



Independent Policing
Oversight Authority



Civilian Oversight as a Mechanism of Good Governance in Policing in Africa Conference Report

13th March 2015, Nairobi, Kenya

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Sean Tait,
Director APCOF

Acknowledgements

Sean Tait is the founder and Director of APCOF. He holds an Honours degree in Criminology from the University of Cape Town. He is the former Director of the Criminal Justice Initiative at the Open Society Foundation for South Africa, and the former Executive Director of non-governmental organisation UMAC. His areas of expertise include policing, police accountability, crime prevention, and peace building.

IPOA and APCOF wishes to acknowledge the contributions of all who made this conference possible. This noble initiative furthers the objectives of promoting civilian oversight as a mechanism of good governance in policing in Africa.

Our sincere gratitude to the speakers who put in efforts to prepare the presentations and for their lively, practical and informative discourses on police accountability. The information shared here was incredibly valuable. We also extend our gratitude to the participants from various walks of life and countries who made the conference such a great sharing and learning of experience.

The lively debates and interaction of the audience would not have been possible without the able moderating skills of Dr. Joel Mabonga, Tom Kagwe, Grace Madoka, and Njeri Onyango, who managed the proceedings very professionally.

Special thanks goes to the IPOA staff for making the conference a success.



Dr. Joel Mabonga,
CEO IPOA

Introduction

Dr. Mabonga is the CEO, IPOA, he has extensive experience in corporate management. He previously served as Director Voter Education and Partnerships at the Independent Electoral and Boundaries Commission (IEBC), Chief Examinations Manager at The Kenya Institute of Management, and as a Lecturer at Kenyatta University and Kenya Education Staff Institute (KESI). He also served the Ministry of Education Science and Technology as a Senior Education Officer, Education Officer and as a high school teacher respectively.

Policing is a vital aspect of any civilised, progressive and modern society. How police officers perform their role determines to a great extent the level social cohesion and quality of life for the citizens. Democratic policing aspires to a professional, accountable, effective and efficient police institution that is capable of providing security to citizens in a manner consistent with human rights, the rule of law and establishing an effective system of democratic regulation and oversight.

The Civilian Oversight as a Mechanism of Good Governance in Policing in Africa conference hosted by Independent Policing Oversight Authority (IPOA) in partnership with the African Policing Civilian Oversight Forum (APCOF) brought together various policing oversight agencies on the continent including policing, human rights and constitutional practitioners, scholars, policy analysts, government officials, civil society representatives and other key stakeholders in the security sector.

Speakers and delegates reflected on the progress of police oversight in Africa against the backdrop of the need to promote professionalism, principles of justice, good governance, and human rights in the work of the police.

The conference deliberated on strategies for developing a concrete framework to institutionalize police reforms in Africa; the need to initiate independent civilian policing oversight agencies in countries that do not have them; the necessity to strengthen civilian policing oversight agencies through sharing of experiences and knowledge. Lastly the conference vouched for the need to build platforms for benchmarking and networking among partners and stakeholders in the civilian oversight endeavour over police services.



Fatuma Saman, Board Member IPOA

Welcoming Remarks

Fatuma holds a BEd and is currently undertaking an Executive MA in Policy and Leadership. She has a background in women rights advocacy and has worked with national and international faith-based organisations representing interests of marginalised and minority communities. She served on the devolved government task force and helped develop the Bill of Rights and Devolution chapter. She represented Muslim women in the National Constitutional Conference. She is a member of the HR and Compensation as well as Communications and Outreach Committee. She Chairs the Inspections, Research and Monitoring Committee.

The Independent Policing Oversight Authority (IPOA) takes this opportunity to welcome you all to this Conference themed 'Civilian Oversight as a Mechanism of Good Governance in Policing in Africa'.

IPOA is a statutory Authority with a mandate to provide civilian oversight to policing services in Kenya, with Section 3 of its Act providing for its objectives including to hold the Police accountable to the public in the performance of their functions; give effect to the provisions of Article 244 of the Constitution of Kenya; and ensure independent oversight of the handling of complaints by the National Police Service.

These objectives are anchored on the Constitution that all national security organs are 'subordinate to civilian authority' (Art 239.5) and clearly articulated in Article 244 of the Constitution which requires the National Police Service to strive for the highest standards of professionalism and discipline among its members; comply with constitutional standards of human rights and fundamental freedoms and promote relationships with the broader society.

These are tenets of democratic policing which this conference intends to deliberate, enhance and strengthen, while building platforms for benchmarking and networking across Africa.

As IPOA, we appreciate APCOF, a network of African Policing practitioners from State and non-State institutions, in promoting democratic policing through strengthening civilian oversight over the work of police in Africa. Africa is a continent with an increasing interest for quality policing, based on African knowledge and sharing experiences amongst the practitioners', scholars, government officials and civil society representatives, towards promotion of professionalism, good governance and human rights.

To this end, the objectives of this Conference are:

1. Deliberate on strategies for developing a concrete framework for the institution and implementation of Police Reforms in Kenya.
2. Enhance development and independence of civilian policing oversight agencies
3. Strengthen civilian policing oversight agencies through sharing of experience and knowledge.
4. Build platforms for benchmarking and networking.

The expected outcomes of this Conference are:

- a). Enhanced strategies and frameworks towards effective and independent civilian oversight over policing work.
- b). Strengthened approaches to sharing experiences and knowledge on civilian oversight towards promotion of human rights and fundamental freedoms in the continent.
- c). Improved platforms for benchmarking, networking and learning on civilian oversights in Africa.

With these few introductory remarks, IPOA welcomes you to this Conference, hoping you will all enjoy the deliberations and make your contributions in the fields to be shared.



Dr. Monica Juma, MBS, Principal Secretary,
Ministry of Interior, Kenya

Key Note Speech

Amb. Dr. Monica Juma, is the Principal Secretary in the Ministry of Interior and Coordination of National Government. She has served as Kenya's Ambassador Extra-Ordinary and Plenipotentiary to the Republic of Ethiopia, Djibouti and Permanent Representative to the African Union, Inter-Governmental Authority on Development (IGAD) and United Nations Economic Commission for Africa (UNECA). She has served as an expert with numerous Governments and Inter-Governmental Organizations. Dr. Juma also serves on a number of international advisory boards including the Training for Peace Programme and the African Governance Institute.

The Inspector General of Police, Chair IPOA, distinguished guests, ladies and gentlemen, all protocols observed, on behalf of the Kenya government and the Ministry of Interior and Coordination of National Government, I wish to take this opportunity to welcome you all to participate in this noble conference on 'Civilian Oversight as a Mechanism of Good Governance in Policing in Africa'. It gives me great pleasure to grace this meeting that we expect will go a long way in the reform of governance institutions in Kenya and the larger African continent.

This conference which brings together different stakeholders from government, academia, civil society and other key stakeholders in the security sector accords us an opportunity to interrogate the roles of different actors in enhancing and enriching governance reforms and in particular oversight measures over security services. Policing is a vital aspect of any civilised, progressive and modern society. How police officers perform their role determines to a great extent the level social cohesion and quality of life for the citizens.

It is my hope that the sharing of knowledge, skills and experiences of different players and actors in this conference will enrich strategies that seek a paradigm shift in the governance of security sector in Kenya and other countries. It is also my hope that at the end of this conference, the meeting will provide a learning curve which will greatly improve oversight in policing in Kenya.

I wish to state that the government is committed to the implementation of police reforms as contained in the Jubilee Manifesto pillar on security: 'that the government will strengthen the new Independent Police Complaints Authority to provide independent capacity to investigate instances of corruption and harassment, with the power to suspend officers and refer cases to the Director of Public Prosecution'.

My ministry is committed to the reform programme to professionalise the police. I reckon that the government can only deliver security through an efficient police service and to this end we are

committed to ensuring an efficient police service in Kenya through capacity building, provision of necessary equipment and improved welfare of the officers. The attainment of security sector reforms will restore citizen's confidence in the police service and promote security, justice and observance of the rule of law.

I wishes to commend IPOA and APCOF for hosting this conference. With these few remarks, once again allow me to thank you all for gracing this occasion and showing a great level of interest in improving governance processes in our country and beyond. I look forward to continued working with IPOA and all the stakeholders in this and other programmes.



Prof. Etannibi Alemika, Dept of Sociology,
University of Jos, Nigeria.

Context of Police Reforms to Institutionalize Civilian Oversight and Police Accountability in Africa

Etannibi Alemika is a Professor of Criminology and Sociology of Law at the University of Jos, Nigeria. His research area includes policing, organised crime, security sector reform, conflict studies, and penal administration. He is a member of the editorial board of several international policing journals. He has also published on crime and governance extensively. Prof. Alemika has served on various security reform committees in Nigeria and is also a member of several professional associations.

Summary of the paper

Police forces in most African countries evolved from the armed forces and constabularies created during colonial rule to protect the colonizers from the colonized. Post-colonial rulers failed to effect fundamental changes in the philosophy, mandate and practices of inherited colonial police forces. Police forces maintained a culture of subordination to partisan control of the party and politicians in power, brutality, corruption and insensitivity towards the security concerns of politically and economically powerless citizens.

Oversight of the police services is necessary in a democratic society because of the wide and intrusive powers and enormous resources allocated to police. In the absence of effective oversight mechanisms, the police may abuse their powers. Civilian oversight of police service entails the supervision of the police to ensure they act within the law, use resources efficiently, and fulfill their mandates with integrity.

Police reform to institutionalise civilian oversight and police accountability will succeed only to the extent that its conceptualization, development, implementation and management are properly contextualized, taking adequate cognizance of the socio-economic and political contexts, including forces of change and resistance.

Introduction

The primary purpose of police reform is to effect changes in a country's police system. In reforming a police service, attention is generally given to one or more of the following: the legal framework; mandates; organizational structure and values; operational philosophy and priorities; training, doctrine and standards; service delivery; professionalism; integrity; oversight and accountability; remuneration and welfare; respect for the rule of law and human rights, and relationship with the public.

There is a difference between reform in the police and reform of the police. Reform in a police service focuses on remedying deficiencies in its organisational structure, capacities and weaknesses that inhibit effectiveness and integrity. However, reform of a police organisation is more fundamental and focuses on broader structural forces and organisational factors that shape its establishment, mandates, organisation, powers, operations and governance. It asks several questions such as what sort of social order does a society require and should preserve? Are organized state police and policing necessary for the preservation of the social order? What purpose should police forces serve? What forms of police organisation, power and operational philosophy are appropriate for the preservation of citizens' safety and security? How will the police be governed to ensure accountability, legitimacy, professionalism and efficiency? Who provides answers to these questions? In essence, the reform of a police service demands the interrogation of the social structure and power relations in society and requires justifications for the existence of police and state policing.

Police reform programmes are often limited to concern about changes within the police. Most do not interrogate the desirability or otherwise of the police. The existence of the police is taken for granted. This limited approach to police reform provides solutions to observed police and policing maladies that amount to treating the symptoms of police organisational pathology leaving the structural precipitants of human insecurity and dysfunctional police systems unscathed.

Police services, police officers and police powers are critical and necessary elements of contemporary, complex and dynamic societies. These three 'social facts' are intertwined. Police services are created by the law and police officers are recruited into the services and vested with powers to perform roles designated by laws and the government. The law and government therefore determine the form, composition and powers of police services and officers. However, the government and law-making are controlled by dominant groups in society who factored their interests into laws and require the police to enforce them. In democratic societies, the elite control of government and law-making is moderated by the activities of social movements, interest groups and the accountability mechanism provided by elections.

Police roles and powers reflect the political and economic structures and relations in society. The priority of the police is to protect the prevailing political and economic structure and relations as constructed and legitimized by the law and government. Robert Reiner (1993) stresses this point:

The police are the specialist carriers of the state's bedrock power: the monopoly of legitimate use of force. How and for what this is used speaks to the very heart of the condition of a political order. The danger of abuse, on behalf of particular partisan interests or the police themselves are clear and daunting¹.

1 Reiner, R. (2000) *The Politics of the Police* Oxford University Press

Policing by state agencies does not occur in a vacuum. It is determined by the relationships between the state and society and between the rulers and citizens. Therefore, police reform must transcend a diagnosis of operational performance. It should interrogate the legitimacy of police mandates and policing objectives.

Police services, officials and powers are double edged swords that depending on the context may promote security or insecurity of citizens; defend democratic or authoritarian rule; freedom or slavery. The implementation of police reform in the forms of:

...new policing philosophy, strategy and practices requires the understanding of the normative, cultural, political, social and economic contexts in which they are to be implanted. Policing in Africa is particularly intriguing because of the complex web of conflicting socio-political and economic factors. Police reform in Africa therefore requires an understanding of the interests and conflicts that may promote or inhibit the introduction, adoption and implementation of new policing philosophy and strategies².

In this presentation, we argue that police reform to institutionalise civilian oversight and police accountability will succeed only to the extent that its conceptualization, development, implementation and management are properly contextualized, taking adequate cognizance of the socio-economic and political contexts, including forces of change and resistance. The 'one-model police reform' fits all countries frequently promoted by development agencies and foreign governments and managed by foreign consultants in Africa has not recorded significant success and sustainability. This is due to failure to pay adequate attention to the relation between the government and the police, and the context of policing by state agencies in Africa. Police reform to institutionalise civilian oversight and police accountability in African countries is particularly challenging because of several historical, political, economic and organisational constraints, some of which are outlined below.

State police and policing in Africa

State police and policing evolved and continue to exist under political, economic and social conditions that constitute risks, constraints and resistance to police reform, especially in the area of governing the police through civilian oversight and police accountability. The most critical constraint is the relationship between the rulers (party and politicians in government) who control the police and the citizens who are policed.

Since the creation of colonial states in Africa in the nineteenth century by the colonizers, the relationship between the rulers and the citizens has been characterised by the repression and exploitation of the latter by the former. The instruments for the reproduction of the relationship are laws and the armed forces, especially the police. In the circumstance, the police are controlled by the rulers who resist civilian oversight through democratic channels and practices. Further,

² Etannibi Alemika 'Policing in Context', Presentation at the Workshop on Policing in Context, organized by the UK DFID, Abuja on 12th September, 2013

the police render accountability to the rulers, who are satisfied with their undemocratic policing, rather than citizens. Thus, the demands by citizens that police services should be rendered in a manner consistent with democratic policing philosophy are often ignored by the rulers and the police with impunity.

Any effort to reform the police forces in Africa should consider the following risk and inhibiting factors:

1. Continuing legacy of colonial rule during which police forces, roles and governance structure were created. Colonial police forces were established to control and coerce the colonized in the interests of the colonizers and not to serve or account to the public;
2. Encounters between the public and the colonial/apartheid police forces were more frequently characterised by hostility and violence. These encounters are embedded in the memories of citizens. Police torture and extra-judicial killings by the police reminiscent of the colonial and apartheid era are frequently re-enacted in many African countries. There are also records of violence against the police in several countries, including Nigeria and Kenya, by ethnic and religious militias and insurgents;
3. Mutations in African political, economic, social systems since the end of colonialism, including the nature of the relationship between the rulers and the ruled. Most African countries have so far failed in their nation building programmes. Instead, in their struggles to gain or retain political power and control of the economy, politicians and elites construct, activate, amplify and manipulate ethnic and religious identities to fragment and polarize the citizens, thereby precipitating crises, violent conflicts and civil wars. As a result, interaction between the police and citizens continues to be characterised by control and resistance respectively, and this undermines oversight and accountability;
4. Transition from conflict or authoritarian single-party or military rule to contentious electoral democracy from the late 1980s was shallow and in many cases aggravated old rivalries and divisions between ethnic and religious groups and regions in many countries. In the circumstance, the party and politicians in power hold on to the control of the police and armed forces as weapons against opposition, and cannot be persuaded to transform the police from regime police to people police and their operational culture from regime policing to democratic policing³;
5. Partisan control of the police by the party and politicians in power and their frequent deployment to suppress opposition coupled with ineffectiveness of the police in guaranteeing security and safety engendered the emergence of ethnic and religious militias and vigilantes in many African countries;
6. Resistance of critical sectors of the police services in Africa to the idea of accountability

3 In many countries, where there are 'long-term reigning' presidents, members of the president's ethnic group are over-represented in the armed forces, police, intelligence agencies and other law enforcement agencies, especially at the highest ranks.

to the public or citizens through democratic mechanisms instead of control by the party and politicians in power. Many national police chiefs value the benefits (financial gains and absence of effective democratic oversight and accountability) that accrue from closeness to the heads of government (presidents and prime ministers) than the confidence and support of the citizens;

7. Widespread crime and conflicts in many African countries engender demand and support for repressive policing by the public;
8. Globalisation promoted transnational crimes and prompted demands for transnational policing, all of which are serious challenges to technologically and economically underdeveloped African countries with weak state capabilities.

These enumerated constraints and other factors constitute serious challenges to police reform, especially the institutionalisation of civilian oversight and police accountability.

Oversight and accountability

Civilian oversight of police service and officials entails the supervision of the police to ensure that they act within the law, use resources efficiently, and fulfill their mandates with integrity. Police accountability is the obligation of a police service and its officials to act within the law; to explain and justify their decisions, actions, behaviours, and use resources in accordance with applicable laws and rules to designated oversight bodies and the citizens. Oversight is exercised over the police while accountability is rendered by the police, both towards ensuring that police actions are within the law, applicable rules and legitimate expectations of citizens.

The most prominent police oversight agency is the parliamentary committee of the various countries' legislatures. There are also executive bodies such as:

- Police Service Commission (PSC) in Nigeria;
- Independent Complaints Directorate created in 1997 and replaced in 2012 by the Independent Police Investigative Directorate (IPID) in South Africa;
- Police Service Commission and the Independent Police Oversight Agency (IPOA) in Kenya;
- Human rights commissions in several African countries.

The judiciary plays important oversight roles through the interpretation of the law pertaining to human rights and police actions as well as adjudication in criminal and civil cases regarding alleged police abuse of powers or violation of the rights of citizens.

Why is civilian oversight of police necessary?

An oversight of the police services and officers by an independent civilian body is necessary in a democratic society because of their wide and intrusive powers and the enormous resources allocated to them. The awesome powers of the police need to be subject to the oversight

of independent bodies such as the judiciary and non-judicial administrative audit/oversight agencies. In the absence of effective oversight mechanisms, the police may abuse their powers and become terror squads. Further, without effective oversight, the resources allocated to the police may be mismanaged. Finally, there will be limited incentive for good and civil behaviour by the police if there is no effective oversight and demand for accountability.

What conditions precipitate public demands for police accountability?

Public demands for police accountability varies over time and across societies. Strong demands tend to be made under the following conditions:

1. legitimization deficit of the government resulting in reliance on police force and violence to govern rather than consent or authority;
2. exposure of widespread and systemic corruption and violence by the police during their interaction with members of the public or identifiable subcultures (racial, ethnic, social, religious, social class, gender and age groups) in society;
3. transition from authoritarian to democratic governance and vice versa;
4. transition from conflict and civil war to national stability and peace building
5. high rates of crime, especially violent crimes, and
6. rapid socioeconomic and technological changes.

In essence, demands for police reform, civilian oversight and police accountability are often caused by crisis of confidence in the government, legal system and the police, and during instability and transition from authoritarian rule and conflict.

Requirements for effective enforcement of police accountability

The literature has identified several factors that may enhance or impede the effectiveness of civilian oversight of police and mechanisms for police accountability⁴. Some of the factors are:

1. independence, integrity, transparency and fairness of an oversight agency in its decision-making process and outcomes;
2. support from the government;
3. confidence and cooperation of the police;
4. confidence and cooperation of civil society; especially community residents and leaders, the mass media, the Bar, human rights NGOs, labour unions and professional associations, and corporate organizations;

⁴ See Joel Miller (2003) "Civilian Oversight of Policing: Lessons from the Literature" in E.E.O. Alemika and I.C. Chukwuma, eds. *Civilian Oversight and Accountability of Police in Nigeria*, Lagos: CLEEN Foundation

5. appropriate organisational structure, accessibility to the public, and adequate knowledge required by its mandate and;
6. adequate personnel and other resources commensurate with mandate

Crime, law and order politics may undermine the effectiveness of an oversight agency. High crime rates, especially violent crimes, often amplify public fear of crime, which may engender high tolerance for police misconduct (such as brutality and illegal arrests, detention and search).

Conclusion

Contemporary police forces in most African countries evolved from the armed forces and constabularies created during colonial rule to protect the colonizers from the colonized. As a result, the police forces maintained an operational culture largely characterized by subordination to partisan control of the party and politicians in power, brutality, corruption and insensitivity towards the security concerns of politically and economically powerless citizens. Post-colonial rulers failed to effect fundamental changes in the philosophy, mandate and practices of inherited colonial police forces. Instead, police forces were structured and strengthened to undertake regime policing rather than serve as effective provider of public security and personal safety services.

Effective civilian oversight of the police as well as police accountability cannot be realized in a country where the cardinal elements and pillars of democracy and good governance are absent or weak, while corruption and impunity are entrenched. It is therefore not surprising that: (a) South Africa has remilitarized its police service after initial steps towards transforming it from an apartheid force to a police service, and concurrently weaken its prosecutorial and investigation agencies; (b) Nigeria is playing merry-go round police reform game and constituted three presidential police reform committees between 2006 and 2012, without significant implementation of their recommendations, and (c) Kenya is rolling back the constitutional, legal and institutional measures aimed at professionalizing her country's police service and securing its autonomy from the grip of the politicians and party in power.

In most African countries, there has been a marginal transition from authoritarian rule to liberal democracy, although characterized by contentious electoral politics. The demand for the establishment of civilian oversight and police accountability mechanisms has been made in several countries as a step towards deepening democracy and strengthening the protection of human rights and the supremacy of the rule of law. Some countries have responded to the demand by enacting laws and creating agencies for police oversight and accountability. In majority of the cases, these developments have not improved police professionalism, performance and integrity, partly because of failure to contextualize the reforms that were mostly sponsored by foreign development partners, and lack of political will by the government to release its control over the police force that it uses for partisan interests and repression of opposition.



Macharia Njeru,
Chair IPOA

Comparative Lessons: IPOA's Milestones, Challenges and Opportunities

Macharia is Chairman of the Independent Policing Oversight Authority. He is an advocate of the High Court of Kenya and has practiced law for the past 22 years specialising in corporate, banking and property law. He is the founding managing partner of Macharia-Mwangi & Njeru Advocates. In 2009 he was appointed a member of the National Task Force on Police Reforms (Ransley Team) that developed the programme for police reforms in Kenya and subsequently sat in the Police Reforms Implementation Committee (PRIC). As a member of this committee, he led drafting of policing related legislation that was later enacted into law. He has studied policing practices including experiential visits in the UK and Northern Ireland, Sweden, Botswana and South Africa and has attended a course on police accountability at the Centre for Human Rights, University of Pretoria.

Summary of the presentation

Kenya has had challenges in policing since independence, despite having had robust Constitution and institutions. The interference in policing for furthering partisan interests ended up having the Kenya police services becoming an appendage of the executive and the political class.

The turning point for Kenya was the post-election violence of 2007/08. The post-election crisis brought into sharp focus the urgent need to fundamentally review the entire fabric of governance in Kenya as it relates to security, human rights and the rule of law. The Independent Policing Oversight Authority Act, No. 35 of 2011 established IPOA to provide civilian oversight over the work of the Police. This is to enable the police service strive for the highest standards of professionalism and discipline; prevent corruption; promote and practice transparency and accountability.

Through IPOA investigations, errant police officers have been charged in courts and for others, disciplinary measures are being taken. IPOA ensured a flawed police recruitment drive was nullified in 2014. IPOA has also made various policy recommendations on police operations and the need to improve welfare of officers, police premises and detention facilities. Where culpability is lacking IPOA has been steadfast in absolving police officers and rewarding good cops through the Outstanding Police Service Awards (OPSA) in recognition of excellent police officers.

Opportunities for IPOA exists in the robust legal framework that protects and gives IPOA sufficient safeguards and independence; a cohesive Board; robust Judiciary and democratic Institutions; constant engagement with the Executive, parliament and the National Police Service; impartiality amidst interests; and generous support from strategic development partners and

donors have enabled IPOA achieve its milestones.

However, the Authority faces challenges of funding; inadequate staffing; challenges of compliance by police to statutory obligations; members of the public and a corrupt society; balancing act of competing interests among others.

Historical Context

Kenya has had its fair share of challenges in policing. There has been so much interference with the police in Kenya right from the independence. Our initial Constitution had very robust institutions that by and large protected the police service. There was a National Police Service and a fairly independent Inspector General. But the political class realized it was not in their interest to have a very robust police agency and begun dismantling these institutions. These challenges are well documented and the police service ended up devoid of procedure and purpose thereby becoming an appendage of the executive and the political class.

The turning point for Kenya was the post-election violence of 2007/08. The police were accused of being partisan, the whole country was divided and the police are just but a reflection of the society. It was then agreed that there was need to effect fundamental changes within Kenya's policing structures. Agenda 4 of the Kenya National Dialogue and Reconciliation led by the biggest political players recommended the need for a taskforce to look at the challenges and come up with comprehensive reforms of the police force. The National Task Force on Police Reforms led by Philip Ransley in which I served as a member went around and took views practically from all parts of the country. We also visited various jurisdictions, the UK, Sweden, Botswana and also had experts seconded from international agencies. From these we came up with comprehensive reform recommendations guiding police reforms in Kenya.

Out of the reforms recommendations, a number of the institutions created were IPOA, National Police Service Commission and the National Police Service with the Inspector General of police envisaged to be totally independent. We started off as the Board. We took it upon ourselves to have these experiences; the visit to Pretoria; and also sitting down with experts. Development partners were very helpful in fast-tracking the setting up of IPOA. We have been in office now for approximately 2years and 8months, a lot has happened in between.

The major challenge we faced was setting up IPOA as an institution. We had the advantage of the Independent Police Policing Oversight Act No. 35 of 2011 having sufficient safeguards unlike the challenge South Africa has had where the Chief Executive Officer (CEO) of our sister organization equivalent being suspended. Our CEO is not recruited by the Ministry but by the Board. The Ministry has absolutely no responsibility at all when it comes to recruitment and the setting up of IPOA.

Setting up IPOA Infrastructure

Once given the law and sworn in as IPOA Board, we were literally left on our own to chart

out the course for IPOA. This was good and bad at the same time. For instance, when it came to procurement of office building or even equipment, there are government procurement regulations requiring that you must have staff who are separate from the board to be able to do this. For the board to recruit staff, we needed a tender committee. This became in itself a challenge which could easily derail operationalization of IPOA. We also realized that many organizations that had been set up through legislations were taking up to between 2-to-5 years to start up their journey or even have a basic office. We realized that we did not have the luxury of time. To go round this, we had to negotiate with our development partners to be able to set up office structure as quickly as possible. We came up with an ingenious way of doing things and we managed.

Another process was getting staff - which is also an elaborate process. Putting up the policies and regulations required a very painstaking process and at the same time, we were not getting any assistance from the government. At this time, the government had already passed its budget and we had to do a lot of negotiations with the Treasury to get funding. Moreover, at this time, funding for IPOA was being created as part of a department of the Ministry. We resisted since this was not envisaged under the law and it would put IPOA in a difficult situation as far as its independence is concerned. We negotiated with the Treasury and were given a separate vote and thus our funding comes directly from the Treasury and not as part of the Ministry.

Setting up policies and regulations was a very painstaking process. We had the advantage of getting able consultants in setting up some of these processes, funded by our development partners. The US and Swedish governments helped us a great deal in fast-tracking the putting up of policies and regulations.

Then there came the challenge of putting up the investigations department. As an organization that was responsible for investigating the police, recruiting police and former police officers as part of IPOA was not going to be easy. Getting fresh people and having them trained was also a challenge. APCOF was helpful in the trainings. The US government was also very helpful, we got officers from the Federal Bureau of Investigations (FBI) to train our investigators. This helped in putting up the investigations department. The ingenuity on the part of the Board has been very helpful in coming up with the processes of filling up the gaps and challenges.

When we had just come on board, there was publicity of a high ranking extra-judicial killing. There was investigation work that needed to be done in a matter that involved a cleric killed in Mombasa amid a lot of challenges. There was pressure that IPOA had come on board, it should investigate the killing, yet we did not have capacity. Some of the board members had to go out to the field to help undertake investigations. Notably, this was derailing our efforts in trying to set up the institution.

Looking back at all these experiences and challenges that IPOA continues facing time and again, I want to relate that with the IPOA Act, 2011 that governs our processes. IPOA has powers to investigate complaints from the police against police, members of the public against the

police; we monitor police operations; we monitor, investigate and have oversight over the work of the Internal Affairs Unit (directly answerable to Inspector General). We monitor and audit their investigations and have powers to take over their cases whenever there is undue delay or unreasonableness in the way they conduct their investigations; we inspect detention facilities and police premises. The powers are quite vast, including power to requisition documents; powers to summon any witness and to give recommendations to the Director of Public Prosecutions. However the ultimate decision to charge is under the discretion of the Director of Public Prosecution (DPP). Under our law, our recommendations to the police enjoins the Inspector General of Police to act on the recommendations and when he is unable, he must furnish IPOA with the reasons as to why.

IPOA's Milestones

IPOA has carried out various investigations and forwarded files to the Office of the Director of Public Prosecution (ODPP) for prosecution. So far, no investigation file has ever been returned. We have never had an instance where the DPP has disagreed with our recommendations and to this extent, some police officers have been charged and others are in the process of being charged. There have also been many instances where we have found out that police are not culpable and we recommend the need not to proceed with further actions in those respects. We have also carried out monitoring of actual police operations, two particular ones; Nairobi's Eastleigh's 'Usalama Watch Report' and 'Mpeketoni Attack', where it was not mainly on the issue of prosecution, but giving recommendations regarding police operations. There have been subsequent correspondence between IPOA and the police in so far as implementing the recommendations of these operations.

For an organization of our nature, we have realized that we give recommendations that may make some people happy but at the same time make others very unhappy. Pressure also starts against the organization because we probably said too much, or what we said does not augur well or we should go slow and not move too fast. These issues will keep on arising.

Opportunities for IPOA

Leadership

Leadership in an organization has to stand firm. This is something that is not much talked about. It is very critical that first and foremost, you have a very cohesive Board managing the institution. If you don't have a firm and well gelled team, there would be problems. If the board is divided and unable to move together, it becomes difficult to deal with some of these challenges. IPOA has stood together, sometimes amidst immense pressures.

Impartiality amidst Interests

We realized that amidst competing interests, not only in Kenya but in other African countries as well, police is the most interfered with institution everywhere. Everyone wants to have a bit of

control over the police - be it the executive, the political class, business people, senior police officers and even criminals want to have a sway in the police services. A lot of the time, it is not for the right reasons, but as an instrument for furthering partisan interests. Rarely will you find people wanting to exercise control over the police for the right reasons. As IPOA, we have been consistent that the only thing amongst the competing interests is public interest and the greater public good. Regardless of where the pressure comes from, IPOA has been very clear that it will never be part of anybody's agenda, neither will it also have a private agenda other than police oversight in the public interest.

To show that it is easy to be misunderstood, there was a police recruitment drive last year where we were clear that the process was not right and very corrupt. Our position is that if you want to change the police service and have a credible institution, then the process has to be right from the start. There was a lot of pressure, but as an institution that should help in professionalizing the NPS, we objected to the manner in which the recruitment drive had been conducted. We ended up in the courts as an Authority and the High Court concurred. These are some of the challenges that institutions like IPOA go through.

Robust Legal Framework

I would like to state that were it not for the robust legal framework that protect and gives IPOA independence, probably we would be out of office by now. We believe the country and parliament is with us. If you read the dailies this morning, we are one of the few institutions that have been given additional funding by parliament. That tells you everybody understands there is need for IPOA.

In addition, a significant amount of complaints to IPOA on behalf of the public is from members of parliament (MPs). They are some of the biggest visitors to our offices.

Constant Engagement with the Executive and the National Police Service

One area for IPOA to leverage on is ensuring constant engagements with the executive. The executive is everybody, including the National Intelligence Service. IPOA is a very transparent institution in everything it does. Moreover, IPOA regularly sits down and regularly engages the National Police Service (NPS) in endeavour to enable them understand who IPOA is, its mandate and the need to collaboratively achieve on the oversight mandate. We held a very successful Outstanding Police Service Awards (OPSA) yesterday in recognition of excellent police officers. We had many parameters to determine good police officers; human rights, going an extra mile beyond the call of duty and IPOA had managed to get views from the public regarding excellent police officers. The NPS, NPSC and the Ministry of Interior were strongly represented. As stakeholders, we were in consensus that this be cascaded down to the Counties and made an annual event. This is part of bringing all agencies in policing to work together and rewarding excellent police officers.

Robust Judiciary and Democratic Institutions

Fortunately for IPOA unlike other African countries, we have very robust democratic institutions. It is very difficult in Kenya today for anyone however powerful to have their way. We also have a very robust and independent judiciary and IPOA is a direct beneficiary of this independence.

Challenges to IPOA's Oversight Work

Funding

Funding is a very critical component that will ensure the success of an organization like IPOA. However, even if IPOA were to get funding from development partners, it would not be in the interest of the organization for our development partners to fund for instance investigations. IPOA Act has a policy that operational work or actual investigations have to be funded directly by the Kenyan tax payers' funds to avoid room for accusations from any quarters that probably we are being influenced by other parties in terms of our work. IPOA is obligated to receive funding from development partners for capacity building. A new organization like IPOA needs not only funding for actual operations, but also financing to expand the facility and services. IPOA is at the moment only in Nairobi and people from the country-side have to keep traveling from very far to access our services. There is need to set up regional offices because our law enjoins us to be accessible. This requires a lot of resources and therefore is a big challenge.

Employing Staff

There is the urgent need to employ more staff because IPOA receives complaints running into thousands. IPOA need funds to employ investigators and train them. Inadequate funding does affect institutions like IPOA. For example, we started off with about 150 million Kenya Shillings then progressed to 246 million then to 205 million. We have had instances where cases are reported and we needed to deploy investigators urgently since our work is field-based, but lack of funds hamper quick deployment of staff. By the time we deploy about a week or two later, the evidence is already contaminated or interfered with. This is a major challenge in our endeavour to convince the executive or parliament to understand the need for funding in order to deal with impunity within the national police service. Being a new organization, it is a journey we have to walk. People realize the importance of an institution as you move along.

Compliance by police

Another challenge is that the police do not understand IPOA's mandate. Oversight is something that is disliked the world over. Nobody wants to be oversighted including corporate organizations. When it comes to the police, there is a tendency for them to feel as though outsiders are stepping in to impede on their work. They would question why a civilian (IPOA) for example would question them when they kill a suspect causing problems to members of the society. But slowly the police are realizing we don't impede on their work but are facilitators in working with them. Our law demands that within 24 hours, the police must furnish IPOA with details of

any killings or serious injury of a member of the public. However, this need to comply has been problematic with the police.

Members of the Public

Members of the public have in the past encouraged police to deal with (kill) suspects when they are under attack from criminal gangs. We have had a case where a suspect was arrested and charged, but members of the public would demonstrate out there that whereas the police may have killed, the bigger picture is that he was protecting them. In these circumstances, IPOA has to abide by the law regardless. IPOA is not influenced by emotions and other factors outside of the law. Sometimes the public does not understand this. Sometimes, this makes accountability harder. We do understand where the public is coming from, especially when they are under attacks from criminal gangs.

Balancing Interests

IPOA has to do a lot of balancing act of various interests. Oversight cannot work in a day, it's a journey requiring wisdom to balance interests in making everybody understand the need to do the right thing. Sometimes the pressures would come from the government whenever there are challenges in the country. IPOA recognizes that it is part and parcel of the government. The public would point fingers at the government whenever there are insecurity challenges. IPOA acknowledges that it cannot operate effectively without the support of the executive, even if it had all the independence. To this end IPOA has done fairly well in terms of engaging the executive because the executive, parliament, judiciary and the public agrees that oversight and accountability over the police is in everybody's interest. Sometime back, there had been talk that the Cabinet Secretary for Interior intended to bring legislation to clip the wings of IPOA. This is no longer on the table.

Police Leadership

Whenever police are inefficient and unable to do their work, they look for excuses. For the last 7 years of my work in police reforms, I have seen 4 different leadership of the police and 4 Ministers in charge of policing, all with different leadership management styles. At some point in time, when there was widespread insecurity in Kenya and police were unable to do their work, they would use the guise of IPOA as impeding on their work, which was untrue. They alleged that the Special Crimes Preventions Unit for instance feared IPOA more than the criminals/terrorists. The problem is also that they would make such assertions in some high offices, where IPOA would not have the opportunity to defend itself. IPOA recognizes that without the cooperation of members of the national police service, oversight over police becomes a tall order.

Conclusion

In spite of all the challenges, change is coming. Police is one of the most condemned institutions and for good reasons. If you look at where we were a few years or months back, the levels of

complaints is going down. There is indeed some improvements. The police are changing albeit slowly. We also have a society that encourages corruption, which is violent against members of the police service and accuse the police too much, yet it is part and parcel of the problem. We are a society with its own challenges, and sometimes the police is a reflection of this society.

IPOA is optimistic that we are on the right track. Oversight work is challenging and is never going to be an easy journey. Our greatest opportunity is to get back public confidence in policing in Kenya.



Thomas Tshabalala
Former Provincial Head, IPID

The South African Independent Police Investigative Directorate (IPID): Milestones, Challenges and Opportunities

Tommy Tshabalala is an advocate, trained at the University of Johannesburg. He has extensive work experience on issues surrounding law. He headed the investigations at the Independent Complaints Directorate (ICD) and later worked as a Provincial Head at the Independent Police Investigative Directorate (IPID). He is currently serving at the Society for Advocates in Johannesburg.

Summary of the paper

The imperative for police oversight in South Africa was necessitated by the history of Apartheid experiences before the advent of democracy in 1994. Oversight was necessitated by need to provide independent and impartial investigation of criminal offenses allegedly committed by members of the police services. South African oversight has evolved over time from the Independent Complaints Directorate (ICD) to the Independent Police Investigative Directorate (IPID) from a mandates point of view.

IPID has been able to execute its mandate by relying on the cooperation of other key stakeholders including the police. For instance, IPID shares the same forensic lab with the South African Police services without compromising its investigations. IPID mandate recognises that it does not take away the constitutional obligation of the police to investigate any crime or misconduct by their own member. Members of IPID are on a 24 hour standby basis, for quick response to the scene of police shootings.

Opportunities for IPID resides in the independence and impartiality provided by the Independent Police Investigative Directorate Act, 2011; support from various stakeholders like parliament in terms of IPID Act and funding, civil society in terms of training and development support in terms of improved levels of cooperation. IPID budget has grown from \$1,8million in 1997 - \$18,5million in 2014/15; and staff complement: 10 in 1997 – 330 in 2014/15.

IPID faces challenges of finalisation of caseloads; geographical reach and vastness of South Africa; recruitment of experienced investigators; improving accessibility of IPID offices; capacitating and empowering the general public about the mandate of IPID and challenges of cooperation

with stakeholders especially the South African Police Service/Municipal Police Services.

South African Police Service's Reform Agenda

As you know in 1994 when the advent of democracy started in South Africa we had eleven different police agencies which were then amalgamated into a single South African Police Services (SAPs). One of the priority issues after the amalgamation was given to addressing race and gender imbalances in the South African police services; and to ensure there was uniformity and professionalisation of the service. The most important thing was the need for policing accountability which was foreign with respect to the rights of all citizens.

In the late 1990's, after the establishment of various oversight organizations, including Independent Complaints Directorate (ICD), the country also experienced high levels of violent crimes and this placed police reform agenda under pressure. At that point in time, human rights was something new and at the same time there were competing interests. On the one hand, members of the public expected to be protected from violent crimes which meant the police in some cases were seen to be high-handed, but on the other hand you had human rights activists demanding policing within human rights ethic culture. Tension developed between a rights-based approach to public safety and public fears and insecurity which South Africa had to deal with.

Accountability Structures

Effective policing oversight takes place on three levels: civil society, internal oversight and external – government initiated:

The role of civil society in promoting policing accountability cannot be underestimated. South Africa obviously was not unique. We had a very robust civil society organizations; activists who contributed immensely in terms of police reforms. That is why today we have an African policing Civilian Oversight Forum, an organization that is relevant today. I am happy that it is also contributing to one of its objective to ensure for instance, IPOA finds its feet.

The Internal oversight within the police organization- You had the police themselves investigating infractions of their members. That is one very key aspect within the police. Without Internal mechanisms being strong, an external forum like ICD/IPID will not be able to succeed in ensuring the police acts within a human rights ethic. You needed that kind of willingness within police organization and police management to ensure if any complaints are made, the police themselves are able to conduct investigations and report back in terms of outcomes.

In terms of external mechanisms, we have had government initiated external oversight mechanisms such as the ICD/IPID. We also had the Secretariat for Police, which was responsible for policy and advising the Minister on policing in general. We also had Chapter 9 institutions. South Africa police is one of those institutions with so many eyes scrutinizing the police for the right reasons, given the Apartheid experiences before 1994.

The role of parliament in holding various state institutions accountable. The role of parliament is one huge oversight responsibility. Parliament support ensured we got IPID and that there was new legislation speaking to independent policing investigative directorate. Parliament also ensured very importantly we got to account for what we had done with the money allocated from tax payers.

Constitutional Mandate

The Constitutional mandate of oversight is derived from Section 206(6) of the Constitution of the Republic of South Africa, makes provision for the establishment of an independent police complaints body and stipulates that: "On receipt of a complaint lodged by a provincial executive, an independent police complaints body established by national legislation must investigate any alleged misconduct of, or offence committed by, a member of the police services in the province".

Legislative Mandate

Based on this, Independent Complaints Directorate was established. The original mandate is derived from: Chapter 10 of the South African Police Act, 1995 (Act 68 of 1995) Section 53(2) stipulates that the ICD:

- May *mero motu* or upon receipt of a complaint, investigate any misconduct or offence allegedly committed by a member, and may where appropriate, refer such investigation to the commissioner concerned.
- Shall *mero motu* or upon receipt of a complaint, investigate any death in police custody or as a result of police action.
- May investigate any matter referred to the ICD by the minister or member of the executive council (MEC).

One of the challenges with the mandate is that it was very broad in terms of complaints in general. From the public complaints point of view, it was wide to the extent that ICD would receive complaints relating to TV licences for instance. It was sort of confusing to the public but also to us in terms of some of our stakeholders responsible for policing oversight. For instance, the Secretariat for Safety and Security. We would have turf wars as we would investigate some complaints and at the same time, the secretariat would report it as their area of mandate.

These were some of the things that necessitated the move from Chapter 10 to establish IPID on a separate legislation. On the same breadth, the Secretariat is now independent with an independent legislation.

Objects of the Act

Section 2 of the Independent Police Investigative Directorate Act sets out that the objects of the Act are to:

- Give effect to the provision of section 206(6) of the Constitution establishing and assigning functions to the Directorate on national and provincial level. Bigger Metros like Johannesburg, Pretoria, Eastern and Western Cape where the Municipal Police Services are responsible for policing and policing of by-laws. Because of undertaking policing functions, Municipal Police Services are subjected to oversight by IPID.
- Ensure independent oversight of the South African Police Service and Municipal Police Services. Section 28 sets specific offences IPID must investigate.
- Provide for independent and impartial investigation of identified criminal offences allegedly committed by members of the South African Police Service and Municipal Police Services. There is need for impartial investigations not only by the public, but by other stakeholders. In 1997, one of the challenges ICD used to face is that it was seen to be out to find fault at the police.
- Make disciplinary recommendations in respect of members of the South African Police Service and Municipal Police Services resulting from investigations conducted by the Directorate;
- Enhance accountability and transparency by the South African Police Service and Municipal Police Services in accordance with the principles of the Constitution. You know the police is one organization that is a closed book generally. Without the kind of power IPID has, it was hard to ask for information and be given by the police. The only time you could successfully do that was when some kind of lawsuit was brought against the police and very few people could afford this.

Independence and Impartiality

Section 4 of IPID Act provides that the Directorate functions independently from the South African Police Service – this provision should be interpreted as including Municipal Police Service; and each organ of state must assist the Directorate to maintain its impartiality and to perform its functions effectively:

In as much as there might not be complete independence, it is important that you should be seen to be independent. IPID gets its budget directly from parliament. Since IPID's establishment in 1997 to date, we are assured not to have a situation where the budget is going to be limited. The issue of independence becomes very critical in policing oversight.

The Directorate will from time to time rely on cooperation of other key stakeholders including the police to execute on its mandate. Although there is provision in the Act that each organ of the state must assist IPID in the performance of its duty, it does not mean dependence with regards to compromise. For instance, you would understand that especially now IPOA is involved in investigations, there is no way it would do investigations completely without forensic or firearm analysis. To run a forensic facility institution is huge millions. Instead of having to

establish a separate forensic lab, IPID uses the same laboratory with the South African Police Services. For the number of years I have been at IPID, there has never been a situation where our investigations have been compromised because of the forensic lab location within the police services.

Mandate of IPID

The core mandate of Independent Police Investigative Directorate is contained in Section 28 of the Act and include provisions to investigate:

- any deaths in police custody. Police have an obligation to report to IPID. IPID has to commence investigations immediately and depending on the outcome, it either makes recommendation for the particular member of the police to be prosecuted or disciplinary action be taken.
- deaths as a result of police actions. Any complaint relating to the discharge of an official firearm by any police officer;
- rape by a police officer, whether the police officer is on or off duty. A number of case cases reported against members of the South African police services (refer to IPID website).
- rape of any person while that person is in police custody;
- any complaint of torture or assault against a police officer in the execution of their duties. Only complaints where the police involved are on duty are investigated by IPID. Although IPID is given the mandate to do investigations, this does not take away the constitutional obligation of the police to investigate any crime or misconduct of any of their members.
- corruption matters within the police initiated by the Executive Director on his or her own, or after the receipt of a complaint from a member of the public, or referred to the Directorate by the Minister, an MEC or the Secretary, as the case may be; and
- any other matter referred to it as a result of a decision by the Executive Director, or if so requested by the Minister, an MEC or the Secretary as the case may be, in the prescribed manner.

The aforesaid provisions are all obligatory in nature, save for the investigation of matters relating to systemic corruption involving the police which the Directorate has discretionary powers.

Reporting Obligations and Cooperation

The Act places obligations on the Station Commander, or any member of the South African Police Service or Municipal Police Service to:

- (a) immediately after becoming aware, notify the Directorate of any matters referred to in section 28(1) (a) to (f); and

(b) within 24 hours thereafter, submit a written report to the Independent Policing Investigations Directorate in the prescribed form and manner of any matter as contemplated in the preceding paragraph. A notification must be relayed through the telephone once the station commander or a member of the police becomes aware of the commission of such offences. This has to be followed up by a written report. This ensures that IPID is then in a position to attend to the alleged crimes committed. Members of IPID are on a 24 hour standby basis, for quick response to the scene of police shootings etc. to initiate investigations.

The Rationale for Reporting

The extension of the IPID's mandate to investigate discharges of official firearms is to provide independent oversight mechanism to the existing internal mechanism. The investigation will only be triggered by a complaint. IPID mandate is not intended to replace the police management's obligations to conduct internal investigations. Although IPID is given the mandate to conduct investigations, it does not take away the constitutional obligation of the police to investigate any crime or misconduct by their own member. The SAPS/MPS investigation serves two purpose – administrative and to an extent, compliance with rules and regulations.

Effect of IPID Act

Cooperation by SAPS and Municipal Police Service. The members of the SAPS or MPS must provide their full cooperation to the Directorate, including but not limited to -

- the arrangement of an identification parade within 48 hours of the request made by the Directorate;
- the availability of members for the taking of an affidavit or an affirmed declaration or to give evidence or produce any document in that member's possession or under his or her control which has a bearing on the matter being investigated; and
- any other information or documentation required for investigation purposes.

Should police fail to comply with their reporting obligations for instance, it is a criminal offence.

Highlights 1997 - 2015

This dates back to 1997 when IPID was started to date. I have talked about support from various stakeholders:

- Parliament – new IPID Act is a perfect example of parliament support to IPID given the fact that the Chapter 10 of South African Police Services Act was limited in terms of nature and was also very wide. It is also easier should the need to make amendments to the particular Act arise, you do not have to rely on the South Africa police services'.
- Civil society – training and development support. IPID continues to receive training

support from APCOF and other civil society organizations.

- Police- improved levels of cooperation. When I joined IPID in 1999, the levels of police cooperation at that point in time was very low. In fact, we would go to crime scenes and the police would simply move away and leave us to our own devices. They knew our experience was lacking and so we would be very frustrated. As the years went by, the improvements set in as we started engaging with the police. They began to understand we were not out for witch-hunt but to ensure impartial investigations of the police. We have shown this impartiality by one, when we establish lack of wrong-doing in the investigations, we report it. This is important because once investigations are opened against a member of the police services, it closes their opportunities in terms of upward mobility until such time that the investigation has been completed. The police officer cannot be promoted. It is thus important that the investigations are completed impartially and expeditiously.

Key highlights of IPID growth

- Budget: \$1,8million in 1997 - \$18,5million in 2014/15
- Staff complement: 10 in 1997 – 330 in 2014/15
- Investigation output
- Improved reporting mechanisms of complaints received

Challenges

- Finalisation of case load.
- Recruitment of experienced investigators.
- Improving accessibility of the IPID offices.
- Capacitating and empowering the general public about the mandate of IPID.
- Cooperation with stakeholders especially the SAPS/MPS.
- Vastness of South Africa.

Conclusion

- Police enjoy support from the general public. Lead-South Africa recently called for contributions towards the widows and orphans fund.
- Reward a cop, report a cop campaign by ISS. This is a drive to promote police professionalism.
- Police should reciprocate this support. One way is to be open and transparent; improve delivery of service; and act decisively against those that tarnish their image.



Ms. Amina Bouayach - Secretary General
FIDH Morocco

Prospects for Police Oversight in North Africa

Amina Bouayach has initiated several actions for the protection and promotion of human rights including safeguarding the rights of Moroccan Muslim and Jewish women and a platform for citizen observation of the legislative 2011 elections. In 2009, she coordinated the Group of NGOs in human rights for a national campaign for the ratification of the international convention against enforced disappearances. In 2010, she coordinated a national group of twenty Moroccan NGOs to demand ratification of the Protocol to the convention against torture and published a document of reference for the establishment of the national machinery for prevention against torture (MNP). She is very active in the regional group for the reform of the League.

Summary of the paper

Civilian Oversight as mechanism of good governance is a new concept in North Africa. In Morocco, openness of police to the public and civil society has been lacking. The transformation process begun from 2005 and Moroccan NGOs have had legitimate reflections on the need to track measures in implementing the concept of security governance. Civil society organizations have documented and reported on human rights violations.

The concept of governance is now regularly used and discussed publicly after the pronouncement of the 'new concept of authority' by the state of Morocco and also in the work of the Equality and Reconciliation Commission (IER).

The recommendations of EIR have not only been concerned with constitutional reforms, but also the criminal code, the responsibility of the legislature, and the executive. Thus, non-governmental organizations begun public debates with officials from various departments in charge of security to develop sets of rules of good governance.

Moroccan NGOs have managed in a way to open up the police service and raise issues in the public domain. The public debates on changes on operational rules and intervention of the police for security guarantee have had the impact in terms of breaking the silence on violations and malpractices of the security forces.

For police oversight to gain currency in the Moroccan context, there is need for consolidation of political will for change.

Introduction

I would like to express my happiness to be in Nairobi and thank IPOA and APCOF for their

invitation that allows me to share with you the process of Morocco with regard to security governance.

The objectives of this conference, ambitious but real, is to challenge us as human rights' activists to reflect on the possibilities of setting up such a mechanism. To this end, some fundamental questions arise;

- a) What relationship exists between the police and the public?
- b) Are police authorities open to other stakeholders?
- c) Is there a will to develop a democratic and transparent approach in the day-to-day management of the police?

If these questions could be shared with the various actors in the African continent, the responses will be necessarily diverse and different, taking into account the will and the approach of each country and its players.

The concept of governance in Morocco

In Morocco, the concept of governance is regularly used and discussed publicly after the announcement "of the" new concept of authority" by the state of Morocco and in the work of the Equality and Reconciliation Commission (IER) (Truth Commission) and its recommendations thereon.

The (IER) presented eight recommendations on security governance; those relating to political responsibility, legislative, administrative, operating procedures, capacity building and accountability, among others. Thus from the year 2005, Moroccan NGOs had a legitimate political and conceptual framework to initiate reflections on adequate tracking measures to implement the concept of security governance.

Recommendations of the IER

The recommendations were not only concerned with constitutional reforms, but also the criminal code, to the responsibility of the legislature, to the responsibility of the executive. Thus, non-governmental organizations begun public debates with officials from various departments in charge of security to develop sets of rules of good practice.

The organized debates had the following conclusions:

- i). Implementation of capacity building programs in partnership with the National Council for Human Rights and the Interior Ministry relating to human rights, with several Moroccan NGOs participating in seminars or workshops;
- ii). Adoption of new rules of intervention of security services at public gatherings or demonstrations;

- iii). Integration of the recommendations of the IER in the new constitution of 2011;
- iv) The creation of a higher council for security governance, which is composed of different services, the parliament and the executive;
- v). The right of parliament to question heads of public services in cases of violations of human rights especially those relating to the right to life and physical integrity;
- vi). Strengthening the accountability in the criminal code reform text that is being developed.

Lessons learnt from the actions

Currently, lessons learnt from the actions are frequently debated between several leading organs responsible for security in Morocco and the NGO's. It is a process that has seen several responsive steps mostly positive and which have demanded an effort to build relationship of trust, but one which stands around the problems and questions that fall under the management of public services, cases or specific events.

The development of exchange between the security organs and NGOs can only take place if certain issues have been resolved like:

1. Conceptual clarification: (conceptual clarity) on the difficulties and challenges on democratic transitions, failure of management of a fact or situation which could influence the implementation process of the new rules, and the intervention of security services (organs) , which are undergoing a new learning phase.

This phase allowed the participation of security services in public debates and they became increasingly effective.

2. Consolidation of political will for change: based on democracy and human rights, which is not linear and constant but may experience hesitation and dysfunction phases, but the key is to strengthen the foundation of no turning back.
3. The operational capacity: it is necessary to strengthen the operational capacity of members of the security services who will change their behaviour in peacekeeping operations or tense situations and absorb new rules and methods of interventions which guarantee fundamental freedom.

Civilian oversight as a mechanism of good governance

Civilian Oversight as mechanism of good governance is a new approach in North Africa, which uses other voices in the implementation of security governance by NGO's. It was important in the course of several years to build trust between the security services on one hand and the public on the other. Everyone was confined to his/her camp and opposed to the other.

NGOs have managed through this process to open the police service and raise issues or cases in a public manner. The public debates on changes on operational rules and intervention of the

police for security guarantee has had impact in terms of breaking the silence on violations and malfunction (maltreatment).

This debate has consolidated the process of policing oversight since the 2011 constitutional reforms: It has provided:

- a). Parliamentary scrutiny of the actions of public services and public hearings to this effect;
- b). The formation of a parliamentary commission of Inquiry of facts
- c). The fight against impunity. The judges have the role of protecting the freedom and security of individuals and groups and the criminalization of any act of torture, inhuman treatment, and degradation.

Conclusion

There is need for concerted multiple public debates, and the recognition in highlighting human rights violations by the security services in the maintenance of order. The availability of security services to be shared with NGOs and the public would create the preliminary elements that is required for a participatory approach that would influence the debate on Oversight Policing.



Dr. Mutuma Ruteere – UN Special Rapporteur

Professionalizing Police Service: Policing And Profiling

Dr Ruteere was nominated in 2011 by the Human Rights Council as the new Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance. He has served as Director of the Centre for Human Rights and Policy Studies and as Dean of the Kenya Human Rights Institute. He is experienced in issues relating to ethnic conflict, discrimination and exclusion. He has published widely on international human rights issues and has taught at undergraduate and graduate levels on human rights.

Summary of the paper

Profiling is the unjustifiable emphasis or use of identity in the process of law enforcement. Racial and ethnic profiling has been a persistent and pervasive issue in law enforcement and is often used as a policy basis on national security and immigration. Many groups suffer discrimination and marginalization due to profiling.

In Kenya and other countries in Europe and the US, the context of war on terrorism has placed very sharp focus on the problem of profiling by law enforcement and government officials.

Racial and ethnic profiling is prohibited under International Human Rights Law and offends various provisions such as the Right to Freedom from Racial Discrimination; the Right to Equality before the Law; the Right to Personal Freedom and Security and the Right to Presumption of Innocence.

Governments need to enact legislations specifically prohibiting racial and ethnic profiling and to establish clear criteria for law enforcement officials who conduct stops, searches and identity checks. Law enforcement officials' need to undergo human rights training particularly with regards to discrimination. There is also the need to initiate awareness raising campaigns especially to those who are likely to be deprived/profiled of their rights or those who are likely to become victims and may not even have the information on where to report. Discriminatory practices in policing have led to the collapse of trust between the police and communities.

Introduction: Profiling and law enforcement

Profiling in the context of law enforcement is the reliance on law enforcement, border security control personnel and government officials on race, ethnic, colour, decent or national ethnic origin as the basis of subjecting persons to detailed searches, identity checks and investigations

all for determining whether individuals are engaged in criminal activities.

Profiling is the unjustifiable emphasis or use of identity in the process of law enforcement. Questions of race, identity are part of the processes that law enforcement officials or police use routinely when they are building profiles.

Racial and ethnic profiling has been a persistent and pervasive issue in law enforcement and is often used as a policy basis on national security and immigration. It has also become a serious problem with regards to terrorism and counter-terrorism debates. In Kenya and other countries in Europe and the US, the context of war on terrorism has placed very sharp focus on the problem of profiling by law enforcement and government officials.

Various ethnic and religious groups across regions, states are often the targets of profiling by police, immigration and detention officials. Since September 11th, 2001 in the US, Kenya and other countries, new forms, patterns and contexts of profiling have reportedly affected a number of people, particularly people of Muslim, Arab, and South Asian backgrounds. In Europe, law enforcement officials have routinely targeted groups such as Roma, African and Middle-Eastern migrants. In Kenya, we have seen undue focus on singling people of Somali origin in the context of law enforcement.

International Legislative Framework

Racial and ethnic profiling is prohibited under International Human Rights Law and offends various provisions such as the Right to Freedom from Racial Discrimination; the Right to Equality before the Law; the Right to Personal Freedom and Security and the Right to Presumption of Innocence. In particular, the use of racial profiling contravenes Article 2, 4, 5, and 7 of the International Covenant on Elimination of Racial Discrimination.

Although the International Covenant on Elimination of Racial Discrimination does not specifically mention racial profiling, Article 2, 4, 5, and 7 apply with this regard. The Committee on Elimination of Racial Discrimination to which Kenya regularly submits reports has made it clear that the convention does prohibit state parties from ethnic and racial profiling and in one of its general recommendations on the training of law enforcement officials, the committee has noted that states are required to ensure that public authorities and institutions do not to engage in racial discrimination and to guarantee the rights as contained in the covenant. The committee has explained that these obligations rely on national law enforcement officials who should properly be informed on these state obligations. Subsequently states should train law enforcement officials to respect human dignity and maintain human rights of all persons without discrimination.

It is not just oversight organizations like IPOA that needs to undergo human rights training, but also and more importantly law enforcement officials, particularly with regards to discrimination in multicultural and multi-ethnic contexts such as Kenya where the problems of ethnicity and discrimination on the basis of religion affects law enforcement.

In 2005, the Committee reiterated its position on the issue of racial profiling in the administration of functioning of the criminal justice systems and that states should prevent arrests, questioning and subjecting people to searches which are based solely on the physical appearance of a person or any profiling which exposes the person to even greater suspicion. The Committee specifies that relevant state officials include the police, army, customs authorities, and persons working in airports, penal institutions, and socio-medical and psycho-counselling services.

In the context like Kenya where we do not have the equivalent of IPOA for the Kenya Defence Forces in its operations and deployment in counter-terrorism activities (is a big area in thinking about instituting accountability measures). It is a question of whether the kind of requirements IPOA has set out for the police are also applicable to KDF. Similarly, the National Intelligence Service (NIS) does not have an equivalent of IPOA, yet it is very much involved in many violations in the context of counter-terrorism.

The Committee has directly applied the recommendations for instance, the provisions against profiling for state in its review of states such as the United States. It called for the US government to strengthen its efforts to combat racial profiling and adopt federal legislations prohibiting racial discrimination. In other contexts and in view of such countries as Switzerland, the whole differential treatment of individuals under criminal justice system has come up for review by the committee.

Beyond the Committee itself, other United Nations mechanisms have also picked up on the use of racial and ethnic profiling. The Durban Declaration and Programme of Action for instance which was adopted in the continent in 2001 has specifically pointed out the need to design and implement effective measures to eliminate racial profiling in policing. The Working Group on the Universal Periodic Review of the UN regularly remind states of their obligations in policing profiling. In 2007, the Working Group of Experts on People of African Decent devoted its 6th Session to the issues of profiling and adopted the definition outlined in the Durban Declaration. The various Special Rapporteurs of the United Nations including the rapporteur on Protection of Rights in the Context of Terrorism, as well as my mandate has specifically focused on the problem of profiling. My forthcoming report specifically deals with this particular issue of profiling in the context of policing.

Negative impacts of profiling

Racial profiling is pervasive and persistent issue, which often rises with respect to police and national security and immigration. Consequently, the challenges posed by racial and ethnic profiling involve many stakeholders. At the same time many groups suffer discrimination due to profiling and concerted action needs to be taken to prevent their marginalization.

Indeed profiling can exacerbate discrimination already suffered as a result of gender or minority status. For instance, the groups we have seen being targeted across various states in the wake of September 11th attacks have been people from different ethnicities and religions who also

happen to be minorities in certain contexts. This calls for the need to pay attention to the multi-dimensional nature of these forms of discrimination. In my capacity as the special rapporteur, I have observed effects of racial profiling in several countries like Spain, United States, Bolivia, Mauritania and I have made recommendations to various governments on the need to enact legislations specifically prohibiting racial and ethnic profiling and to establish clear criteria for law enforcement officials who conduct stops, searches and identity checks.

In many places, the training that many police officers have is what they earned when they left police college. They don't have refresher courses on handling diversity when dealing with problems of crime within new contexts such as terrorism.

There is need for governments to go beyond police training programmes and the need to initiate awareness raising campaigns to inform individuals, especially those who are likely to be deprived/profiled of their rights or those who are likely to become victims or those who may not even have the information on where to go. Part of strengthening accountability mechanisms is creating specifically these forms of awareness so that individuals who might become victims or are likely to face these forms of profiling know where to report.

Structural inequalities and discrimination within the ranks of law enforcement department also contribute to the perpetration of profiling. Therefore, ethnic and cultural diversity within security services is a key measure to improve police-community relations. Police officers or law enforcement officials who do not look like the people they police are likely to lead to the problems of profiling. Part of the major challenge of addressing profiling is to ensure diversity in the security services. More importantly is diversity at the management and leadership levels where ideas on the forms of policing are actually made.

States also need to look at internal disciplinary procedures to ensure oversight of police misconduct related to profiling and racial discrimination are handled and to put in place measures such as civilian oversight, but also recognizing that there is a menu of options. It need not be only an independent civilian oversight. Other countries that equally have other important and useful mechanisms of oversight, for instance the USA's Department of Justice. In spite of the major problems in the US with regards to profiling, the department of justice has done a fairly good job in providing guidance to states on what is acceptable and prohibited. Those of us who have interacted with the report on Ferguson know it was a very damning critique on the operations of that police department. The US provides a good example of what can be done even in the absence of oversight bodies, but through administrative processes that can be put in place.

Finally, there is also the need for governments to collect ethnically disaggregated data on the use of stops, identity checks by law enforcement officials. This is a huge problem in many countries because if you were going to analyse and address the problem of profiling, you need good and quality data. One of the major problem in a context like Kenya is that the data is very poor. Even to the extent that you want to make a case of good progress or conduct, you are limited by data.

However this is not a unique problem to Kenya, it is a global problem with regards to collection of data. When you look at the report on Ferguson for instance, the statistics are striking. 80% of those stopped by police and ticketed are African Americans, even though their percentage total within communities is about 60%.

Without data, we will not be able to make these connections. For instance, we had Operation Usalama Watch in this country where there was a roundup of individuals. It would be interesting to analyse the data and see what kind of views the data produces in terms of the numbers of actual individuals who were suspected and arrested of terrorism. This therefore becomes the basis for people involved in oversight to start asking the questions of whether it may seem to work, but at what cost to the society in terms of poisoned relations and mistrust generated within the community when these kind of policing tactics are actually applied.

Conclusion

Discriminatory practices in policing have led to the collapse of trust between the police and communities. Effective and good policing is one that ensures there is trust within the community itself. Profiling weakens this policing. There is also need for awareness of new forms of profiling that might not be too obvious. Increasing in some countries now, are profiling based on sexual identities. Sexual identities are one of the groups targeted by law enforcement officials. Very easy to fall within the cracks but again, very important particularly for oversight institutions and people who are working on oversight.



Justice Hon. Adekeye Olufunlola,
Commissioner PSC, Nigeria

The Nigerian Police Service Commission's Milestones, Challenges and Opportunities

Olufunlola Oyelola Adekeye JSC (RTD) is a Justice of the Supreme Court of Nigeria. She has written and delivered many law papers and has also attended local and international law seminars and conferences. Justice Adekeye chaired the governorship/legislative election petition tribunal in Kaduna and Ilorin zones and was a member of the Calabar, Enugu, Abuja and Port-Harcourt Divisions tribunals. She was recognised and was awarded the Commander of the Order of the Niger (CON).

Summary of the paper

The history of decay in Nigerian police service is a reflection of over 30 years of military rule in which the inspector general of police was part of the Supreme Military Council. Today, the Nigerian police are allegedly part of a lucrative criminal industry of kidnappings.

Efforts at police accountability and oversight is undertaken by the Police Service Commission (PSC) charged with the responsibilities of appointment, promotion, dismissal and disciplinary control of members of the Nigeria Police. PSC undertakes more of a human resources functions in the police.

PSC has no infrastructure to deal complaints. Complainants end up being referred back to the police. The Commission is poorly funded; lacks office space; has limited personnel; staff lack capacity in terms of training. A major challenge to PSC is how to turn the Police Force around, reform it massively and make it a friendly and efficient service organization.

Introduction

The experience of the Police Service Commission (PSC) in Nigeria is similar to that of IPOA. The Police Service Commission in Nigeria is one of the Federal Executive Bodies established under Section 153 (i) of the 1999 Constitution of the Federal Republic of Nigeria as amended. By virtue of the Third Schedule, Part 1 (m), paragraph 30 of the same Constitution and Clause 6 (1) of the Police Service Commission (Establishment), Act 2001, the Commission is charged with the responsibilities of appointment, promotion, dismissal and disciplinary control of members of the Nigeria Police (except the Inspector-General of Police). Its enabling Act further empowers the Commission to:

- (a) formulate policies and guidelines for the appointment, promotion, discipline and dismissal of officers of the Nigeria Police Force;
- (b) identify factors inhibiting or undermining discipline in the Nigeria Police Force;
- (c) formulate and implement policies aimed at enhancing the efficiency and discipline in the Nigeria Police Force;
- (d) perform such other functions which in the opinion of the Commission, are required to ensure the optimal efficiency of the Nigeria Police Force; and
- (e) carry out such other functions as the President may from time to time direct.

To ensure the independence of the Commission in the exercise of its powers and discharge of its functions, Clause 6 (2) of its enabling Act provides that:

“The Commission shall not be subject to the direction, control or supervision of any other authority or person in performance of its functions other than as is prescribed in this Act.”

The 1999 Constitution in section 215 (b) further empowers the Police Service Commission to appoint a Commissioner of Police for each State of the Federation, and Clause 8 of the Police Service Commission (Establishment), Act 2001 granted the Commission leave to delegate any of its powers under this Act as it deems fit.

Members of the Commission

Section 29 (b) of the Constitution of the Federal Republic of Nigeria, 1999 provides that the Commission shall have not less than 7 or more than 9 members to be appointed for a 5-year tenure in accordance with Section 155 (i)(c) of the Constitution.

The composition of the Management of the Commission as provided for in the Act is as follows:-

- (a) Chairman, who shall be the Chief Executive of the Commission
- (b) A retired Justice of the Supreme Court or Court of Appeal;
- (c) A retired Police Officer not below the rank of Commissioner of Police;
- (d) One representative each of: Women interest;
- (e) The Nigeria Press;
- (f) Non-Governmental Human Right Organizations in Nigeria;
- (g) Organized Private Sector and
- (h) The Secretary to the Commission.

In any country the Police play important roles without which the sustenance of internal peace and security may be difficult. One of the most critical issues facing developing nations is how

to turn the Police Force around, reform it massively and make it a friendly and efficient force organization.

The 1999 Constitution as amended, established the Police as a monopoly.

Section 214 subsection (1) provides that:-

1. "There shall be a Police Force for Nigeria, which shall be known as the Nigeria Police Force and subject to the provisions of this section, no other Police Force shall be established for the Federation or any part thereof.
2. Section 214 (2) (c) provides as follows:-

"The National Assembly may make provisions for branches of the Nigeria Police Force forming part of the armed forces of the Federation or for the protection of harbours, waterways, railways and airfields".

Section 4 of the Police Act Cap 359 laws of the Federation 2004 gave the Police power to perform such military duties within Nigeria as may be required of them by or under the authority of this or any other act.

The police in Nigeria do not want their conduct monitored. Their conduct must be scrutinized because of the attitudinal culture of the Nigerian police force, which is set out from history. Police in Nigeria during the colonial era were used to suppress the citizens and extract taxes from the people. Then Nigeria had over 30 years of military rule, where the inspector General of police was a member of the Military Supreme Council. The Council used draconian rule and brute force against the citizens. As a result, the people of Nigeria viewed them as enemies and would run away from them, despite the police having a logo inscribed as 'the police is your friend'.

1999 was the beginning of democratic dispensation and now you had to reconcile a police organization used to ruling by force to a police that is now controlled and do their work as a friendly establishment. There had to be a period of transformation and that is why police had to be scrutinized.

Police in Nigeria are used by so many people. VIP's, political parties, they are friendly with criminals. Kidnapping is now a lucrative industry in Nigeria and it is alleged the police are part of this network.

Lack of public trust entailed that if you got to make a complaint as a member of the public against the police, as it is now, the PSC has no infrastructure to deal with it. So in the end you have to refer it to the police. This is why PSC was created.

Milestones of the Commission

A key factor required for effective policing is accountability and transparency which entails that:-

- (a) All Police personnel are accountable for their professional and personal standards and answerable for their treatment of citizens and what they do;
- (b) Policing effectiveness is monitored, evaluated and open to scrutiny; and
- (c) Effective means of seeking redress are available to citizens with genuine grievances against the Police. The importance of having civilian oversight bodies and public access procedures on the Police is borne out by the widespread citizens concern about Police exercise of enormous and often intensive powers they enjoy under the law.

The Nigerian government has created a trilateral arrangement to look after the affairs of the Police under the constitution. The Nigeria Police Council, the Police Service Commission and the Inspector-General of Police Operations. The PSC is one of the institutions responsible for external and internal mechanisms of Police accountability and civilian oversight functions in Nigeria.

By virtue of the constitutional provision and the Police Service Commission Establishment Act 2001, which defines its powers and functions. Its composition of membership includes a broad representation of human rights community, organized private sector, women, the media and a retired justice of Superior court of record. These members also represent the six geopolitical Zones of the country, the South West, South East, South-South, North Central, North East and North West. The Police Service Commission if strengthened financially, and administratively, is designed to be a powerful and autonomous civilian oversight body for the Police in Nigeria.

The PSC has enormous responsibilities arising from the constitutional and statutory provisions. The potentials of the PSC have not been fully utilized. The Commission is poorly funded which has constituted a serious limitation on its operations and exercise of its powers and functions. The Commission formulate policies, reviews decisions of Nigeria Police Force, receives complaints from public and engages in proactive approach to manage Police misconduct. The Commission must be repositioned to carry out its mandate and reform the Police. The Commission must be fully engaged in formulating and implementing policies aimed at efficiency and discipline within the Nigeria Police Force. Performing such other functions as in the opinion of the Commission are required to ensure optimal efficiency in the Nigeria Police Force. The Commission must also respond to acts of injustice perpetrated by the police on members of the Nigerian Public.

On police accountability, no statutory body can make a meaningful impact on social problems or internal security issues if it acts in isolation of other related agencies and stakeholders. The Police Service Commission must liaise and work together with other statutory agencies and Development Partners in addressing policing in Nigeria.

Accountability also must affect the entire system, like formulating policing policies, resource allocations, management, performance culture and integrity. There must be intensive enlightenment campaigns and trainings aimed at re-orientating the officers and men of the Police Force to see themselves as servants of law for the protection of the people.

The primary or fundamental responsibilities of the reformed police are to-

- (a) Uphold the Rule of law
- (b) Protect life and property
- (c) Prevent crime and the fear of crime
- (d) Preserve public tranquility
- (e) Detect offences and enable appropriate resolution for victims and offenders
- (f) Befriend those who turn to the police in need
- (g) Ensure a caring, approachable and re-assuring community presence
- (h) Foster a close relationship with the public and fellow citizens as they cannot perform their statutory duties on their own.
- (i) Meet public expectations and be worthy of public trust

The Police Service Commission intends to achieve a reformed police if granted the opportunities. The Police Service Commission Establishment (Act), 2001 also requires it to appoint Committees to carry out such functions as it may determine for efficient performance. There is a Standing Committee on Strategy and Development Plan.

The functions of the Committee on strategy as outlined in its terms of reference include the following:

- (a) Lead the process for the development of the strategic plan of the Commission.
- (b) Monitor the development and implementation of operating plan (work plan) for the Commission.
- (c) Co-ordinate all activities relating to Development Partners and the Civil Society Organizations.
- (d) Organize the monitoring of police conduct during elections in Nigeria
- (e) Plan for and organize Seminars that have bearing with the work of the Commission.
- (f) Publish materials that have strategic importance to the Commission
- (g) Plan for capacity building for the Management and Staff of the Commission.
- (h) Identify factor inhibiting or undermining discipline in the Nigeria Police Force.
- (i) Formulate and Implement policies aimed at the efficiency and discipline of members of the Nigeria Police Force.
- (j) Perform any other function that is necessary to achieve the terms of reference of the Commission.

The Police Service Commission handles the monitoring of the elections – and preparations are completed for the monitoring of the general elections on the 28th of March and 11th of April, 2015. The Commission monitors the Police conduct at Elections. Erring Police Officers are identified and sanctioned on completion of the exercise.

Recommendations towards ensuring improved performance by the Police in subsequent elections are forwarded to the Inspector-General of Police and to the INEC.

A new instrument of Delegation of Power to the Police was granted to the current IGP immediately after his confirmation to appoint, promote and discipline of police personnel from the rank of Constables to Inspectors. These powers are granted for two years in the first instance. It is unfortunate that the officers do not know PSC exists, all they know is the Inspector General.

Challenges

There has been a lot of transformation agenda of the Nigeria Police Force. Three commissions (1974; early 1990's and 2012) set out to transform the police force. However none of the 3 reports have been implemented, they remain paper work in the president's office.

The Commission remains committed to build a reformed Nigeria Police Force that will appreciate and uphold the tenets of the rule of law at all times. The Commission has challenges/constraints as follows:

a) Lack of Office Accommodation

PSC lacks office accommodation. The Commission's offices are grossly inadequate as members of staff are variously accommodated in Phase I and III of the Federal Secretariat. This makes it difficult to monitor the staff. The Commission's Corporate Head Office is under construction in Jabi Abuja, when completed the problem of accommodation will be effectively addressed.

b) Lack of Personnel

The current manpower of the Commission – with the strength of (400) staff is grossly inadequate for effective oversight and monitoring duties for over 400,000 police personnel across the Federation. Because of this sometimes complainants are referred to the police, yet you don't expect a complaint against the police to be handled objectively by the police. If it involves a senior officer, nothing will be done. Even among junior officers *esprit de corps* will not allow them to implicate colleagues.

c) Lack of Effective Training

The staff of the Commission lack the training to effectively investigate allegations and complaints from members of the public against the police. It has to rely on the police to carry out such investigations on allegations of misconduct and abuse from members of the public.

d) Lack of Response from the Police

The delay in the implementation of the Commissions reaction to complaints is caused by lack of response from the police. The police do not attend promptly to enquiries from the Commission for information on matters relating to its mandate. For instance, my officers have sent over 700 complaints to the police, but there isn't a single response to all of them.

e) Lack of Police Data Base

As an oversight organization, the PSC does not have data for Nigeria police. If you want figures on the number of Nigeria police today, you have to send a request to the police themselves, yet as PSC we recruit them, promote and write their retirement letters. It stops at that. We cannot do anything beyond this.

f) Lack of Continuity in Police Leadership

There is lack of continuity in police leadership where each Inspector General comes in, formulates their own reforms policies and then these die with the exit of the IG.

g) Financial Constraints

The funds appropriated to the Commission is grossly inadequate to carry out its statutory functions. Right now the government gives PSC what is known as an 'envelope' (hand-to-mouth funding). It is now government policy that if you are not friend of the economy, there will be 40% cut on the envelope funding. The activities of the Commission for the optimal performance of its mandate have been crippled for over one year as follows:

- (1) Recruitment exercises for police personnel to meet shortage caused by retirement, death etc.
- (2) Training of staff.
- (3) Lack of Investigation of public complaints and police petitions.
- (4) Lack of traveling allowances to attend courts outside Abuja.
- (5) Welfare of members of staff.
- (6) Lack of funds to establish a complaint desk at the Commission for members of the public.
- (7) To open Zonal offices in the six geo-political Zones of the Country for effective performance of its mandate. People in remote areas cannot travel all the way to Abuja to register complaints. The need for COMPLAINTS
- (8) To establish a proper police Data Base.
- (9) Lack of funds to publicize the mandate of the Commission.

Opportunities

Partnering and collaborations with development partners has opened windows of opportunities for PSC. The under mentioned activities have been facilitated by CLEEN Foundation and sponsored by Justice for All (J4A) of the British Department for International Development and other Development Partners, African Policing Civilian Oversight Forum (APCOF). They have helped PSC with:

- a) The installation of the Case Tracking and Management Form for the Department of Police Discipline. (J4A).
- b) The review of the PSC Guidelines on Appointment, Promotion and Discipline in the Nigeria Police Force (J4A).
- c) Sponsorship of some PSC staff during the gubernatorial elections in Ekiti and Osun States and at the sensitization workshop for Divisional Police Officers on the PSC Guideline for the Conduct of Police Officers on electoral duties. (J4A)
- d) One Day Capacity Building on the "Nigeria Police Force External Oversight Policy" – held on Thursday 24th July 2014 at Bolton White Hotel, Abuja for 30 PSC staff. (J4A).
- e) A Four Day Capacity Building Workshop on "Police Oversight Investigative Skills" held from Tuesday 9th – Friday 12th September, 2014 at Dennis Hotel, Abuja for 12 PSC staff. (African Policing Civilian Oversight Forum) (APCOF).
- f) Round-Table Meeting with Civil Society Organizations on "Sexual and Gender Based Violence by Police Officers" held on Tuesday 26th August 2014 at Bolton White Hotel Abuja. (J4A)
- g) Public Hearing on Electoral impunity by Police Officers held on Wednesday 27th August at the Bolton White Hotel, Abuja. (J4A)
- h) Workshop on the Freedom of information Bill, FOI held on 16th September 2014 at Chelsea Hotel Abuja. (Right to Know Initiative).

There are other activities of Development Partners in the PSC that are still ongoing and some are yet to be implemented. These include the following:

- a). The public presentation of the reviewed PSC guidelines on Appointment, Promotion and discipline.
- b). The Development of a communication Strategy for the PSC scheduled to commence in March.
- c). Collaboration in the 2015 elections; printing of the PSC Guidelines on the conduct of Police officers on electoral duties; Printing of the PSC posters and handbills; and publishing of the PSC election hotlines in one Newspaper on going.

Accordingly, the Police Service Commission had approved the following decisions reached as a result of the aforementioned activities of the Committee:

- a). PSC desk should be established in all Police State Commands to receive and entertain public complaints on the Police.
- b). There should be periodic public and Police awareness of the mandate and functions of the PSC through radio/TV, Workshops, Seminars and at the Police Colleges. The PSC Web site should be more functional.
- c). The PSC Gender and Domestic Violence Policies should be implemented and enforced.
- d). The PSC should investigate all observed and reported cases of electoral impunity by Police officers and punish all perpetrators to serve as deterrent to others.
- e). There should be periodic recruitment exercise in order to replace manpower wastage through death, dismissal and resignation.
- f). Investigative Unit should be created in the PSC and empowered to carry out investigation of reported cases of Police misconduct.
- g). The PSC should have an independent database of Police records.
- h). Human Rights training should be included in the curriculum at the Police Colleges.

Conclusion

For any country to have democratic policing, the government must be pro-actively involved. The authority of the police deriving from the law must be based on public trust. There can never be reforms if the public do not trust the police.



Ojango Omumu, Chief Executive Officer,
National Police Service Commission Kenya

Professionalizing the Police Service in Kenya

Mr. Ojango has wide experience in Public Sector Administration and Management in the public service having served in various capacities in the Ministries of Public Works, Education, Rural Development, Agriculture, Fisheries and former office of the Prime Minister. He holds a Bachelor of Arts degree in Governance and a Master of Business Administration degree both from the University of Nairobi. Mr. Ojango is a member of the Kenya Chapter of African Association for Public Administration and Management (AAPAM). Presently as the Secretary to the Commission, he is responsible for; acting on the decisions of the Commission; the implementation of the functions of the Commission; the formulation and development of an efficient administration; the organization, control and management of the members of staff of the Commission; day-to-day administration and management of the affairs of the Commission; the performance of such other duties as may be assigned by the Commission.

Summary of the paper

The National Police Service Commission (NPSC) mandate is to professionalize police in Kenya. In trying to regain public confidence in the police service, the commission has embarked on restoring integrity through vetting to determining the suitability and competence of officers to continue in the service and the development of regulatory frameworks governing recruitment, training, discipline, promotions, deployment, rewards and welfare, sanctions and governing rules of procedures.

The Commission has made attempts to demystify the police. This exercise has enabled the commission to probe into the police to know who they are, how they operate and therefore an opportunity to highlight the plight of police in Kenya to the government. Police are ill equipped, live in dilapidated premises, and have poor remuneration.

The expectations of the commission are very high amidst underfunding which has constrained the speed of the Commission's work.

Background

The National Police Service Commission (NPSC) was established in October, 2012 with the appointment of 9 commissioners. NPSC is charged with the responsibility of professionalizing the police in Kenya. To professionalize is to socialize people of similar interests or pursuits to the highest level of excellence in their competences. The National Police Service already has a culture and NPSC task is to re-orient the culture to suit modern needs and interests for which Kenyans require policing services.

For a profession to operate, it must have a very high sense of integrity. The integrity with which the interests or pursuits are conducted is a key element in professionalism. It was thus deemed some level of cleansing should be carried out in the National Police Service (NPS). This is why Section 7 of the NPSC Act, 2011 mandates it to carry out vetting of officers who were previously Kenya Police and Administrative Police forces to transit them into the National Police Service.

As NPSC does this, we needed to reflect on the characteristics of a professional police service. Characters of a Profession:

a) Identifiable cause;

Any profession must have a cause. For the National Police Service, they have a duty to provide policing services to all Kenyans.

b) Particular skill;

Every profession must have qualifications. Police undergo basic police training that equips them with skills for their profession. When we started vetting, we set out parameters to vet the suitable and competent officers to continue in the service. One of the issues we had to grapple with is that many Kenyans hold that the police do not have proper qualifications. Looking at the history of police service in Kenya, the standards had been set very low. As a commission, we thought it may not be fair to look at a police officer that should have a Kenya Certificate of Secondary Education (KCSE) B- and not a class seven certificate.

One of the recommendation that brought on board IPOA and NPSC set a benchmark for the minimum grade at KCSE at C-. From where I seat this is a challenge. When C- graduates from Police College, they enroll into local universities and exit the service when transferred to remote rural areas. We are proposing a multilateral entry of people into the police service. We are also benchmarking with the Kenya Defence Forces where sometimes all you need are foot soldiers.

c) Training;

The training police receive have been questioned because of the way they have related to and the manner in which they have handled members of the public. In their career, police go through various advanced training courses to keep them up to date with policing needs on emerging issues such as cyber-crime and terrorism. We have already commissioned a team that went around the country and documented the capacity of our training colleges on what needs to be done. The law also mandates us to look at the curriculum of the police service. Skills and qualifications are matters the commission is taking very seriously.

d) Governing rules;

Police are guided by an operational manual popularly known as Force Standing Orders (FSOs). Some of the reasons responsible for a dysfunction police service in Kenya is that recruitment was not regulated, there were no rules, clear criteria on how people should enter the service in terms

of recruitment. Many officers were affected in terms of transfers. You would find instances where one officer moved across the country in a period of 12 months, yet others were rarely transferred.

Promotion is one of the reasons that made the service dysfunctional. It depended on people's whims and did not have a criteria. In any profession, how you go up the career is an important factor.

Discipline: Sometimes transfers were used as discipline. Instead of an errant officer being disciplined in their station, they would be transferred to hardship areas to punish them.

e) Rewards;

Police like all public servants are paid for their services. In addition, they have specialized allowances unique to their profession and nature of work. Unlike all other cadres in the public service in Kenya, the National Police Service never had a scheme of service. On entry, a police officer was unable to determine how they could become the Inspector General for instance. The commission is coming up with a scheme of service so that the career path of an officer is very clear.

f) Sanctions;

For any profession to be regulated, it must have a set of rules guiding how things are done and sanctions thereof. Because it is a disciplined force, police operate under strict regulations and the constitution expressly exempts them from the enjoyment of certain rights such as forming trade unions. We have come up with regulations on discipline so that discipline is not arbitrary. Orderly room proceedings is what has obtained so far in the service. There are many people in courts, including police officers on the manner in which orderly room proceedings have been conducted over the years. The commission wants this regulated by a code of discipline so that it is clear how each of the offences listed in the National Police Service Act should be translated into action and how each officer should be able to carry them out.

g) Partners;

The relationship between the public and police is a partnership that needs to be fostered. The commission has a tall order before the public regains confidence in the police. Policing requires that there be a close partnership with the rest of society in order to get intelligence which is key in policing. The commission will ensure there is discipline, the police are well equipped, remunerated so that they would focus on delivering their mandates.

When the commission conducted police recruitment in 2014, we had issues and even acknowledged this. This is why we nullified the recruitment in 36 centers. IPOA took us to court and we appealed. The appeal case is coming up in May, 2015.

What the Commission is doing to professionalize the Police Service

After post-election violence in 2007/2008, various taskforces (Waki Report, Naikuni Report and Rtd. Justice Ransley Report) indicted Police for being high-handed, being manipulated by politicians, operated on nepotism and cronyism and that they were ill equipped to carry out policing, hence, the justification of establishing a Commission dedicated to human resource function of the Service.

In trying to regain public confidence in the police service, the commission embarked on development of regulations. The Commission has therefore done the following:

1) Restoring Integrity Through Vetting

NPSC developed a set of regulations on how to go about vetting to make it more transparent. We started to vet from the top leadership of the police. Vetting Regulations were put in place setting the criteria on entry qualifications into the service, professional conduct, financial probity and human rights record, officers discipline history, integrity of officer. We have been able to canvass all this information before we vet officers. We also publish all the names of officers to be vetted in the dailies and ask the public to interact with the commission in terms of giving information. We thereafter give officers an opportunity to respond to issues raised against them. We also have a team of investigators who go out to verify the facts.

We make vetting public through live TV broadcasts because we want officers to be seen by the public as to who they are. In doing all these, we are opening up the police, previously a much closed organization to the public.

So far we have vetted 200 senior deputy commissioner of police; 1025 senior superintendent-to-superintendent of police; next for vetting is chief inspectors of police.

2) Regulatory Framework

The Commission has already engaged Parliamentary Committee on Administration and National Security. The Recruitment and Appointment Regulations have been gazetted and with Parliament.

The Commission has concluded Regulations on Transfer, Promotion, Deployment and Discipline and submitted these to Constitution Implementation Commission (CIC).

3) Rewards and Welfare

The Draft Scheme of Service for the police is being worked on. After the Salaries and Remuneration Commission is through with job evaluation, the Commission will put in a proposal for rewards and welfare of the police.

Successes

One success of the Commission is that we have managed to demystify the police. The Commission

has had an opportunity to understand the opportunities and challenges in the service and advise the government accordingly. This exercise has also enabled us to probe into the police to know who they are, how they operate and therefore given us the opportunity to highlight to the government the plight of police in Kenya. Police are ill equipped, live in dilapidated premises, and have poor remuneration.

The vetting has enabled the commission to appoint vetted officers into the new ranks, besides determining the suitability and competence of officers to continue in the service. The Commission has appointed officers to new ranks of Senior Assistant Inspector General (SAIG), Assistant Inspector General (AIG) and Commissioner of Police (CP) thereby assisting the Inspector General in streamlining the Command Structure.

Challenges

Underfunding has constrained the speed of the Commission's work. Vetting is a costly venture considering that the Service has close to 80,000 officers. Vetting is a herculean task and the public expectations are very high.

Conclusion

The Commission is a civilian institution whose mandate is limited to the Human Resources functions of the police, whereas IPOA's is on police accountability. NPSC is of the view that if we make the police functional in terms of effectiveness and efficiency, it will make IPOA's oversight work much easier.



Louise Edwards, African Policing and Civilian Oversight Forum (APCOF)

Policing Arrest and Detention

Louise has worked on police accountability and reform issues in eastern and southern Africa since 2007. Prior to this, Louise was a lawyer in both private and pro bono practice, and coordinated human rights policy and reform for the national organisation representing Australia's 205 community legal centres.

Summary of the paper

The African Commission on Human and People's Rights established a new set of guidelines called the Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention (Luanda Guidelines). The guidelines are efforts to put human rights at the center of arrest and detention. They also locate the roles and functions of the police at the very beginning of the criminal justice chain within the broader context.

Arbitrary arrest and police custody and legal frameworks that do not meet international standards for rights-based approaches contribute significantly to pre-trial detention challenges.

The guidelines speaks specifically to pre-trial detention environment in terms of a rights-based legal framework for arrest; the capacity of police to exercise their discretion professionally; procedural guarantees for arrested persons; limitations on police actions; and the availability of complaints and oversight mechanisms.

States are required to adopt legislative, administrative, judicial and other measures to give effect to the Guidelines, give consideration to the Guidelines in their State Reports and ensure relevant training to officials in the justice chain. The Guidelines also rope in the role of Parliament, Police Organizations, Oversight Authorities, and Civil Society in the accountability architecture of arrest, police custody and pre-trial detention.

Introduction

Pre-trial Detention: A Global Challenge

This discussion is on the articulation of the standards for police arrest and custody that has been done at the African Commission level. My discussion is in the context of a tool for promoting oversight at the domestic level.

The imperative to establish standards for arrest and detention was done in the context of pre-trial detention. Pre-trial detention is a global issue and at any given over 3 million people are sitting in pre-trial detention and some 14 million people pass through pretrial detention during the course of a year.

Arbitrary arrest and police custody, and legal frameworks that do not meet international standards for a rights-based approach to arrest and detention contribute significantly to pre-trial detention challenges.

The question to ask as policing practitioners and experts is what happens at the front end of the criminal justice system in terms of police exercising their powers of arrest leading to so many people ending up in pre-trial detention, clogging up the justice system leading to poor human rights, health and justice outcomes.

Arbitrary arrest and detention: A continental standard for reform

The African Commission on Human and People's Rights using its powers on the African Charter established a new set of guidelines called the Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa. These were adopted at 55th Ordinary Session held from 28th April to 12th May, 2014 in Luanda Angola ('the Luanda Guidelines'). The guidelines are attempting to put human rights at the center of an approach to articulating a good framework for arrest and detention, but also to locate the role/function of the police at the very beginning of the criminal justice chain within the broader context. It therefore links the role of the police with the role of the judiciary, director of public prosecution, role of the lawyers etc.

In terms of the way it articulates itself is by being a rights-based approach to arrests. It takes a 2-pronged approach. First approach of the guidelines is to stop the unnecessary arrests and have a look at the system in place to identify who and in which circumstances it is appropriate to divert someone from criminal justice situation and the extent to which the state has those in place.

It then looks at the use of arrest as a last measure of absolute resort. The use of caution for people who might have been picked up for petty offenses might be the appropriate response rather than put them in detention. It may also be appropriate to give them access to social and other support services.

It also looks at and examines the idea of grounds for arrest, procedural guarantees, the rights of arrested persons, and the requirement that arrested persons are notified of their rights. It speaks not only to ensure the legal framework provides for non-discriminatory and arbitrary arrests but also looks at the way in which police themselves are equipped to implement that. What kind of skills, tools are we giving the police under what would be a solid international reflective framework for domestic arrest.

It also sets out a range of safeguards- things we are all familiar with which are reflected in the

Kenyan context and certainly obtaining in South Africa like the right to a lawyer, the arresting officer identifying themselves, limitation on the use of force, freedom from torture, the right to challenge the law for arrest and detention.

It also sets out a clear policing framework around policing decisions to issue bond or bail. We recognize that in South Africa, the police have a discretion to arrest, keep someone in detention for 48 hours and 24 hours in Kenya or to release them on bond.

It also sets a scheme for registers as the police are part of the criminal justice chain. This speaks to registers and the recording of information and making sure it checks on people throughout the justice system. It provides special measure to vulnerable groups- covers groups identified by the African Charter as being vulnerable or having special needs within the criminal justice system including women, children, persons with disabilities and non-nationals.

It also sets out the procedure for the investigations of human rights abuses by the police (more information found on APCOF website (<http://www.apcof.org>) and Africa Commission (<http://www.achpr.org>). It sets out progressive development in international law and obligation of the state and in doing this, it sorts of brings in the IPOA's, IPID's to provide information and to account for human rights abuses in a way international law has not quite articulated before.

It provides for physical conditions in police custody and pre-trial detention and specific safeguards that apply to these places of detention such as the separation of categories of detainees, and restrictions on the use of punishment, force and solitary confinement. An important thing for this audience is that for the first time in our continent, it articulates a full oversight accountability architecture and even more, the guidelines speaks specifically to pre-trial detention environment. The architecture is very much drawn out and completely applicable to the entire justice chain.

On accountability and remedies – includes a range of measures such as redress, judicial oversight, habeas corpus, and minimum standards of conduct for individual law enforcement officials, complaints mechanisms, data collection, access to information, oversight and monitoring mechanisms and the process of inquiries. Therefore if you are looking for a snapshot of best practice on accountability architecture for the criminal justice system, the 'Luanda Guidelines' is the place to go.

Implementation

In terms of what this means for us, as the oversight community is presented in the diagram below:

Oversight after the fact- a sort of retrogressive oversight. We have things like investigations, recommendations, disciplinary action, and the prosecutions.

Conceptual Framework for Oversight

Where we see the Luanda Guidelines particularly applicable in this context is the oversight

before the fact (proactive), involving the establishment of policing legislation, establishment of oversight institutions and making sure the police are subject to instructions and policies, that not only reflect a robust constitutional and legislative framework but applicable and operational for which they received proper training.

What the guidelines do is that it provides a good template on which we can review domestically what we have now because the way the guidelines were developed by the Commission was very consultative. The consultative nature of the regions and reflect the national realities of policing and policing oversight and is based on international law. It has a solid foundation, is justifiable and reflects the domestic contexts.

To wrap it all, there are some questions I want to throw back to you as the oversight community in your various contexts and to say if we look at doing an assessment using the Luanda guidelines as a template. Some questions we could potentially ask ourselves are around:

1. The legal framework: to what extent do our national laws provide a right-based framework for arrests? Do we see discriminatory laws? Do we see discriminatory application of the laws? Do we have for example statutes that provides for arrests in the case of loitering or other petty offences which may not be most appropriately dealt with by the criminal justice in the first place or other social issues that may require another response.
2. Looking at the implementation: Interrogating the capacity of the police. Do we hold the police to very high standards under the legislations for example in the context of torture which is inalienable right. It is absolutely prohibited under no circumstance. When we break it down we start to understand the reasons why police use torture. It also leads us to issues of discrimination and how we can capacitate in the training of police to understand the implications of their actions and their attitudes. Most importantly is looking at the way in which the police are trained and have the capacity to do evidence-based investigations. Do they have the resources, skills, support services to do an investigation that does not rely on confession or oral evidence? Do they rely on oral evidence? Is the evidence supported by looking at other sources?
3. To what extent is the availability of complaints and oversight mechanisms in the domestic context reflective of the Luanda guidelines but most importantly how they are operating?

Conclusion

The guidelines have been released on the African Commission's website and will be launched on the 25th, April, 2015 at the African Commission Session in Banjul, Gambia. APCOF will be very happy to pick up the conversations in terms of providing any informational support.

Plenary Session Deliberations

Various propositions were put forth on ways to deal with backlog of complaints or pending cases. From the South African experience, the strategy is to put in place dedicated teams and the need to leverage on own competencies. There is also the imperative to stick to the organizational mandate. Additionally, it is important to avoid the temptation of wanting to please certain quarters or segments of the society. It was suggested that oversight agencies should not dedicate so much of their time and resources to the 'high profile' cases at the expense of other complaints. It was recommended that oversight agencies and organizations should not take over police work and responsibilities. Police have a constitutional duty and obligation to conduct credible investigations. There is need to strengthen internal mechanisms within the police services since oversight is basically to supplement what the police are doing.

There is need for outreach and collaborations. IPID for instance, has had a separate budget dedicated to outreach activities. There is need to develop annual organizational objectives in terms of the number of people to be reached. Outlier populations that do not have access to TV, radio, newspapers and where literacy levels are more likely to be very low need outreach awareness campaigns. These are the communities to target in terms of outreach. Oversight organizations can also piggy back on other stakeholders who operate within the same environment, province or satellite offices. Oversight organizations should leverage on collaborations during partners' events to do outreach work. This is also a cost effective measure in terms of using available scarce resources.

On accessibility and rapid response to complaints, calls for the need to create satellite offices so as to enhance accessibility of the general public to oversight agencies (vulnerable and rural communities). Accessibility is being closer to the communities who need redress mechanisms most and police stations that are supposed to be oversighted. There is need for regional or satellite offices to enhance geographical reach in terms of service provision and also improve response time in handling incidents whenever they occur. The vastness of African countries and the challenges of transport calls for the need to ensure oversight agencies' footprint is increased on the ground.

To improve budget of oversight institutions, there is need for constant engagement with parliament, the executive, development partners and other stakeholders. As much as policing is seen as an important aspect of our lives, oversight institutions need to recognize that there are equally other important and competing issues and services the government has to take care of. More importantly, there is need to demonstrate results on the part of oversight institutions on the budgets they are allocated. The outcomes should demonstrate impact on the ground for what parliament has appropriated. There has been demonstrable improvements in terms of budgetary allocations to both IPOA and IPID over the years.

On police oversight in Nigeria, it was felt that the Police Service Commission (PSC) is more of a Human Resources institution. It was suggested that Nigeria forms a clear oversight mechanism with a clear mandate to investigate police on other matters and not human resource functions. Moreover, it was noted that there is a huge gap between the security forces and civilians in dictatorships in North African countries such as Morocco, where civilian oversight as a mechanism of good governance is a new or an emerging concept.

Conclusion

Police oversight does not hinder police work, accountability frameworks facilitates police work by ensuring the police become effective instruments of security, safety, justice and respect for human and people's rights. The purpose of police reforms is therefore to create a police institution that is capable of providing security to citizens in a manner consistent with human rights, the rule of law and establishing an effective system of democratic regulation and oversight.

The imperative of oversight mechanisms over 'police forces or service' is not out to constrain, but to empower the police to deliver professional service and live up to the expectations of the citizens. Oversight measures are important vehicles in the restoration of legitimacy and the building of public confidence in the police services.