



## **PUBLIC STATEMENT**

**AI Index Number: AFR 32/1446/2015**

**14 April 2015**

### **Kenya: Amnesty International calls for justice as well as reparations for victims of the 2007-8 post-election violence**

Amnesty International (AI) today reminds the Government of Kenya (GoK) of its obligation to provide truth, justice and reparations for victims of the 2007-8 post-election violence. It calls on the GoK to capacitate the office of the Director of Public Prosecutions (DPP) with respect to investigating and prosecuting crimes committed during the period. It also urges transparency and public participation in establishing the recently announced KES10 billion “restorative justice” fund to ensure full and effective reparations for victims.

In the State of the Nation Address delivered on 26 March 2015, President Uhuru Kenyatta touched on historical injustices, referring to the report of Truth, Justice and Reconciliation Commission (TJRC). Kenyatta singled out the 2007-8 period, describing it as experiencing “most tragic expression of post-election violence that left 1,300 Kenyans dead and more than 650,000 displaced from their homes across the country.”

However, in acknowledging receipt of a report on the 2007-8 Post-Election Violence Related Cases from the DPP, Kenyatta went on to say that, according to the DPP, there is insufficient evidence to institute criminal proceedings in 4,575 cases. He used this to justify the proposition that victims can only be availed “restorative justice” without defining what that would involve.

AI and other civil society organisations in Kenya have documented how the majority of victims are yet to receive justice for violations and abuses committed during the post-election violence of 2007-8 (AI report available [here](#)). AI has called on the government to ensure all complaints related to the post-election violence are thoroughly investigated, that sufficient resources are made available for such investigations and subsequent prosecutions as well as for the Witness Protection Agency.

The DPP has admitted to incapacity due to resource constraints, the inability to identify perpetrators, witnesses’ fear of reprisals and the lack of technical and forensic capacity. These limitations can be addressed with appropriate investments and political will.

Yet, Kenyatta failed to address this admitted incapacity, instead announcing the KES10 billion “restorative justice” fund. While the fund is a potentially welcome step, it is important that efforts to ensure criminal justice for victims continue.

Victims have the right to justice, truth and reparations. The GoK has an obligation to ensure that crimes under international law are investigated and that those suspected of the crimes are prosecuted in fair proceedings before a court of law. A reparations fund is complementary to criminal justice, not a replacement for it. As concerns the fund, the continued absence of an Implementation Committee and Technical Secretariat to act on the TJRC report's findings casts doubt over the potential effectiveness of the fund. In addition, AI and other civil society organisations have documented exclusion and inequity in previous post-election violence programmes.

The GoK has an obligation to respect, ensure respect for and implement regional and international human rights and humanitarian law, particularly through the investigation and prosecution of crimes committed in 2007-8. AI calls on the GoK not to disregard this obligation, but invest in the DPP's capacity to conduct thorough and impartial investigations and, where appropriate, institute criminal proceedings in accordance with regional and international law.

AI also calls on Parliament to conclude its work on the TJRC report to pave way for the Implementation Committee and Technical Secretariat to administer adequate, effective and prompt remedy for all survivors and victims of historical injustices, including those of the 2007-8 post-election violence. The Implementation Committee and Technical Secretariat should be developed transparently and with participation from the public, including victims of historical injustices.