEORY FOUR

Another theory revolves on the fact that the police recruitment is District based rendering the Rift Valley Province, Nyanza and other areas that were hostile to the kikuyus a large share of recruits in the Police Force. Subsequent, the ODM campaigners had managed to balkanize the whole country against one tribe. It was 41 tribes against one that is all Kenyans versus the Kikuyu. This gave way for rogue officers to kill with impunity and tribal bias.

It is worth noting that former Commissioners of Police Philemon Abong'o and Edwin Nyaseda were in the ODM camp.

5. THEORY FIVE

The last theory/factor is based on misuse of funds donated by development partners in the fight against terror. The diplomatic communities funded the government to fight vigilantes especially the Mungiki whose members had transformed the outfit into a political party and gone an extra mile in converting religion to Islam. The police continue misusing donor funds by creating many executing squads i.e. *kwekwe*, *scorpion*, *flying squad* etc despite having an anti-terror police unit

Today the community policing have failed drastically.

It is on these premises that we ask the following questions:

1. Who was responsible for these heinous acts?
2. Who is accountable for the performance of these atrocities?
3. Why were the innocent lives lost?

The Oscar Foundation wishes to call upon the Police to issue an official statement and open inquiries into the Enforced Disappearance and executions of innocent Kenyans on allegations of being associates of the Mungiki sect within the next **24 hours** of the date of this letter. Failure to institute the inquiry, Oscar Foundation will petition the United Nations to send in a team of investigators to probe these incidences and prosecute the culprits accordingly in the International Criminal Court.

This report is easily accessible at: www.oscarfound.org and is embargoed until the 15th October, 2008 to afford the government an opportunity to release a press statement and give the Police an opportunity to make formal inquiry into the executions and enforced disappearance.

The Oscar Foundation looks forward to seeing justice done to all suspects of these crimes against humanity.

Yours faithfully,

KAMAU KING'ARA
EXECUTIVE DIRECTOR

Cc.

- 1. ALL MEDIA HOUSES**
- 2. ALL MEMBERS OF PARLIAMENT**
- 3. ALL DEVELOPMENT PARTNERS**