Deepening police reforms in Kenya post-National Accord: Policy implications

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Background to police reform processes in Kenya

Police reforms in Kenya date back to 2003 when the Kibaki government, recognising security as central to growth, initiated the sector-wide Governance, Justice and Law and Order Sector (GJLOS) Reform Programme to enhance security and justice. In 2004, the police created a task force on reforms, though its results were never made public. However, the strongest impetus for police reforms came following the tragic events of the post-election violence (PEV) of 2007–08 and the findings from the Commission of Inquiry into Post-Election Violence (CIPEV) that the police had committed widespread and serious human rights violations.[1]

In line with CIPEV recommendations, a new National Task Force on Police Reforms was set up in 2009, which made over 200 recommendations to address challenges facing policing in Kenya. In 2010, the Police Reforms Implementation Committee (PRIC) was established to oversee implementation of the task force's recommendations, and in 2011 three new pieces of legislation were enacted, providing a much-needed legal anchor for the reform process. The National Police Service (NPS) Act instated an independent inspector general of the NPS to provide overall command of a merged Kenya Police and Administration Police. The National Police Service Commission (NPSC) and the Independent Policing Oversight Authority (IPOA) were constituted in 2012, with mandates to provide policy oversight[2] and to investigate complaints against the police, respectively. In 2013, the NPSC led the process of recruiting the new Inspector General, his two deputies and the Director of Criminal Investigations through an open, participatory process as required by the new constitution.

Kenya's National Accord and Reconciliation Act, signed in 2008 to bring an end to the PEV, ushered in a new period of wide-reaching reforms. Kenya's new rights-based constitution of 2010 and the legislative framework that followed it were intended to facilitate a transition to a new people-focused policing paradigm. This briefing paper analyses the progress of the police reform process in Kenya undertaken since the signing of the National Accord and provides recommendations to consolidate and sustain the ongoing reforms. The briefing focuses on several current issues facing the police, including modern policing approaches, operational independence, police accountability, police-civilian relations and police welfare. It also looks at the impact of devolution on policing. The recommendations are targeted to the various state and non-state actors in Kenya, including the NPS, the NPSC, IPOA, the National Crime Research Centre (NCRC), the Ministry of Interior and Coordination of National Government, the Salaries Review Commission, Civil Society Actors [for example, the Police Reforms Working Group (PRWG)] and research institutions.

1. Policing approaches and citizens' security

While annual NPS crime statistics show crime rates have been declining since 2013, a 2015 opinion poll showed a large proportion of people, 28.3 per cent,[3] reported that security agencies' efforts to reduce crime were inadequate.[4] Furthermore, the NPS' capacity to conduct credible investigations remains

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[1] Of the 1,133 people that CIPEV established to have died during the violence, 405 were shot dead by the police; see Republic of Kenya (2008), *Report of the Commission into Post-Election Violence,* (Nairobi: Government Printers), pp 384-393.

[2] The NPSC is mandated to set policy on the recruitment, promotion, transfer, discipline and remuneration of police officers.

[3] Afrobarometer 2014/2015 survey of national attitudes in Kenya on democracy and governance issues; see http://www.afrobarometer.org/online-data-analysis/analyse-online (Kenya).

[4] Number of crimes reported to the police in the past five years: 70,779 (2010); 75,733 (2011); 77,852 (2012); 71,832 (2013); and 69,736 (2014). 2015 statistics are not available, see NPS, *Annual Crime Report 2014* and Kenya National Bureau of Statistics, *Kenya Facts and Figures 2014.*

weak.[5] However, various policing initiatives aimed at rectifying this have received limited uptake.

Research-led policing: Inattention to research-led policing, that is, using analysis drawn from multiple data sources to inform policing, was identified by the National Task Force on Police Reforms as hindering police planning.[6] Research-led policing involves crime mapping, inquiry into the causes and implications of crime, and determining the effectiveness of certain policing approaches. The NPS lacks a dedicated research department, and its crime statistics do not represent the actual extent of crime in the country, as they are limited to reported crimes. Noting this concern, the government allocated KSh1.5 billion (approx. $US 15 million) in the 2013–14 budget for research to be conducted by the Criminal Investigations Department (CID) and NCRC.[7]

However, there is no evidence that the new focus on research-led policing has been embraced by the police. Part of the challenge is limited police interest in ideas such as research-led policing because of the belief that their greatest problems are gaps in resourcing, and not the nature of their methods.[8] The push for research-led policing is also driven by external actors, such as the Office of the President and international donors. The Office of the President has shown greater receptivity to ideas such as research-led policing mainly because of concerns about the political cost of insecurity.[9] On their part, donor countries are concerned about the potential effects of insecurity on their economic interests in Kenya, and have been increasingly motivated to fund security governance programmes that seek to introduce more effective ways of managing security. The UK's Department for International Development (DFID) and the Danish International Development Agency (Danida) are examples of donors who are funding security governance programmes that have a partial focus on research-led policing and strengthening NCRC capacity to improve collection, analysis, dissemination and use of crime/security-related data.[10]

Crime prevention: Linked to research-led policing, the concept of 'crime prevention' seeks to eliminate, or at least limit, the opportunities criminals have to commit crimes. It requires the police to view their work from a risk management perspective, and to invest in intelligence gathering and analysis. While crime prevention has always been part of Kenyan police's legal mandate, the need for a national crime prevention strategy first appeared in 2007 as part of the GJLOS Reform Programme. However, it was not pursued by the NPS, which continues to prioritise detection over prevention. The shift to a greater focus on crime prevention has been hindered by bureaucratic conservatism in the NPS, which as one analyst points out, "prefers to stick to tested practices…and pragmatism over ideas, prioritises 'doing things right' over 'doing the right thing' and shies away from experimentation and innovation".[11] Only recently, in December 2015, was a draft national crime prevention strategy completed by the National Task Force on Community Policing, though programmes have yet to be developed.[12]

Technology and policing: The NPS has been slow to adopt information technologies in their work, despite the predicted benefits to policing, such as improving information sharing among different police units, enhancing capacities to see connections between crimes, and reducing time taken to analyse evidence. Since 2013, however, there are indications that the role of technology in policing is being taken more seriously by the government. In 2014, the CID announced its plans to revive the long-awaited forensic crime laboratory that will equip police with modern crime fighting techniques and equipment, including DNA testing capacity. An international tender for the laboratory was issued in December 2014 but the facility is not yet operational, meaning the CID still relies on outdated investigative techniques. Another encouraging advance is the KSh15 billion (US$150 million) National Security Surveillance, Communication and Control System for Nairobi and Mombasa that was launched in 2015 in

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[5] Independent Policing Oversight Authority (2013), *Baseline Survey on Policing Standards and Gaps in Kenya*, Nairobi, p 22. According to IPOA, 64 per cent of a sample of 203 criminal cases reviewed by its researchers did not meet the minimum evidentiary standards required to bring criminal charges against suspects.

[6] Republic of Kenya (2009), *Report of the National Task Force on Police Reforms*, (Nairobi: Government Printers), pp 61, 164.

[7] "Treasury allocates Sh67 billion to police, scraps buying of vehicles", *East African Standard,* http://www.standardmedia.co.ke/article/2000085938/treasury-allocates-sh67-billion-to-police-scraps-buying-of-vehicles. The NCRC, established in 1997 to be the official repository for crime data and research, has remained unknown and under-resourced, and therefore unable to drive the agenda for research-led policing. Since early 2016, however, a change in leadership at the institution has seen it become more vigorous in terms of building its research capacity, soliciting views from state and non-state actors on how it can best play its role, and partnering with local and international actors, including UN agencies, to build its capacity to carry out research.

[8] Insight from author's involvement in policy deliberations with security sector officials on the subject.

[9] *Ibid.* The issue of insecurity has also featured consistently in the opposition's criticism of the Jubilee coalition government's record.

[10] See Kenya Integrated Community Security Programme, (DFID) 2015–2018 and the Kenya Peace, Security and Stabilisation Programme, 2016–2020 (Danida).

[11] Ruteere M (2012), "Background Paper on Police Reforms in Kenya", p 8 (unpublished).

[12] The cornerstone of the draft National Crime Prevention Strategy is the 'Nyumba Kumi' (ten homes) community security initiatives. The strategy, and accompanying Draft National Community Policing Policy, proposes to organise neighbourhoods into clusters of ten homes, which will form committees that partner with the police and the National Government Administration Office to map crimes and develop strategies for preventing and controlling crime.

partnership with the leading mobile phone service provider, Safaricom.[13]

It is still too early to assess the effects of these technologies on policing as they are not fully operational. However, it is easier to attribute this to the incumbent Jubilee government's agenda of modernising public services by enhancing the use of technology, particularly digital technologies, rather than a positive change in the attitude of the NPS. It is not surprising that the NPS is resistant to technology: technology stands to increase external pressure for change performance and accountability, and is likely to be a low priority in an institution that continues to be unwilling to accept that incompetence, abuse of power and corruption are deeply entrenched within it.[14] Further, technology's capability is neutral. Its efficacy depends on the attitudes, motivations and competence of its users. Without resolute action to address the governance and competence gaps in the NPS, it is likely that new technologies will not have the intended impact, and could be misused or abused.[15]

Recommendations

- The **NCRC** should coordinate closely with the NPS, the NPSC, IPOA, research institutions and civil society actors to develop a strategic framework to guide its efforts to produce high quality research on the causes, consequences and costs of crime as well as options for crime prevention. This framework should be sensitive to the priorities of the NPS and other users of crime-related research. Ideally, a fully operational NCRC would gather and aggregate data from both police and non-police sources, for example hospitals and perception surveys, to produce comprehensive analysis on crime trends and crime prevention. The **NCRC** should also develop and pursue a clear research agenda, with action plans for uptake of this research in police work. The **Ministry of Interior** should provide the political support required to ensure NPS buy-in.

- Once the draft National Crime Prevention Strategy is adopted, the **Ministry of Interior** and the **NPSC** should consider introducing a change management programme in the NPS to address aspects of its

institutional culture that impede it from fully embracing the idea of crime prevention.

- The **NPS** and the **NCRC**, in collaboration with **research institutions**, should develop monitoring and evaluation frameworks for tracking the effectiveness and impact of crime prevention initiatives. Tracking the results of these mechanisms will generate information that can be used to determine whether investments in crime prevention are paying off, as well as allowing actors involved in crime prevention to adjust their approaches to have the most impact.

- The **NPS** should ensure that operating guidelines, accountability protocols and information security policies are developed to guide the use of new policing technologies in order to safeguard them from misuse or abuse. External review of safeguards should be undertaken by **NPSC and civil society actors** as well as local and international experts.

2. Police operational independence, accountability and civilian oversight

To be effective, impartial and accountable, the Kenyan police must be operationally autonomous. The framers of the independence constitution understood this point and sought to create an autonomous police service. Though constitutional amendments quickly removed operational autonomy and turned the police into a tool that served the country's elites.[16] While the 2010 constitution sought to remedy this by reintroducing guarantees for police operational independence, the NPS continues to act and be perceived as a police force for the governing elite. The CID, in particular, is regularly criticised for its perceived partiality in cases involving prominent or politically well-connected people.[17] So far, there continues to be insufficient political will from other official actors, such as Ministry of Interior and the National Assembly, to confront this problem.

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[13] When fully operational in 2016, the NPS will manage the system which will gather and analyse security-related data in real-time from some 1,800 CCTV and vehicle-mounted cameras as well as 7,600 police communication devices, which have face-recognition capabilities. See https://www.safaricom.co.ke/sustainabilityreport_2015/executive-summary/message-from-the-chairman/.

[14] For instance, computer-based documentation of crime reports would improve transparency in the management of cases, and therefore the possibilities for institutions, such as IPOA, the Kenya National Commission on Human Rights (KNCHR), the Director of Public Prosecutions and the courts, to hold officers to account in cases of human rights violations and corruption.

[15] A worrisome issue is the possibility of data privacy breaches that could put people's safety or lives at risk, or harm reputations.

[16] See Hills A (2007), 'Police Commissioners, Presidents and the Governance of Security', *Journal of Modern African Studies* **45** (3) and Akech M (2005), 'Public Law Values and the Politics of Criminal (In)justice: Creating a Democratic Framework for Policing in Kenya', *Oxford University Commonwealth Law Journal* **5** (2). Furthermore, the Ministry of Interior recently revealed that 11,000 out of the country's 80,000 police officers are assigned to protect so-called 'very important persons' (VIPs); see 'Raila, Kalonzo won't be spared in plans to trim VIPs' security', *East African Standard*, March 13, 2013, http://www.standardmedia.co.ke/article/2000194683/vip-bodyguards-to-be-slashed-as-nkaissery-orders-security-audit.

[17] For instance, during the 7 March 2016 by-election in Malindi County, a ruling party politician suspected of electoral malpractice was arrested and then released after a few hours. However, his opposition counterpart, accused of similar offences, was held in police custody for three days. Shortly after this incident, two senior opposition politicians, regarded as vocal critics of the ruling coalition, had some of their bodyguards withdrawn, raising suspicion that the decisions were influenced by political actors.

Furthermore, the police in Kenya has not shed its image as an unaccountable institution. Successive post-independence governments continued to use the police as a tool for political control, and it gained a reputation for committing serious human rights violations, misusing power and being corrupt. Research shows that 30 per cent of citizens have experienced some form of police misconduct or abuse.[18] Not until the tragic 2007–08 PEV, when the police killed over 400 people, was serious official attention focused on police accountability.[19]

In spite of new oversight institutions – IPOA and the NPSC – and increased awareness about human rights through training, reports from local and international human rights groups show that the police continue to act unaccountably. The underlying reason is that the NPS has continued to sustain a culture of impunity by protecting members accused of misconduct.[20] The NPS continues to be unwilling to admit that accountability is weak and needs to be addressed. In fact, just 3 per cent of 515 officers polled by IPOA indicated that corruption is detrimental to police reforms.[21]

However, there are signs that IPOA's vigorous investigative activities are bringing the message home to police officers that misconduct will be punished.[22] IPOA's success in this regard is the result of several factors. It has not suffered from credibility or integrity issues, and therefore enjoys the confidence of many Kenyans.[23] Its proactive approach to responding to complaints, and its legal suit to stop the fraudulent 2014 police recruitment exercise have also endeared it to the public, and at the same time signalled to the police that their conduct is being constantly monitored.

Apart from its policy oversight role, the NPSC was mandated to lead the vetting of all Kenya's serving police officers to determine their suitability to continue in office. By end of 2015, 1,346 senior officers had been vetted and 62 found unfit to serve.[24] However, the vetting process has focused almost exclusively on how much wealth police officers have acquired, as opposed to assessing other aspects of their records, in particularly their compliance with human rights standards. Another challenge facing the vetting process is that both official and non-state human rights organisations have not submitted human rights-related evidence to the vetting panel. The process has also been affected by low participation from the public, which should ideally play a key role in providing required information. This is due in part to fear of reprisals as well as capacity gaps in human rights documentation. Although there is no evidence to suggest that the government has interfered with the ongoing vetting process, corruption allegations levelled against specific NPSC leaders have dampened public confidence in the credibility of the vetting process.[25]

Recommendations

- **Civil society actors** should initiate a national debate that is aimed at enhancing the political will of official actors, such as the Ministry of Interior and the National Assembly, to address gaps in police operational independence. This debate must necessarily confront the concern that police have privileged the protection of the powerful and wealthy over other Kenyans.

- Promoting accountability in the NPS should start from within, and should not be left exclusively to IPOA and the NPSC. Therefore, the **Ministry of Interior** and **NPSC** need to support the NPS in its ongoing development of a functional Internal Affairs Unit. The **NPS** should put in place a mechanism for communicating unit achievements to the public to demonstrate its commitment to improving accountability.

- The **NPSC** and **IPOA** should introduce human rights compliance as a criteria for performance appraisal of individual police officers. This should be reflected in the NPSC Promotions Regulations and other policies and guidelines touching on performance appraisal.

- The police vetting process has entered a new phase in which middle to lower ranking officers will be vetted in 2016. This creates an opportunity for the civil society's **PRWG** to ensure that human rights compliance becomes a central consideration in the vetting process. This will require the PRWG to identify victims of police misconduct and work

[18] Independent Policing Oversight Authority (2015), *IPOA Performance Report, January – June 2015,* Nairobi, p 7.

[19] See *op cit* Republic of Kenya (2009)*, Police Reforms*; *op cit* Republic of Kenya (2008), *Post-Election Violence*.

[20] The culture of impunity in the NPS for serious abuses is well-documented. For example, not a single police officer has been prosecuted for the over 400 killings that were committed by the police during 2007–08 post-election violence. Nor have any officers been prosecuted for the executions and enforced disappearances of about 500 people, suspected to be members of the outlawed Mungiki sect, which according to the KNCHR were committed by police officers during the period 2005–07. In 2014, the US State Department pointed out that there continues to be "widespread impunity" for the serious abuses committed by Kenyan security officials (see US State Department (2014), "Kenya 2014 Human Rights Report", p 2, http://www.state.gov/documents/organization/236582.pdf).

[21] *Op cit* Independent Policing Oversight Authority (2013), *Baseline Survey*, p 3.

[22] From June 2012, when it was created, to June 2015, IPOA had processed some 3,246 complaints against the police (IPOA, 2015: 13). In the period June 2014 – June 2015, it forwarded 21 cases to the Director of Public Prosecutions, and indications at the time were that nine of them would be tried.

[23] *Op cit* Independent Policing Oversight Authority (2013), *Baseline Survey*, p 35.

[24] National Police Service Commission (2015), *NPSC Bulletin,* issues 1, 4.

[25] "Police Commission boss Kavaludi on EACC list", Capital FM News, March 31 2015, http://www.capitalfm.co.ke/news/2015/03/police-commission-boss-kavuludi-is-on-eacc-list/.

with them to develop well-researched dossiers on human rights violators in the NPS. Questioning police officers on their human rights compliance stands to send the message that human rights compliance is grounds for performance assessment, and possibly even sanctions such as dismissal.

- **Civil society actors** need to be sensitive to the fact that policymakers are particularly swayed by advocacy arguments that can improve decision-making on resource allocation. Therefore, future civil society research on police accountability should also seek to determine and communicate the economic costs of low levels of accountability to the government. In recent years, for instance, courts have awarded millions of shillings to 1980s political dissidents who survived state torture. Yet no study has been conducted by civil society (or other actors) on the overall cost to government of these awards. Clearly, such a study would be a powerful and practical advocacy tool for demonstrating the economic costs of police abuses.

3. Police-civilian relations

Good police-civilian relations create the conditions for effective partnerships to evolve between the police and the public, enabling both the police and the public to understand each other's roles and expectations.[26] Good relations boost confidence in the police, strengthen accountability, and demonstrate that police respect and care about people's rights and needs.

In Kenya, police-civilian relations have been poor because of the history of mistrust between the two sides, stemming from the police's historical role as a repressive institution.[27] Indeed, a 2015 opinion poll showed that a large proportion of Kenyans (29.8 per cent) did not have any trust "at all" in the police.[28] Despite the recent creation of public relations desks in some police stations, police personnel continue to be perceived as hostile towards the public, displaying a "them-versus-us" approach.[29] People fear reporting crimes because they do not believe their information will be handled confidentially, or that they will be protected from reprisals from criminals. It is for this reason that community policing efforts have been largely ineffective. This continuation of poor police-civilian relations can be partly explained by the fact that the vast majority of police officers, 98.2 per cent, are not willing to accept that police-civilian relations are problematic.[30]

The police have tended to be secretive, opposed to public scrutiny and defensive when criticised.[31] As one analyst notes, "remarkably little is known about the security sector in Kenya. There are very few studies on any of the security agencies… security work has remained the privileged and exclusive domain of state security actors who have consistently discouraged any outsider interest."[32] This trend is still evident in the NPS' reluctance to provide access to information on investigations and actions taken on complaints against the police.[33] It does not communicate with the public in ways that can help strengthen mutual trust and public support and cooperation for its work. Besides, it continues to view the public as mere crime spotters, and has not actively encouraged their participation in decision-making on security.[34] The lack of attention to public communication can be explained by the NPS' unchanged view that security issues fall exclusively in its domain. Other actors can only be involved on a need-to-know basis. Moreover, this opaqueness serves to conceal incompetence and misconduct.[35]

Recommendations

- The **Ministry of Interior** and the **NPSC** should consider introducing a long-term change management programme in the NPS to address the aspects of its institutional culture that have led to poor police-civilian relations. If it is properly

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[26] Gitau J (2014), Briefing Paper on Community Policing in Kenya: Challenges and Opportunities. Centre for Human Rights and Policy Studies, Nairobi. *Forthcoming*.

[27] *Op cit* Republic of Kenya (2009)*, Police Reforms*, p xxvi, and see report generally; the question of public trust in the police is recurring theme.

[28] Afrobarometer 2014/2015 survey of national attitudes in Kenya on democracy and governance issues, see http://www.afrobarometer.org/online-data-analysis/analyse-online (Kenya).

[29] Maina Ayiera E (2014), *Local Policing Accountability in Kenya Challenges and Opportunities for Action,* (Nairobi: Centre for Human Rights and Policy Studies & African Policing Civilian Oversight Forum), p 19.

[30] *Op cit* Independent Policing Oversight Authority (2013), *Baseline Survey*, p 36.

[31] *Op cit* Republic of Kenya (2009)*, Police Reforms*, p 251.

[32] Ruteere M (2014), 'Security and human rights in the new constitutional order in Kenya,' in *Kenya: The Struggle for a New Constitutional Order* (eds Godwin Murunga, Duncan Okello, Anders Sjogren), (London: Zed Books), p 176.

[33] The NPS has not exploited information technologies to enhance communication, service delivery and public participation in policing. Its website provides downloadable forms such as the Police Abstract, but other useful information, such as *Annual Crime Reports* or crime datasets, are not archived. Innovative use of social media by police stations to mobilise the public to participate in crime control and management is non-existent. (For example, Lanet, Nakuru County Local Administrator (Chief) Francis Kariuki uses Twitter as a crime prevention tool. His account has 53,000 followers, who receive and share updates on locally occurring crimes; see http://chiefkariuki.com/our-story).

[34] In 2014, for instance, the Inspector General directed senior police officers not to give media briefings on insecurity. The directive was eventually rescinded, but the Security Laws (Amendment) Act, passed later that year, effectively criminalised reporting on terrorism-related security operations: Section 30(f) of the Security Laws (Amendment) Act provides that publishing/broadcasting information that may "*undermine investigations or security operations relating to terrorism*" is an offence.

[35] Ruteere M (2012), "Background Paper on Police Reforms in Kenya", p 7 (unpublished).

designed, encourages NPS buy-in, and is rolled out to all levels of the NPS, such a change management programme could contribute positively to transforming police-civilian relations. Indeed, a similar change management programme was introduced in the judiciary in 2013, and it has produced encouraging results in terms of improving relations between judicial officials and their administrative counterparts, as well as their relations with members of the public.

▪ **Civil society actors** should lobby the NPS to consider developing a public communication strategy and invite stakeholders' input. The strategy should address the information needs of the public, how they will be met and the human and financial resources required for effective implementation. In the same vein, **civil society actors** should initiate a national debate on the question of security and the role actors other than police should play in it. This debate should be aimed at encouraging the police to reflect on their inward-looking view that planning and decision-making on security falls solely in their domain.

4. Personnel management and welfare

Good personnel management practice emphasises that realising optimal performance in organisations depends to a great extent on how well personnel issues and welfare needs are managed. Historically, inadequate attention has been paid to personnel management in the police, but the situation has changed over the past decade, and efforts have been accelerated from 2011 onwards.

Poor pay has negatively affected police performance.[36] In 2015, the government announced a review of police salaries, the second such review since 2011. While this is encouraging, there are glaring disparities in the proposed salary scale, which will likely require harmonisation so as not to cause disquiet among the rank and file.[37] Despite the occupational risks faced by police officers, the government only introduced a comprehensive health and life insurance scheme for all officers in 2015.[38]

A recent IPOA study revealed that 63,000 of the country's 80,000 police officers still live in poor housing.[39] However, measures are being taken to improve conditions. For instance, the government committed KSh1.3 billion (US$13 million) in the 2015–16 budget to build new housing units. Some police officers have, however, argued for the introduction of a housing allowance scheme, which would enable them to independently choose where they live. But there is concern that such a scheme would adversely affect police commanders' ability to effectively mobilise officers when needed.

The processes of recruitment, transfers and promotion continue to lack transparency and accountability. Promotions tend not to be based on merit, but on considerations such as ethnic origin and loyalty to superiors. Media have documented cases of highly qualified and well-educated officers being passed over for promotion by superiors who feel threatened by their achievements.[40] In other cases, police officers have been irregularly transferred, sometimes because of misunderstandings between them and their superiors. It should be noted that these challenges are not unique to the NPS, but are part of a broader culture of patrimonialism that has shaped the evolution of the public service in Kenya.

The police recruitment process has also failed to demonstrate that the NPS as an institution seeks to have the most competent and qualified individuals within its ranks. Key criteria for recruitment have been physical ability, with scant attention being paid to other competencies such as problem-solving ability, conflict resolution and information and communication technology (ICT) skills, which are becoming increasingly important in modern policing. The recruitment process lacks integrity and has been tarnished by well-documented incidents of external interference and canvassing.

The NPS is making efforts to mainstream gender in its processes, as required by the 2010 constitution. Gender has been mainstreamed in the Service Standing Orders, and the Kenya Association of Women in Policing (KAWP) has been set up to enable networking, information sharing and professional development support among female police officers.[41]

In 2015 the NPSC developed regulations to enhance accountability and efficiency in processes of

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[36] *Op cit* Independent Policing Oversight Authority (2013), *Baseline Survey*, p 10. According to an IPOA survey, 54.6 per cent of police officers polled reported that the significant issue affecting their performance is poor pay.

[37] Current salary review proposals provide that the lowest-ranking officers – constables, who also constitute the vast majority of personnel – will earn KSh32,880 per month ($320 per month). This is in contrast to the proposed salary of KSh274,890 ($2,740 per month) for assistant inspector generals, which will be eight times more than the salary constables will earn. It should be noted that such disparities are widespread across all government sectors; see "New pay structure for police officers", *Daily Nation*, September 13 2015, http://www.nation.co.ke/news/New-pay-structure-for-police-officers/-1056/2869122/-/oghpovz/-/index.html.

[38] Republic of Kenya (2015), *Budget Statement for the Fiscal Year 2015/2016,* (Nairobi: Government Printers), p 6. The insurance scheme will cost approximately KSh1.7 billion ($17 million) per year.

[39] IPOA February 2016 report on housing, not yet available online; see also http://www.nation.co.ke/news/Prioritise-police-housing-to-improve-security/-/1056/3087890/-/f9njl6z/-/index.html.

[40] See for instance, "Claims of bias, unclear command and poor leadership plague security service", *Daily Nation,* May 7 2015,
http://mobile.nation.co.ke/news/Police-Crisis-Security-Reforms-Investigation/-/1950946/2776402/-/format/xhtml/-/12c150n/-/index.html.

[41] Hope K R (2015), 'In pursuit of democratic policing: An analytical review and assessment of police reforms in Kenya', *International Journal of Police Science & Management*, **17** 2: 7.

recruitment, transfers and promotions.[42] However, a glaring gap in recruitment regulations is that they do not pay attention to recruitment criteria beyond physical ability. On a more positive note, the NPSC plans to enhance transparency in future recruitment exercises by involving observers drawn from civil society, religious organisations and the National Intelligence Service.

Overall, appropriate measures are being taken to address police terms of service. Field research conducted by Saferworld suggests both the police and citizens generally feel that these personnel management changes are a good start, but are yet to have the desired impact on police morale and performance.[43] The factor that has most influenced the renewed government focus on the welfare of police officers is concern about the potential for instability within the NPS that could result from mounting discontent among officers. Indeed, in recent years, there have been several media reports indicating sections of the police had threatened to take industrial action, including striking and go-slows, which are prohibited by law.[44] The ramifications of such actions on security and confidence in the economy cannot be overstated.

Recommendations

- The **Salaries Review Commission** should review proposed salary scales for police officers to address disparities, which could cause disquiet among officers.

- The **NPSC** should ensure it has in place a clear monitoring framework that specifies the types of data and data collection methods required to enable it to effectively enforce compliance in NPS with the new regulations on police recruitment, transfers and promotions. For its part, the **Ministry of Interior** should ensure that sufficient resources are allocated to the NPSC to enable it to effectively enforce these regulations.

- The **NPSC** should consider reviewing the NPSC Recruitment and Appointment Regulations 2015 to

incorporate criteria for recruitment that go beyond physical ability. This would ensure that there is an increase in the number of future recruits who have stronger competencies in areas such as problem-solving, conflict resolution and ICT skills.

- **Civil society actors** need to develop mechanisms for monitoring the implementation of recently introduced changes in personnel management and welfare in the NPS. These include developing a framework for monitoring procurement of new housing units for the police, as well as the performance of contractors. This monitoring should be done jointly with the **NPSC**.

- The question of police housing is an urgent priority that should be fast-tracked. An option could be for the **Ministry of Interior** to lead an inter-ministerial committee that brings the Ministry of Lands, the Ministry of Housing, and the National Treasury together to better coordinate this large effort, which will be planning and capital-intensive.

- In future, an option for the **Ministry of Interior** is to reconsider the policy of 'barracking' police officers. Police, unlike the military, interact with Kenyans on a daily basis. In order for them to be more responsive to the needs of citizens, they ought to live among them. This would contribute to enhanced mutual trust and respect. Evidence from studies carried out around the world demonstrate that crime levels tend to be lower in communities where police officers reside.

5. Police reforms and devolution

In spite of the introduction of county governments in the 2013 election, policing still remains a national mandate under the Constitution of Kenya 2010. The constitution states that the NPS, which includes the Kenya Police and the Administration Police, is responsible for policing in all parts of the country. County Commanders are charged with overseeing policing in each of the newly created 47 counties.

There were delays in appointing county commanders after devolution came into effect in March 2013. This gap led to a rise in insecurity as the absence of a structure for ensuring unified command of the Kenya Police and the Administration Police created confusion among them regarding their roles in the first two years of the new dispensation. County commanders have now been appointed in each of the counties, and there is improved coordination between the two institutions. Given the two institutions still have different, albeit related mandates,[45] and the idea

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[42] See, for instance, the NPSC Recruitment & Appointment Regulations – 2015; the NPSC Transfer and Deployment Regulations 2015; and the NPSC Promotions Regulations 2015, (http://npsc.go.ke). The NPSC has worked closely with civil society actors, such as International Centre for Transitional Justice – Kenya Office, to develop these regulations.

[43] Interviews conducted in 2014–15 with some 46 police officers as well as 20 civil society actors and local opinion leaders in Isiolo, Kisumu, Kwale and Nairobi (Mathare) counties. The interviews were part of Saferworld's research project on security sector reforms in Kenya and South Sudan, 'Promoting Inclusive, Accountable and Legitimate Political Settlements in Africa'.

[44] See, for instance, "Kenya: Police threaten to hold strike over pay next month", *The Star,* 25 July 2013, http://allafrica.com/stories/201307251629.html; "Kenya: Police get Sh10billion as Mandera cops go on strike over sh20 hardship allowance", *The Star*, 11 June 2015, http://allafrica.com/stories/201506120264.html.

[45] According to the National Police Service Act, the Kenya Police and Administration Police are both mandated to provide assistance to the public, maintain law, order and peace, and protect life and property. The Kenya Police are also charged with detecting, investigating and preventing crime, in addition to gathering criminal intelligence. Administration Police have additional duties of providing border patrol and border security, stock theft prevention services, protecting government installations, and carrying out conflict management and peacebuilding work.

of unified command is still in its infancy, it can be expected that some coordination challenges will likely exist for some time to come.

Currently, there are several actors – the NPS, county commissioners appointed by National Government Administration Office (NGAO) in the Ministry of Interior and Coordination of National Government, as well as county governments – who are all playing a role in security management in the counties. However, there have been delays in operationalising the County Policing Authorities (CPAs),[46] which are supposed to provide the framework for bringing these actors together to jointly manage security. This has resulted in tensions over who should be in charge of security at the county level, and dysfunction and gaps in management of security.[47]

Some counties have moved beyond legal provisions and are trying to be innovative in enhancing their roles in security management. By March 2016, a number of counties had appointed security advisers and/or developed security management plans. They include: Baringo, Isiolo, Kisumu, Kwale, Kilifi, Machakos, Mombasa, Nyeri, Pokot and Turkana counties. If well-coordinated, the work of security advisers and the frameworks offered by security management plans stand to complement the work of the NPS in counties.

Recommendations

- **Civil society actors** should advocate for the prompt establishment, operationalisation and resourcing of the CPAs. This will ensure that coordination of the work of different actors – NPS, NGAO, county governments and communities – on security management is improved. Civil society actors should also identify the needs of the CPAs once they are established and design and deliver relevant technical assistance. They should also develop mechanisms to enable the public to participate in and monitor CPAs' activities.

Conclusions

Despite achievements made over the past six years, it is clear from the evidence and analysis that there continue to be serious challenges that are impeding the smooth implementation of police reforms in Kenya.

About Saferworld

Saferworld is an independent international organisation working to prevent violent conflict and build safer lives. We work with local people affected by conflict to improve their safety and sense of security, and conduct wider research and analysis. We use this evidence and learning to improve local, national and international policies and practices that can help build lasting peace. Our priority is people – we believe that everyone should be able to lead peaceful, fulfilling lives, free from insecurity and violent conflict.

We are a not-for-profit organisation with programmes in nearly 20 countries and territories across Africa, the Middle East, Asia and Europe.

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[46] Created by the National Police Service Act, the CPAs are to be chaired by county governors. They create a mechanism for coordination between the NPS, NGAO, county governments and communities on security management. CPAs are mandated to monitor crime trends, set targets for police performance, oversight and promotion of community policing, monitor and oversee policing budgets in counties, and create structures to enable public participation in security at the county level. Their recommendations are to be transmitted to County Security Committees (chaired by NGAO County Commissioners), which are responsible for day-to-day management of security (see CHRIPS, 2014).

[47] Mkutu K et al. (2014), *Securing the Counties: Options for Security after Devolution in Kenya,* (Nairobi: Centre for Human Rights and Policy Studies), p 10.