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KENYA

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Busia

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WATCH

“We Were Sent to Kill You”

Gang Attacks in Western Kenya and the Government’s Failed Response

TANZANIA



“We Were Sent to Kill You”

**Gang Attacks in Western Kenya and
the Government’s Failed Response**

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Map of Kenya



Map highlighting Busia and Bungoma counties in western Kenya where gang attacks took place from March to June 2013.

Summary

Since the introduction of multi-party politics in 1992, Kenya has had a history of election-related violence in which gangs have played a major role, with the worst of such violence occurring immediately after the 2007-2008 elections. At least 1,100 people were killed and 650,000 displaced after then-president Mwai Kibaki was declared winner in a poll disputed by rival Raila Odinga. Criminal gangs such as the Mungiki, backed by politicians, wreaked havoc in the 2007-2008 violence.

Under the terms of the 2008 peace accord mediated by former United Nations Secretary General Kofi Annan to end the violence, Kibaki and Odinga, who became prime minister, pledged that they would work to ensure that gangs were dismantled. The intention was to prosecute those behind the gangs and rehabilitate gang members through an initiative in which the government was to create job opportunities for the former gang members before the 2013 general elections.

In 2010 the government passed a law specifically aimed at addressing the problem of organized gangs but failed to take the next crucial step to dismantle them, including arresting and prosecuting their alleged financiers. As a result, in the lead-up to the March 2013 elections, politicians continued to employ criminal gangs for political violence.

This report, an outcome of a May and June 2013 research mission in western Kenya, specifically in Busia and Bungoma counties, documents gang attacks on villages in what appeared to be election-related violence in the period immediately after the 2013 elections. The attacks, carried out between March and June, killed at least 10 people and left at least 150 seriously injured. Although Kenya's leaders responded with visits to the hospitals and county offices in Bungoma and Busia and public statements threatening those behind gang activity with the full force of the law, the police did not effectively investigate the vast majority of the crimes and ignored the possibility that criminal gangs have been employed for political reasons.

Human Rights Watch researchers interviewed a total of 87 people including victims, witnesses, civil society activists, alleged gang members, those believed to be recruiting gang members, otherwise known as recruitment agents, politicians, police officers, and

government officials at the county level. There were media reports of gang attacks in Kakamega and Trans Nzoia counties in July 2013 during which seven people were killed and several others injured, but Human Rights Watch did not investigate those attacks and could not establish whether the same groups were responsible for the attacks Human Rights Watch investigated in Busia and Bungoma counties.

In both Busia and Bungoma counties the attackers injured, maimed, and killed men, women, and children with machetes, clubs, and axes. Attackers also raped and sexually assaulted women and girls. In some incidents the attackers demanded money and mobile phones from victims, but theft did not appear to be the primary motive of the attacks. Multiple victims interviewed by Human Rights Watch said they pleaded with the gangs to take money or other valuables and spare their lives. In some cases, attackers said they were sent to kill, not steal. In all the cases, the victims told Human Rights Watch that the attackers had promised to return at a later, unspecified date.

Many questions remain unanswered about the exact motivation and organization of the attacks in Bungoma and Busia in 2013. Those interviewed by Human Rights Watch said business owners and politicians within and outside the two counties were involved in recruiting gangs in the former Western Province since late 2007 up to mid-2013. Human Rights Watch research indicates that these gangs likely carried out the attacks on villages in Busia and Bungoma counties from March to July 2013.

Despite an initial strong response from the national government in Nairobi and a promise to reign in the gangs, Human Rights Watch found that police did not adequately investigate the attacks. In most cases, police failed to visit the scene of crime or take statements from victims and witnesses. In some cases, police did not collect the weapons used in the attacks, clothes, or other evidence left behind by the attackers. Police failed to investigate possible election-related motivation, including gangs being recruited to intimidate rivals or allegations that politicians and businessmen were implicated in recruitment and financing of the gangs.

There is an urgent need for answers to the many outstanding questions about the attacks in western Kenya, including the police failure to properly investigate and respond to the violence. The government of Kenya should ensure a full, impartial, and comprehensive investigation into the attacks on villages in Busia, Bungoma, Kakamega, and Trans Nzoia

counties. Investigators should examine allegations of support for the gangs by politicians and business people in the region, and dismantle these gangs and prosecute gang members, their leaders, and those recruiting the gang members and financing them. The Office of the Director of Public Prosecutions should prosecute those responsible.

Recommendations

To the Government of Kenya and Political Leaders

- Political leaders should publicly commit to implementing the provisions of the Kenya National Dialogue and Reconciliation (KNDR) Accord of 2008 in which the Kenyan government undertook to dismantle all gangs in the country, arrest and prosecute the financiers and those responsible for the crimes, and rehabilitate gang members where relevant.
- The National Treasury and the Ministry of Interior and National Coordination should ensure that law enforcement agencies including police have adequate resources and capacity to respond to gangs and political violence.
- Political leaders in government should publicly commit to police reforms and ensure that the process of reforms is expedited to improve efficiency, effectiveness, and internal accountability.
- Withdraw proposed amendments to the National Police Service Act and the National Police Service Commission Act that could weaken accountability mechanisms within the police.

To the Kenyan Police Service and Office of the Prosecutor

- Regularly remind police officers of the important role of the police in investigating gang violence and other related crimes and in investigating individuals credibly implicated. Those who collude with gangs should be held accountable.
- The National Police Service Commission and the Independent Police Oversight Authority should investigate police failure to respond to the crimes described in this report, and take disciplinary measures against those responsible.
- Police, with oversight from the Office of the Prosecutor, should conduct transparent, comprehensive, and impartial investigations into the gang attacks on villages in Bungoma, Busia, and other counties such as Trans Nzoia that may have experienced similar attacks.

- Police investigators should seek to determine the identities of gang members or other individuals who carried out the crimes in Bungoma and Busia, as well as those who organized and supported them, with the view to prosecuting them.
- In particular, police investigators should investigate allegations that politicians in Bungoma county, working with other people in Eldoret, Nakuru, and Nairobi, recruited and financed gangs that carried out attacks in Bungoma and Busia; and allegations that businessmen in Bungoma, Busia, Malaba, Eldoret, Nakuru, and Nairobi were involved in recruiting and financing the attacks.
- Police investigators should seek information and cooperation in their investigations from all relevant actors, including eyewitnesses and civil society activists.
- The Inspector General of Police and other senior police officers should publicly commit to police reforms and strengthening capacity to investigate political violence and improve internal accountability.
- The Inspector General of Police and the Director of Public Prosecutions should enforce the Prevention of Organized Crimes Act, 2010, by investigating and prosecuting gang members and those financing them and enforce the 2010 constitution's chapter six on leadership and integrity to ensure accountability for political leaders.

To Kenya's International Partners

- Diplomats and donors should urge the Kenyan authorities to investigate and prosecute those behind gang violence and press for investigations and prosecutions of those found responsible for gang violence in Bungoma and Busia.
- The African Union and governments that supported the KNDR should press the Kenyan authorities to dismantle gangs and prosecute politicians and business people who finance their activities.
- Kenya's international partners, including donors, should seize every opportunity to press the government of Kenya to implement police reforms, and, where relevant, provide support that would enhance the investigative capacity of the Kenyan police.
- Donors should support Kenyan civil society groups working to promote police reforms and accountability for political violence.

To International and National Civil Society Based in Kenya

- Continue advocating for accountability for political violence and, in particular, the prosecution of those responsible for violence in Bungoma and Busia in the first half of 2013.
- Advocate for the establishment of lawful mechanisms for disbanding gangs and prosecuting or rehabilitating the gang members in line with the KNDR.
- Press for police reforms, especially for accountability within police and strengthening of police investigative capacity.

Methodology

This report is the outcome of a research mission in Kenya's Bungoma and Busia counties in May and June 2013. Researchers interviewed 87 people, including community elders, youths, civil society representatives, government officials, security officials, victims of violence, and perpetrators of violence—mostly youth who had been recruited by businessmen and politicians into militia gangs. Human Rights Watch, through interviews with relevant individuals, sought to assess the nature of the gang attacks, the possible motives of the attackers, and police or government response to the attacks.

Witnesses and victims feared repeat attacks and some have faced threats from gang members who reckoned they had been found out. As a result, Human Rights Watch has withheld the identities of most interviewees.

The interviews with victims and witnesses were conducted confidentially, in safe locations, and were mostly in Swahili, with the aid of an interpreter where necessary. No compensation was requested and none was provided. Interviews with government officials and police officers were conducted in English, either in person in Busia, Bungoma, and Nairobi, or by telephone.

On August 5, 2013, Human Rights Watch sent a list of questions to the Inspector General of Police requesting information about which investigations had taken place, what was being done to bring the funders of the gangs to account, and to address some of the investigative lapses that Human Rights Watch found in the course of researching this report (see Annex I). The Inspector General of Police has not responded at time of writing.

I. Background

Election Violence in Kenya

Kenya has a history of political violence before, during, and after elections since multi-party democracy was introduced in 1992.¹ The worst such violence was in 2007 and 2008 following the disputed presidential elections of December 2007, when more than 1,100 people were killed and another 650,000 were displaced.²

The report of the Commission of Inquiry into Post-Election Violence (CIPEV) led by Justice Philip Waki, also known as the Waki Report, found that a significant part of the violence was carried out by criminal gangs supported by politicians in various parts of the country.³ The commission found that the Mungiki gang, acting on behalf of the ruling Party of National Unity (PNU), was responsible for retaliatory attacks on people presumed to have voted for the opposition Orange Democratic Movement (ODM) in Naivasha and Nakuru and that other organized groups of youth were responsible for excessive violence in parts of Nairobi and Rift Valley.⁴

The Waki Report also found that, although there were no large scale gang attacks in Busia and Bungoma, some of the mainly ethnic Luhya and Teso supporters of Raila Odinga's ODM party reacted violently to the announcement of President Mwai Kibaki's victory at the 2007 polls by destroying property,⁵ mainly of Kikuyu businessmen in the two counties who had supported Kibaki's PNU party.⁶ The findings of the Waki Report were similar to those of

¹ John Mwaruvie, "A Political History of Kenya," Moi University, 2009, <http://trip5.org/a/a-political-history-of-kenya-book-w97/> (accessed April 16, 2014).

² See Kenya National Commission on Human Rights, "On the Brink of Precipice: Report of Kenya's Post-Election Violence," August 2008, http://www.marssgroupkenya.org/Reports/OtherReports/KNCHR_REPORT_REPORT_ON_THE_BRINK_OF_THE_PRECIPE.pdf (accessed October 10, 2013).

³ Ibid.

⁴ See Commission of Inquiry into the Post-Election Violence (CIPEV), "Report of the Commission of Inquiry into Post-Election Violence," October 16, 2008, <http://reliefweb.int/report/knya/kenya-commission-inquiry-post-election-violence-cipev-finaloreport> (accessed October 10, 2013), pp. 157, 168, and 172.

⁵ Kenya officially has 42 ethnic groups. The largest are the Kikuyu, Luhya, Kalenjin, Luo, and Kamba. Kenya's main political parties have sought to win elections by currying votes along ethnic lines.

⁶ CIPEV, "Report of the Commission of Inquiry into Post-Election Violence."

Human Rights Watch, including a 2008 report, and the Kenya National Commission on Human Rights.⁷

Kenya's then-president, Mwai Kibaki, and prime minister, Raila Odinga, committed in the National Peace Accord that ended the 2007-2008 violence to disarm and dismantle the gangs in various parts of the country before the next election scheduled for 2013.⁸ This was seen as a necessary first step in preventing future election-related gang violence. Although Kenyan authorities enacted the Prevention of Organized Crimes Act in 2010, police and prosecutors have, in the absence of proper investigations and prosecution, made little tangible effort to dismantle the gangs, investigate and prosecute those funding the gangs, or hold gang members accountable for crimes.⁹

Kenya's minister for internal security banned 33 organized gangs in 2010, soon after the enactment of Prevention of Organized Crimes Act. However, this step did not end gang activity in Kenya. An August 2013 report released by the attorney general revealed that the number of organized gangs has since risen from 33 in 2010 to 46, most of them financed by politicians.¹⁰ The report accused police of colluding with the gangs and ignoring useful information from the public, and says this has undermined the ability of the government to deal with organized gangs.¹¹

The 2013 Elections

The March 4, 2013, elections were generally peaceful, but they were marred by violence between supporters of rival parties in Nairobi's informal settlements;¹² between the Orma and the Pokomo communities in Tana River County; and between the Gare and Degodia clans in Mandera county.¹³ The police also used excessive force against demonstrators in

⁷ See Kenya National Commission on Human Rights, "On the Brink of Precipice," and Human Rights Watch, *Ballots to Bullets: Organized Political Violence and Kenya's Crisis of Governance*, 2008, <http://www.hrw.org/reports/2008/03/16/ballots-bullets>.

⁸ The Kenya National Dialogue and Reconciliation (KNDR) Accord, February 28, 2008.

⁹ See Kenya Gazette Notice, The Prevention of Organized Crimes Act, No. 6/2010. See also The Report of the National Crime Research Centre on Organized Criminal Gangs in Kenya, August, 2013.

¹⁰ See the report of The National Crime Research Centre on Organized Crime in Kenya, August 2013, on file with Human Rights Watch.

¹¹ Ibid.

¹² The most affected informal settlements in Nairobi were Mathare, Korogocho, Kibera, Mukuru Kwa Njenga, and Mukuru Kayaba.

¹³ See Francis Mureithi, "MPs condemn border killings in Mandera," *The Star*, August 21, 2013, <http://www.the-star.co.ke/news/article-5380/mps-condemn-border-killings-mandera>. The inter-clan violence in Isiolo, Moyale, and Mandera, which began in 2011 and continued for much of 2012, left at least 120 people dead and 77,000 displaced.

Kisumu county,¹⁴ protesting the decision of the Supreme Court to uphold Uhuru Kenyatta's election as president in late March.¹⁵

In addition, as this report documents, a spate of brutal attacks in the area previously known as Western Province¹⁶ also appeared to be related to the political dynamics of the elections, although the media and analysts did not diagnose it as such. Human Rights Watch found indications that local and national businessmen and politicians had organized the violence to intimidate rivals and protect sponsors.

At the time, even police indicated that the violence was political, suggesting that politicians were involved in financing the gangs to carry out attacks on villages. However, police later said that the violence was ordinary crime in the region carried out by unknown criminals.¹⁷

Various political divisions led to tensions ahead of elections. Eight presidential candidates contested the 2013 general elections. The frontrunners were Uhuru Kenyatta of the Jubilee Alliance¹⁸ and Raila Odinga of the Coalition for Reforms and Democracy (CORD) Alliance.¹⁹ A third alliance, Amani, brought together the United Democratic Front (UDF) party of Musalia Mudavadi, the former deputy prime minister under Kibaki and former vice president under Daniel arap Moi, and several other fringe parties.²⁰

¹⁴ See "Kenya: Witnesses Describe Kisumu Killings By Police," Human Rights Watch news release, May 23, 2013, <http://www.hrw.org/news/2013/05/23/kenya-witnesses-describe-kisumu-killings-police>.

¹⁵ Ibid.

¹⁶ Former Western Province is now made up of four counties: Vihiga, Kakamega, Bungoma, and Busia. It borders Uganda and is populated by mainly the Luhya and the Teso communities. The 2010 constitution abolished provinces, but general features, such as population composition and political dynamics, of what used to be provinces remain. The provinces were replaced with counties, which are much smaller administrative units.

¹⁷ Protus Simiyu, "Fear in Bungoma County again as six are wounded on Monday night," *West FM*, May 7, 2013, <http://westfm.co.ke/index-page-news-bid-8621.htm> (accessed April 16, 2014); and "CORD defends its leaders over Bungoma killings," *The Standard*, May 8, 2013, http://www.standardmedia.co.ke/?articleID=2000083191&story_title=cord-defends-its-leaders-over-bungoma-killings (accessed April 16, 2014).

¹⁸ Jubilee is an alliance between Uhuru Kenyatta's The National Alliance (TNA) party, William Ruto's United Republican Party (URP) party, and several other minority parties.

¹⁹ Dave Opiyo, "Uhuru, Raila Locked in Dead Heat Race – Poll," *The Daily Nation*, February 22, 2013, <http://elections.nation.co.ke/news/Uhuru-Raila-locked-in-dead-heat-race--Poll/-/1631868/1701500/-/8okoqu/-/index.html> (accessed October 10, 2013). CORD is an alliance between ODM, led by former Prime Minister, Raila Odinga, and the Wiper Democratic Movement (WDM), led by former Vice President, Kalonzo Musyoka, and Ford-Kenya of former foreign affairs minister Moses Wetangula.

²⁰ "Mudavadi names Kioni as running mate," *The Daily Nation*, January 22, 2013, <http://elections.nation.co.ke/news/Mudavadi-names-Kioni-running-mate/-/1631868/1672218/-/awsgb5/-/index.html> (accessed October 10, 2013).

These alliances created new tensions across the country in the lead up to the elections. Although the Jubilee Alliance brought together and reduced tension between the Kikuyu and Kalenjin, two ethnic communities which were at the center of some of the 2007-2008 post-election violence, the new political alliances are believed to have deepened ethnic tensions between supporters of Jubilee and CORD.

The International Criminal Court (ICC) cases against the two men who later became Jubilee presidential and deputy presidential candidates, Kenyatta and Ruto, were also a polarizing factor. Jubilee Alliance whipped up anti-ICC sentiments, with Kenyatta and Ruto rallying their Kikuyu and Kalenjin communities in the Rift Valley, Nairobi, and Central Kenya. The two leaders blamed Raila Odinga, who had strong support in Nyanza, Western, Coast, Eastern, and Nairobi, for trying to use the ICC investigations to block them from running in the elections and vowed to ensure Odinga did not become Kenya's president.²¹

The entry of the Amani Alliance into the presidential race in December 2012 contributed to tensions especially in western Kenya, because Mudavadi hails from the former Western Province and was expected to wrest support from Odinga's CORD, which had a commanding lead there.²² Although Amani tried to assume a middle ground, CORD supporters, citing Kibaki's association with Amani as its founder, saw it as a front for Jubilee to undermine CORD's support in western Kenya and deny Odinga crucial votes.²³ In the end, however, the Amani Alliance did not win much support in the area and CORD won in all four counties: Vihiga, Kakamega, Busia, and Bungoma.

Across the country, many seats at the county level were more hotly contested than at the national level because local CORD candidates defected to either Amani or Jubilee following disputes during CORD primaries. Thus many voters who supported CORD at the national level—including those who had supported ODM at all levels in 2007-2008—were now

²¹ Moses Njagi, "Uhuru, Ruto take on Raila over Hague," *The Standard*, November 7, 2012, <http://www.standardmedia.co.ke/?articleID=2000070105> (accessed October 10, 2013); and "What is cutting between Raila and Wamalwa," *The Standard*, June 5, 2013, http://www.standardmedia.co.ke/?articleID=2000059306&story_title=what-is-cutting-between-raila-and-wamalwa&pageNo=1 (accessed April 16, 2014). Wamalwa had been a staunch supporter of Uhuru and Ruto. He however threatened to quit the Uhuru and Ruto camp if their sole purpose was to block Raila from becoming president.

²² Dave Opiyo, "Uhuru, Raila Locked in Dead Heat Race – Poll," *The Daily Nation*, February 22, 2013, <http://elections.nation.co.ke/news/Uhuru-Raila-locked-in-dead-heat-race--Poll/-/1631868/1701500/-/8okoqu/-/index.html> (accessed October 10, 2013).

²³ Ibrahim Oruko, "Mudavadi Denies He Will Join Jubilee," *The Star*, February 21, 2013, <http://www.the-star.co.ke/news/article-108571/mudavadi-denies-he-will-join-jubilee> (accessed April 16, 2014).

divided in support for regional and local positions such as governors, senators, members of parliament, women representatives, and county representative between candidates from Amani, Jubilee, and CORD.

Although rival presidential candidates have historically campaigned intensively in western Kenya,²⁴ this has not always resulted in outright election-related violence. In 2007-2008, however, it appeared that local politicians and business leaders anticipated political and ethnic violence, leading to the recruitment of gangs to defend the ruling PNU government against possible attacks, including fending off mob protesters, and defending the property of the businessmen.²⁵

The violence in the former Western Province in 2013 documented in this report appears linked to this earlier gang recruitment of 2007-2008.

Gang Activity in the former Western Province

Although there is some history of politically motivated rebel activity in some parts of Bungoma,²⁶ there is very little history of gang activity until the 2007-2008 elections.²⁷ Politicians and businessmen recruited gangs that were likely behind attacks on political rivals in the lead up to the elections in 2007 as noted in the Waki Report.

Busia county did not, until 2013, experience any attacks.²⁸ Starting on election day on March 4, 2013, armed gangs carried out eleven attacks on nine villages in Bungoma and Busia counties, both located in Kenya's former Western Province.

²⁴ The area formerly known as Western Province has since 1992 been regarded as a swing vote in Kenyan presidential elections because its populations have supported rival political sides regardless of their ethnic identities. In 1992, for instance, voters in Western Province voted evenly for the top three presidential candidates— then-president Daniel arap Moi and the opposition candidates Kenneth Stanley Njindo Matiba and the late Jaramogi Oginga Odinga, Raila Odinga's father.

²⁵ Human Rights Watch interviews with a recruitment agent, June 29, 2013, and an alleged gang member, June 28, 2013.

²⁶ For example, for five years since 1992 in Bungoma county, the rebel February Eighteenth Resistance Army (FERA), which President Daniel arap Moi accused Uganda of funding, clashed with Kenyan forces in an effort to overthrow the government. In 2007 and 2008 the Sabaot Land Defense Force (SLDF) clashed with Kenyan forces. SLDF claimed it was fighting against corruption and irregularities in the allocation of land in Chebyuk settlement scheme in Mt. Elgon. See also Human Rights Watch, *"Hold Your Heart": Waiting for Justice in Kenya's Mt Elgon Region*, 2011, <http://www.hrw.org/reports/2011/10/17/hold-your-heart>.

²⁷ Human Rights Watch interviews with two civil society leaders, Bungoma, June 28, 2013; and a county government official, Bungoma, June 30, 2013.

²⁸ John Mwaruvie, "A Political History of Kenya," <http://trip5.org/a/a-political-history-of-kenya-book-w97/>.

The timing and pattern of the violence make it difficult to understand the final goal. They occurred after polling and attackers did not target supporters of one particular party. However, the account of former gang members and recruiters, as well as the opinions of the victims themselves, strongly suggest the attacks are linked to the elections.

Human Rights Watch found indications that the attacks were organized and supported by proxies of politicians and businessmen who had supported PNU in the 2007 elections, and either Jubilee or CORD in the 2013 elections.²⁹

Ahead of the 2007 elections, businessmen in Bungoma had recruited young fighters between 20 and 30-years-old to defend the government and the property of businessmen. “They had offered to pay me 250,000 (US\$2,900) Kenyan shillings if I helped to recruit the fighters,” one businessman told Human Rights Watch.³⁰ A recruiter said he was paid 250,000 Kenyan shillings in batches of 50,000 Kenyan shillings after recruiting 60 young fighters, who were then taken to Naivasha for training in 2007.³¹

The recruitment apparently resumed in 2012. According to recruiters and gang members interviewed by Human Rights Watch, in 2012 and 2013 the young fighters were again recruited by Kenyan politicians and businessmen and were taken to camps for training, including combat training, knife and sword training, as well physical combat.³²

²⁹ Human Rights Watch interviews with witnesses, victims, gang members, police, recruitment agents, and government officials, Bungoma and Busia, May, June, and July 2013.

³⁰ Human Rights Watch interview with a retail businessman, Bungoma, June 28, 2013.

³¹ Human Rights Watch interview with a recruitment agent for gang members, Bungoma, June 29, 2013.

³² Human Rights Watch interview with two former gang members who underwent combat training in Uganda, Bungoma, June 28, 2013, and June 30, 2013.

II. Attacks in Bungoma and Busia Counties: March to June 2013

The attacks started in Mukhuyu village in Busia county on the morning of election day, March 4, 2013, spreading to Bungoma county on April 11, and continuing in both counties until July.³³ The largest attack occurred on April 26, 2013, in Bungoma's Kikwech village. More than 54 people were beaten and slashed with machetes and axes.³⁴

The attacks mostly took place at night, with the attackers numbering between 15 and 20. Wielding machetes, axes, stones, and iron bars, the attackers targeted specific homes in Bungoma and Busia counties in no particular order. Among those attacked were CORD, Jubilee, and Amani supporters, suggesting that no one group was targeted.

In both Bungoma and Busia victims told Human Rights Watch that the attackers mostly spoke Bukusu, a Luhya dialect spoken in Bungoma; Teso, a language spoken in parts of Busia; Lukhayo, a dialect of Luhya spoken in Busia; and Swahili with a Ugandan accent and Swahili with Kikuyu accent, which suggests that some of the gang members could have been recruited from other regions in Kenya outside the former Western Province.

In both counties, the attackers injured, maimed, and killed men, women, and children with machetes, clubs, and axes. Attackers also raped and sexually assaulted women and girls. In some incidents the attackers demanded money and mobile phones from victims, but theft did not appear to be the primary motive of the attack. Multiple victims interviewed by Human Rights Watch said they pleaded with the gang to take money or other valuables and spare their lives. In some cases attackers said they were sent to kill, not steal. In all the cases, the victims told Human Rights Watch that the attackers had promised to return at a later unspecified date.

Many victims were told they "voted badly," without necessarily being told what was "bad" with their voting, and felt that the violence was linked to local or national political rivalries.

³³ Human Rights Watch interview with victim, Mukhuyu village, Busia, July 1, 2013.

³⁴ Brian Omino, "Gang attacks 50 in Bungoma," *The Star*, April 26, 2013, <http://www.the-star.co.ke/news/article-118499/gang-attacks-50-bungoma> (accessed April 16, 2014).

Fifteen of the twenty-four people interviewed by Human Rights Watch in Kikwech and Mukua villages recognized a few attackers as locals. Five said they recognized Pius Nyongesa, the village headman, among the attackers, and four said they later reported Nyongesa, together with others whom they recognized as Ugandans because of their accents, to police.

Civil society activists providing humanitarian and psychosocial support to victims of the attacks in Bungoma told Human Rights Watch that Nyongesa was later beaten to death in late June by a mob in Bungoma town for allegedly boasting about how many people he had injured and killed in the attacks and how he was immune to arrest.³⁵

Residents in the two counties and local government administrators in Busia told Human Rights Watch how they identified, held, and interrogated suspected attackers who eventually confessed and revealed that there was a group structure and hinted at possible leadership based in Nairobi and Nakuru.³⁶ Some of those suspects were then lynched by angry mobs.

Attacks in Bungoma County

Victims of attacks told Human Rights Watch that the attackers included some Ugandans and some individuals they identified as “local criminals” from each of the villages that were targeted for attack. They attacked homes in Makutano, Ndengelwa, Kikwech, and Mukua villages. At least 3 people were killed and over 70 sustained serious injuries.

Makutano Village

Witnesses and victims of the attacks told Human Rights Watch that on April 11, 2013, a group of approximately 15 to 20 armed men attacked Makutano village in the outskirts of Bungoma town. The armed men attacked four homes, two on each side of the main Bungoma-Chwele road, killing two people with machetes and beating them with clubs, and injuring twelve people.³⁷

A survivor told Human Rights Watch how the gang broke the door to their house and attacked her and her husband. “As one of them was hitting me, two of the gang members

³⁵ Human Rights Watch interview with a civil society official, Bungoma, June 28, 2013.

³⁶ Human Rights Watch interviews with a local government administrator, victims of gang attacks, and witnesses, Busia, May 30, 2013.

³⁷ Human Rights Watch interviews with victims, witnesses, and civil society officials, Bungoma, May 26, 2013.

went for my husband. They started hitting him. After some time, I saw my husband lying down.”³⁸ She then snuck out of the house, ran off, but felt dizzy, collapsed, and fainted. “Our children later told me that they saw one of the gang members grab an axe from another gang member and hack their father to death.... I never heard them ask my husband for anything. They just started beating us once they had forced themselves inside the house.”³⁹

Kikwech and Mukua Villages

The next, and most devastating, gang attack in Bungoma county, lasting about three hours, was on the night of April 25, 2013, in Kikwech village, about 10 kilometers from Bungoma town. The attackers forced their way into homes or attacked villagers who came out of their homes after luring them with screams for help.

No one was killed, but at least 54 people in the village suffered serious injuries as a result of the attack, including men, women, and children. Attackers were said to have chopped off the arms of one woman and a man.

A man who lost his eye in the attack told Human Rights Watch: “After I collapsed from the beatings, they monitored me for some time. When I regained consciousness and tried to stand up, the one who was monitoring me yelled in surprise that I was still alive. He then hit me very hard on the left eye with a hoe handle. I lost my eye that night.”⁴⁰

A female victim, whose left arm was hacked off by an attacker wielding an axe, told Human Rights Watch:

It was Thursday night at 12 a.m. I heard noise and went out. I heard people saying “We caught a thief! Help us!” I then realized it was the people who were shouting for help who were the thieves. They were with a lady who was shouting for help. I met them in the path. One just started to cut me without saying anything. One cut me on the arm first, and it just fell off. Just a little bit of skin was left. Then they hit me on the head. I grabbed the man, Pius

³⁸ Human Rights Watch interview with a victim of gang attacks, Bungoma, May 26, 2013.

³⁹ Human Rights Watch interview with a victim of gang attacks, Bungoma, May 26, 2013.

⁴⁰ Human Rights Watch interview with a victim of gang attack, Kikwech village, Bungoma, May 28, 2013.

Nyongesa, who hit me so he could not escape. We both fell on the ground. I then lost consciousness.⁴¹

Many victims told Human Rights Watch that gang members demanded phones from their victims, presumably to prevent them from communicating with others, and also took money where available, but overall were not interested in stealing. A male teacher, a CORD supported whose home was attacked on April 25, 2013, said: “I expected them to take the fancy seats I have in the house, or the electronics, or even the good clothes in the house. I asked them to take anything they wanted from my house, but they declined and just continued beating us. These were not normal criminals. It looked organized.”⁴²

The gang also attacked children, cutting them with machetes in several cases. A mother of five whose Kikwech home was attacked on the same day recounted: “They slashed my 13-year-old son with a machete on the head and the left hand. They then hit my 15-year-old daughter with a baton on the neck until she fainted.”⁴³

In Mukua village one man who was attacked on April 25, 2013, recalled: “None of my seven children escaped the wrath of the gang members. Each was cut with a machete. My seven-year-old was slapped very hard that his nose started bleeding.”⁴⁴ In one home in Mukua village, a man, who was also attacked and admitted to a hospital, told Human Rights Watch that attackers poured acid on the face and genitals of his neighbor.

Ndengelwa and Mashambani Villages

On May 5, 2013, a group of 15 to 20 people attacked two homesteads in Ndengelwa village, injuring three people, including a 70-year-old man and a 65-year-old woman. A man in Ndengelwa had his hearing and speech impaired after beatings and machete cuts by the gang. In the same village, another man was beaten and left for dead. On May 8 the gang members attacked Mashambani village, killing one person and injuring two others. The attackers appeared to be well acquainted with the villagers and knew their way around. Villagers believe that prior to the attack the gang first surveyed the area and identified

⁴¹ Human Rights Watch interview with a victim of gang attacks, Bungoma, May 28, 2013.

⁴² Human Rights Watch interview with a victim of gang attack, Mukua village, Bungoma, May 28, 2013.

⁴³ Human Rights Watch interview with a victim of gang attack, Bungoma, May 27, 2013.

⁴⁴ Human Rights Watch interview with a victim of gang attack, Mukua village, Bungoma, May 28, 2013.

homes to attack. “Most people here call me doctor. One of the gang members said ‘doctor’ has no phone, which was true because I had lost my phone. But they insisted that my wife gives them her blue phone. They knew even the color of her phone.”⁴⁵

Attacks in Busia County

The pattern and style of attack in Busia was similar to that in Bungoma, with victims describing to Human Rights Watch a gang of between 15 to 20 people, all wearing dark clothes with heavy shoes and using bright flash lights. Ten of the fifteen victims interviewed by Human Rights Watch said that their attackers spoke Swahili, Teso, Bukusu, and Lukhayo, a dialect of Luhya spoken in Busia. Some victims said other gang members spoke a Ugandan dialect. These dialects suggest that the attackers came from various locations within the region.

The attacks started on the morning of March 4, 2013, the general election day, when a gang of 15 attacked the residents of Mukhuyu village, in the Nambale division of Busia county. They broke down doors, beating three victims and cutting others with machetes. Over the next four months, five villages in Busia were attacked seven times.⁴⁶

In one example in mid-March several men attacked the home of a young family in Amerikwoi village, breaking in at around 3 a.m. and demanding money. Two of the attackers forced the wife outside where they beat and raped her, while others killed her husband. Witnesses from the same village said there were four additional attacks on the village in following weeks.⁴⁷

More attacks followed in April and May in various villages such as Segero village, where one person was killed and another injured; Ojarii village, where two people were killed, one woman raped, and twelve injured; Kemodo village, where two people were killed and, according to records at Busia District Hospital, twenty injured; and Akwaboit village, where on May 1, 2013, two people were killed and thirty injured.⁴⁸

⁴⁵ Human Rights Watch interview with a victim, Bungoma, May 28, 2013.

⁴⁶ Human Rights Watch interview with a victim, Busia, July 1, 2013.

⁴⁷ Human Rights Watch interview with rape survivor, Busia, July 1, 2013.

⁴⁸ These figures came from the Busia District Hospital. Human Rights Watch however spoke to victims in Akwaboit and Mukhuyu villages who either opted for a different hospital or did not go to a hospital at all, and thus the figures from Busia Hospital may not be conclusive.

The gangs later returned to Mukhuyu village on June 22, 2013, and July 4, 2013, although the residents, who had since organized themselves into community defense groups, successfully resisted the gang on both occasions, which this time had upped its numbers to more than 60 in a single attack.⁴⁹

The officials of Busia District Hospital told Human Rights Watch that most victims of the April and May attacks that were treated there had soft tissue injuries, although the serious cases were referred to either Moi Referral Hospital in Eldoret or Jaramogi Oginga Odinga Teaching and Referral Hospital in Kisumu.⁵⁰

A victim of the attack in Akwaboit, Busia county, who along with a neighbor survived with serious injuries, recalled: “We saw them come running and shouting ‘Thief! Thief!’ When I shone my spotlight on them, all we saw were the reflections of many machetes. We sensed danger and ran away, but they followed us to the house and started cutting us with machetes without saying anything.”⁵¹

As in Bungoma, the attackers appeared intent on inflicting harm rather than stealing. In most of the cases, the gang started beating people without making any demand. In three incidents, the gang attacked children without saying or asking for anything: a 15-year-old girl was slashed with machetes in Mukhuyu village; a 12-year-old girl was beaten and sexually molested in Akwaboit; and a 14-year-old boy was beaten and cut with machetes in Kemodo.

The victims, especially in Akwaboit, told Human Rights Watch they could recognize a few of the attackers, although most of them were strangers. The victims said the attackers used crude weapons such as stones, spears, iron bars, machetes, and clubs. In total, the casualties of gang attacks spanning three months from March to June are more than 87 injured and 7 killed, according to figures collected from Bungoma District Hospital and Busia District Hospital.

⁴⁹ Ibid.

⁵⁰ Human Rights Watch interview with the medical superintendent of Busia District Hospital, Busia, May 30, 2013.

⁵¹ Human Rights Watch interview with a victim of attack, Akwaboit village, Busia, May 30, 2013.

III. Evidence of Political Links

While there are many questions remaining about the organization of the attacks, Human Rights Watch research suggests that the attacks were not carried out for solely criminal reasons, but also had a political motivation. In particular, the research indicates the gangs were organized and linked to political officials and parties.

Inspector General of Police David Kimaiyo told Human Rights Watch that police were aware that the attackers were hired by politicians. “Those of you who have been down there and know what is happening in Busia and Bungoma also know that these attacks are political.”⁵²

Villagers, gang members, and recruitment agents all told Human Rights Watch about the operation of gangs. According to recruitment agents and gang members, recruitment of gang members was done by businessmen and politicians linked to the Party of National Unity in 2007 and Jubilee Alliance in 2013. They told Human Rights Watch that some of the gang members recruited in earlier years worked alongside CORD when former local PNU candidates joined the CORD Alliance at the end of 2012.⁵³

In 2012 and 2013 some of the same men who recruited young men in 2007 again recruited young men to first increase their numbers and later replace those who had defected to CORD, according to information provided by former gang members.⁵⁴ One recruiter told Human Rights Watch that he was paid 50,000 Kenyan shillings (\$575) in three batches in February 2013 for recruiting the gang members, some of whom he said were involved in the attacks in Bungoma.⁵⁵

Gang members who said they had defected from the gangs told Human Rights Watch that a group of businessmen in Bungoma, Busia, and Malaba, a town on the border with Uganda, had financed the gangs, with support from influential individuals in Nairobi, Nakuru, and Eldoret.

⁵² Human Rights Watch interview with David Kimaiyo, Inspector General of Police, Busia, August 6, 2013.

⁵³ Human Rights Watch interviews with a civil society official, Bungoma, June 28, 2013; a former gang member, Bungoma, June 28, 2013; and a recruitment agent, Bungoma, June 29, 2013. In late 2012 and early 2013, politicians from both ODM and PNU shifted camps and formed fresh alliances with which they went into the March 2013 elections.

⁵⁴ Human Rights Watch interview with a former gang member, Bungoma, June 30, 2013.

⁵⁵ Human Rights Watch interview with a recruitment agent for gang members, Bungoma, June 29, 2013.

The attacks appear linked to the elections. A former gang member who participated in some attacks in Busia before withdrawing from the gangs in April 2013 told Human Rights Watch: “The reason was to use the boys because of the elections outcome. Kenyan politicians are behind it and they are working closely with some not very senior politicians in Uganda.”⁵⁶

Another former gang member told Human Rights Watch that in 2012 recruiters told him that their motivation was to generally punish the people in the region for having voted “badly”: “We were told that our mission was to revenge. There were areas that had not voted well even though a lot of resources were wasted there during campaigns. We were deployed in teams of three after combat training in Uganda. My team of three from the group was deployed to Busia to lead the attacks.”⁵⁷

One current and one former recruitment agent, as well as four gang members, told Human Rights Watch that the initial recruitment was in October 2007 with the view to “defending” the government against violence after the declaration of election results. They said the recruitment had resumed in 2012 and 2013 by the same backers, and that new recruits were told to protect property and attack anyone protesting the election results in the Western region.⁵⁸ Those recruited after March 2013 were reportedly told that their work would be to both protect property should violence break out and “terrorize” the region for not voting along expected lines.⁵⁹

Residents and victims of attacks in Busia county told Human Rights Watch that one suspected attacker, now being held in Bungoma prison after being charged with robbery with violence,⁶⁰ had in late 2012 and early 2013 been warning them of possible violence if they did not vote for the Jubilee Alliance.

A victim from Akwaboit village in Busia county said the suspect had attacked him during the gang attack on the village on April 30, 2013, but had earlier, after the Bungoma attacks of April 25, warned Akwaboit residents to prepare for similar attacks in Busia county. The

⁵⁶ Human Rights Watch interview with a former gang member, Bungoma, June 30, 2013.

⁵⁷ Human Rights Watch interview with a former gang member, Bungoma, June 30, 2013.

⁵⁸ Human Rights Watch interview with a former gang member, Bungoma, June 28, 2013.

⁵⁹ Human Rights Watch interview with a gang member deployed to carry out attacks in Busia, June 30, 2013.

⁶⁰ This may mean that police are treating the attacks as cases of robbery with violence and not political violence involving gangs.

suspect, who lived in Nakuru between 2007 and 2011,⁶¹ had previously served as a campaigner for the Jubilee party. Another victim of attacks at Akwaboit told Human Rights Watch about the suspect being held in Bungoma prison: “During the election campaigns last year and this year, the suspect, who was a campaigner for Jubilee Alliance, was threatening people. He said that if we did not vote for their alliance, we shall be cut into pieces. He said they had been trained in Nakuru by Mungiki and they were going to do it like Mungiki.”⁶²

⁶¹ Human Rights Watch interviews with the suspect, the suspect’s elder brother, and a paternal uncle, Busia, May 30, 2013.

⁶² Human Rights Watch interview with a victim of the attack and a relative of the suspect, Busia, May 30, 2013. Between 2005 and 2007 so-called “Mungiki” gang members in central Kenya and Nairobi used machetes to hack to death presumed critics and those who defied their extortionist demands. In 2008 a section of Mungiki carried out retaliatory attacks against the Luo, Luhya, and Kalenjin communities that had not supported then President Kibaki’s PNU party.

IV. Government and Police Response

On May 10, 2013, while the gang attacks were ongoing in both Busia and Bungoma, both President Uhuru Kenyatta and his deputy, William Ruto, publicly spoke against the violence. Ruto, who visited the area on May 10, said: “Any individuals or groups who take up arms to terrorize residents must be met with the full force of the law. Police have clear instructions to deal with individuals who have armed themselves.”⁶³

President Kenyatta warned, “Nobody will be allowed to threaten the existing peace in the country,” in a speech read on his behalf on May 9 in Nairobi.⁶⁴ Despite these strong statements denouncing the violence and sending reinforcements to bolster security in the area—which as Deputy President Ruto announced on May 10 included 150 additional police officers and five new vehicles—Human Rights Watch found that authorities have not responded adequately to the attacks.

The largest failure appears to lie with the police. Human Rights Watch research indicates that police have failed to investigate, apprehend, or bring charges against suspects in many of the attacks. They have instead released most of those arrested,⁶⁵ spread misinformation about the reasons for attacks,⁶⁶ and ignored the scale of the problem.⁶⁷

Human Rights Watch researchers found that, several months after the attack, police had not taken statements from many of the crime victims, visited the scene of many attacks, or conducted any meaningful investigation into those who may have organized, supported, and carried out the attacks.⁶⁸ In some cases, especially in Busia, police turned away victims who offered to record statements about the attacks.

⁶³ Simbi Kusimba and John Nalinya, “Ruto Takes Hard Line on Bungoma Violence,” *The Star*, May 11, 2013, <http://allafrica.com/stories/201305130182.html> (accessed April 16, 2014).

⁶⁴ The speech was read on his behalf by Senate Majority Leader Kindiki Kithure during a luncheon hosted by the Kenya Private Sector Alliance in Nairobi.

⁶⁵ Human Rights Watch interview with Mutune Maweu, Bungoma South Deputy Officer Commanding Police Division (OCPD), Bungoma, May 29, 2013.

⁶⁶ Human Rights Watch interview with two victims in Makutano area, Bungoma, May 26, 2013.

⁶⁷ Human Rights Watch interviews with victims and humanitarian agency officials, Bungoma, May 28, 2013.

⁶⁸ “Kenyan Leaders Direct Police To Deal Firmly With Wave of Insecurity,” *Xinhua News* (Nairobi), May 10, 2013.

In May, June, and July, the top officers in Busia and Bungoma were transferred away, partly in response to public outcry over the poor police response. One hundred and fifty new officers were appointed, including heads of the stations and heads of police divisions. Beyond these administrative changes, however, police response did not improve, according to victims and opposition political leaders in the two counties.⁶⁹ As of April 2014, police had not improved their response.

In May 2013 the Inspector General of Police, David Kimaiyo, announced that a security operation was ongoing in both Busia and Bungoma, and that 294 suspects had been arrested in the two counties. However, police in Bungoma told Human Rights Watch that most of those arrested were petty offenders with no direct links to the attacks. They said that the vast majority of those arrested were released within hours or days, and very few people—less than 10—were actually charged.⁷⁰

Moreover, police officials did not appear to be aware of the full scale of attacks and were merely treating it as “normal crime” and not gang activity.⁷¹ However, Human Rights Watch found that police had received information indicating the attacks were carried out by organized gangs and most likely politically-motivated.⁷²

Residents of Akwaboit village, Teso East constituency of Busia county, captured and interrogated gang members who revealed details of the gang’s operations and brought this to the attention of the police. One resident told Human Rights Watch: “They told us that they are paid 5,000 Kenyan shillings (\$57) for each person beaten or cut with a machete and 10,000 Kenyan shillings (\$115) for every person killed.”⁷³

A government administrator, the chief of Kwangamoru location in Teso South district, also interrogated a suspect who shared credible information suggesting the attacks were pre-meditated and organized, and passed the information to the police.⁷⁴

⁶⁹ Human Rights Watch interviews with a Busia county representative, Busia, June 30, 2013; and a victim in Mukhuyu village, Busia, June 30, 2013.

⁷⁰ Section 24 of The National Police Service Act, 2011, requires police officers to collect intelligence on crime, investigate crime, prevent crime and apprehend offenders.

⁷¹ Human Rights Watch interview with Mutune Maweu, Bungoma South Deputy OCPD, Bungoma, May 29, 2013.

⁷² Human Rights Watch interview with a government chief, Busia, May 30, 2013.

⁷³ Human Rights Watch interview with a victim of attacks in Akwaboit village, Busia, May 30, 2013.

⁷⁴ Human Rights Watch interview with Mary Ariku, chief for Kwangamoru location, Busia, May 30, 2013.

The suspect, who was later killed by a mob, told sources who spoke to Human Rights Watch that his work was to spy on an area ahead of an attack and that he would be paid 3,000 Kenyan shillings (\$35) each time. He named the leaders and those who killed for money, adding that they had coordinators in various locations.

Failure to Investigate or Prosecute

Under Kenyan law, police and the director of public prosecutions have the responsibility to investigate and prosecute those responsible for the recruitment, training, and funding of gangs. Under the Prevention of Organized Crimes Act of 2009, for example, it is a crime to recruit, train, finance, or even belong to an illegal organized gang such as the ones behind the attacks in Busia and Bungoma. Various laws enacted since 2010, when the new constitution was promulgated, spell out measures that authorities ought to take to ensure accountability for crimes by gangs, including killings, rape, causing bodily injuries, and stealing from victims.⁷⁵

In July 2013, the new Officer Commanding Police Division (OCPD) for Bungoma South, Kirinya Limbitu, told Human Rights Watch that nine suspects had been arrested in connection with the attacks in Kikwech. Of these, three were charged with robbery with violence, while another two were detained under a provision of the Criminal Procedure Code that police have cited in Kenya when seeking the court's permission to continue holding people for not more than three years, even if they do not have sufficient evidence to charge them or if the suspect may be harmed if released.⁷⁶

Bungoma prison officials said this provision has been abused and is in contravention of chapter four of the constitution on the bill of rights, according to which someone may be detained only after being found guilty of an offence. A prominent Kenyan human rights lawyer said that this is a violation because someone is being detained through a process that is not fair.⁷⁷

⁷⁵ See the National Police Service Act, 2011.

⁷⁶ Sections 46 (a) and (g), read jointly, state that whenever a magistrate of a subordinate court is informed on oath that a person within his jurisdiction is by habit a robber, a housebreaker or a thief the magistrate may require that person to show cause why he should not be ordered to execute a bond, with sureties, for his good behavior for a period not exceeding three years or why an order should not be made that he be taken to his home district and be restricted to that district during a period of three years.

⁷⁷ Human Rights Watch interview with George Kegoro, International Commission of Jurists-Kenya, April 5, 2014.

The other four arrested in connection with the Kikwech attack were Ugandans, but police opted to charge them with being in the country illegally and deported them.⁷⁸

Victims of attacks told Human Rights Watch that police had failed to properly conduct investigations into the killings. Of the 29 victims interviewed by Human Rights Watch in Bungoma, 21 said that police had not taken statements from them. Some of these victims said they had information about the identity of their attackers they would have given to the police if asked.⁷⁹

Police also failed to visit attack sites to examine or collect evidence. In one home, two months after the attack, police had not collected clothes of one of the gang members who decided to change into his victim's clothes, leaving his own clothes behind.⁸⁰

Many victims also told Human Rights Watch that police provided false information about the reason or circumstances of the attacks. For example, a 54-year-old female victim, who had just returned from a referral hospital after several weeks of treatment from injuries, told Human Rights Watch that she was never interviewed by police. She believed police had nonetheless provided misinformation to a journalist about her injuries, telling the journalist that her family had been attacked over a private property dispute. The journalist confirmed that police had provided this explanation.⁸¹

Human Rights Watch heard similar allegations that the police misinformed journalists about other victims of attacks. In one example, a witness to an attack on a homestead that killed one person and seriously injured three others said police attributed the attack to a private dispute over payment:

Police have not come to interview any of the six of us who were in the house on the night of the attack on April 11, 2013. Journalists came here and told us that police had told them that the attackers were targeting the man who died because, as a contractor, he had failed to pay his workers.

⁷⁸ Human Rights Watch interview with Kirinya Limbitu, Bungoma South OCPD, Bungoma, June 27, 2013.

⁷⁹ Human Rights Watch interviews with victims of gang attacks, Bungoma, May 26, 27, and 28, 2013.

⁸⁰ Human Rights Watch interview with a victim of gang attacks, Bungoma, May 26, 2013.

⁸¹ Human Rights Watch interviews with a victim of a gang attack, Bungoma, May 26, 2013; and a journalist, Bungoma, May 28, 2013.

They were suggesting that he had been attacked by his angry workers who he owed money. We have talked to the workers and there is no money he owed them. We don't know where police got this from when they have not even talked to us.⁸²

Human Rights Watch was however unable to confirm if indeed police had misinformed journalists or other individuals.

Interviewees also told Human Rights Watch that police regularly arrested suspects identified by victims, only to release them a day later for lack of evidence and without carrying out any investigations. A victim who had identified his attacker told Human Rights Watch that he ran into his attacker in Eldoret where the attacker was hiding just days after being released by police.⁸³ Another victim said her attacker escaped to Uganda after being released by police for lack of evidence, and yet another victim said his attacker disappeared for a while after being released by police but has since returned and has been threatening him.⁸⁴

Of the fifteen attack victims interviewed in Busia, five said they had been interviewed by police and three said they had been turned away by officers at Nambale Police Station who insisted they could only record statements or be interviewed by police if they knew their attackers. Ten attack victims said police had not visited their homes almost two months after the attacks. Another victim said he had been turned away by officers in Nambale Police Station who asked him to wait until investigations were complete to record a statement.

Police in Busia seemed unaware of the scale of attacks. The OCPD for Busia told Human Rights Watch that they were only aware of gang attacks in April and May, but Human Rights Watch research shows that gangs attacked residents of Mukhuyu village in Nambale on March 4, 2013, and June 22, 2013. Most of the victims of these attacks were treated at Nambale Health Centre and some attempted in vain to record statements at Nambale Police Station.

⁸² Human Rights Watch interview with a victim of a gang attack, Bungoma, May 26, 2013.

⁸³ Human Rights Watch interview with a victim of a gang attack, Bungoma, May 26, 2013.

⁸⁴ Human Rights Watch interview with a victim of a gang attack, Bungoma, May 27, 2013.

A senior police officer in Busia told Human Rights Watch on July 1, 2013, that there were no suspects being held with regard to any of the killings or assaults and there were also no ongoing investigations into who was responsible for the attacks. In July, Busia's OCPD told Human Rights Watch in a phone interview that police were now focusing on other things, not the attacks.⁸⁵

Lack of Confidence in Police, Rise in Mob Justice

Several police officers in Bungoma and Busia told Human Rights Watch that the public did not trust police and thus people were unwilling to provide information to the police, hampering their ability to investigate.⁸⁶ While this may be true, police could overcome this lack of confidence by increasing their visits to attack sites, accepting complaints more readily, and demonstrating to the public that they are taking these brutal crimes seriously and do not consider them to be “ordinary crimes.”

Civil society organizations and victims in Bungoma and Busia told Human Rights Watch that the immediate outcome of this lack of confidence in the police is the escalation of cases of mob justice in the region.⁸⁷ As one woman explained: “We feel frustrated when they arrest people, then release them. They say there's ‘lack of evidence’, but they haven't even interrogated witnesses.”⁸⁸

In June 2013, Human Rights Watch obtained data from Bungoma District Hospital showing that 11 people had been beaten to death by mobs in a single month. In July, local groups said this number had risen to 18.⁸⁹ In Ndengelwa village, mobs lynched two suspects after police declined to arrest or take a statement from another suspect who had both been identified by victims and also a younger brother had revealed that he returned to the house at dawn on the night of the attack with blood stained clothes.

Villagers in Busia and Bungoma told Human Rights Watch that they have now formed vigilante protection forces and expressed their determination to fight back. A county representative of one of the areas that was attacked told Human Rights Watch: “We have

⁸⁵ Human Rights Watch phone interview with Francis Nguli, Busia OCPD, Busia, July 23, 2013.

⁸⁶ Human Rights Watch interview with Mutune Maweu, Bungoma South Deputy OCPD, Bungoma, May 29, 2013.

⁸⁷ Human Rights Watch interview with a civil society official, Bungoma, June 26, 2013.

⁸⁸ Human Rights Watch interview with a victim of gang attack in Makutano village, Bungoma, May 27, 2013.

⁸⁹ Human Rights Watch interview with an official of a humanitarian agency, May 28, 2013.

been forced to form vigilante groups to take care of our security. I cannot say whether we have armed ourselves or not, but we just want to defend ourselves. When it happened, all senior police officers came, including police boss for Western region, and they promised prompt investigation. So far we are still waiting for investigation.”⁹⁰

Another frustrated victim told Human Rights Watch that police have not protected those who have recorded statements from being threatened by suspects:

The attacker, who is just from the next village, was arrested but police released him on the argument that the courts were closed during the election period and they will re-arrest and take him to court when the courts begin to function. That has not happened nearly three months down the line. They keep saying the man cannot be traced, but we keep seeing the man here and he is now threatening us and other witnesses.⁹¹

In Akwaboit, two suspected gang members, who were arrested by the villagers and taken before a local government chief, were killed by a mob three hours later when police failed to turn up in time. Police turned up four hours after the two suspects were killed.⁹²

⁹⁰ Human Rights Watch interview with a Busia county representative, Bungoma, June 30, 2013.

⁹¹ Human Rights Watch interview with a victim in Mukhuyu village, Busia, June 30, 2013.

⁹² Human Rights Watch interviews with a resident of Akwaboit village and a government chief, Busia, May 30, 2013.

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Annex I: Letter to the Inspector General of the Kenya Police Service

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August 5, 2013

Mr. David Kimaiyo
The Inspector General
Kenya Police Service
Nairobi, Kenya

Dear Sir,

I am writing on behalf of Human Rights Watch to request information from your office concerning a recent spate of attacks in Bungoma and Busia counties in March, April, May and June 2013. Human Rights Watch has conducted research into the nature and extent of these attacks and would like to share aspects of the findings so as to benefit from insights from the police, and to pose questions below.

Human Rights Watch is an international human rights organization with a presence in several countries in Africa, Europe, Americas and Asia.

As you may be aware, gangs of male youth attacked dozens of homes with machetes, spears, iron bars, clubs and stones in Bungoma and Busia. In Bungoma alone, assailants killed at least three people, cut off the arms of two women, and seriously injured more than 75 others. In at least three cases, the attackers sexually assaulted or raped female victims. In Busia, the gang killed at least 5 people and injured more than 87 others. The attacks in Busia apparently started much earlier than the Bungoma attacks and, by mid-July, there were still reports of gangs harassing residents. Below is a brief background notes followed by question. We would appreciate responses to the questions below as these would be useful for our research investigation and independent reporting on the matter.

Concerns Regarding the Investigation into the Attacks

First, we are concerned that the police have not adequately investigated the causes of this violence. Police officers in Busia and Bungoma told Human Rights Watch that they are treating the attacks as ordinary crime and do not believe the attacks are organized. Our

research, however, shows that the attacks appear to be systematically organized and stealing did not appear to be the primary motive of the attackers. In some cases, victims pleaded with the attackers to take money in vain; in other cases, attackers left valuable items behind. In other cases, attackers did not ask for anything. Witnesses from the area further told Human Rights Watch that they had passed information about the organization and financing of the attacks to the police, especially in Bungoma where four foreign suspects were arrested and in Busia where one suspect confessed.

1. Have the police investigated these claims of external funding and organization of the attacks?
2. Why police officials have taken the position that these are ordinary crimes, despite their gravity and indications that they may be ongoing and appear to be organized?
3. What measures police have taken so far and whether they have found any theories about why the attacks are taking place in this specific area, which is not known for these kind of violence in the past?

Secondly, we are concerned that police have apparently not interviewed many of the victims or visited crime scenes. In Bungoma, although police arrested more than 200 suspects on various dates in April and May, they released the majority of them. Only eight of the 29 victims interviewed by Human Rights Watch in Bungoma said police interviewed them. Many said police did not visit their homes. In some cases, evidence including weapons left by the attackers, was still lying in the homes of the victims two months after the attack. In Busia, victims also said police in Nambale Station refused to register their complaints unless they have the names of their attackers.

1. What measures have been taken to ensure that police on the ground carry out proper investigations and accord victims a chance to record statements?
2. Have any measures been taken against officers who refused to interview victims who want to record statements or have neglected to visit crime scenes?
3. Are any investigations going on in the two counties? If so what steps are the police taking to carry out this investigation?

Finally, we are alarmed at the high number of mob lynching of those suspected as being responsible for the attacks in both Busia and Bungoma. Victims of gang attacks told Human Rights Watch that they resorted to lynching of suspects because they do not trust the police, who they have accused of refusing to carry out investigations only to release suspects for lack of evidence or without any charge.

1. How many people have been lynched so far, as per the police records, in both Bungoma and Busia?
2. What measures have been taken by police to stem the rising cases of mob justice?

3. How are police responding to issues relating to public confidence and general relationship with the public?

We kindly request responses to be communicated Ms. Jehanne Henry, who is one of the researchers involved in this project, either via email at henryj@hrw.org or over the phone +254 202 208 107 or by delivery to Human Rights Watch's office at the Krep Center, 2nd Floor, Wood Avenue, off Lenana Road. In advance, we appreciate your assistance with this research.

Yours sincerely,

Daniel Bekele
Executive Director
Africa Division
Human Rights Watch

“We Were Sent to Kill You”

Gang Attacks in Western Kenya and the Government’s Failed Response

In March 2013, Kenya held national elections that, while less violent relative to the 2007-2008 general elections, were nevertheless marred by pockets of violence across the country. In Busia and Bungoma counties in western Kenya the vote coincided with a spate of attacks by armed gangs of young men on several villages from March to June 2013. The attacks left 10 dead and more than 150 seriously injured.

Based on interviews in the two counties with 87 victims, witnesses, civil society, and government officials, this report documents the little-known attacks and how national and local police utterly failed to respond effectively. Despite an initial strong response from the national government in Nairobi and a promise to reign in the gangs, police did not carry out thorough investigations, often did not visit crime sites or collect critical evidence, and ignored the apparent political dimension of the attacks.

Human Rights Watch calls on the Kenyan government to conduct a thorough, effective investigation with a view to holding responsible individuals who carried out the attacks as well as those who supported them. Police should investigate allegations that several business owners and politicians within and outside the two counties recruited gangs to carry out the attacks. The Kenyan government should address the ongoing problem of gang violence and bolster the investigative capacity of police as part of the larger police reform agenda.



*Map of Kenya showing
Bungoma and Busia counties.*